

Act 633

Section 2. This Act shall not become effective unless and until House Bill No. 658 of this Regular Session shall be enacted and take effect and in the event said House Bill No. 658 is not enacted, this Act shall be null, void and of no effect, provided, that in no event shall the provisions of this Act take effect before January 1, 1974.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor : July 12, 1972.

A true copy :

WADE O. MARTIN, JR.  
Secretary of State.

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ACT No. 634

House Bill No. 1506. By: Mr. J. S. Casey, Chairman,  
Committee on Judiciary, Section "A" (Substitute for  
House Bill No. 267) and  
Messrs. Charbonnet, J. Jackson, Hainkel and Bagert.

AN ACT

To amend and reenact Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 in which Part are contained the drug laws of the state of Louisiana presently comprising R.S. 40:961 through R.S. 40:1056, both inclusive, by adopting the Uniform Controlled Dangerous Substances Law; by repealing conflicting provisions of law, and by providing otherwise with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, comprising R.S. 40:961 through R.S. 40:1056, both inclusive, is hereby amended and reenacted to read as follows:

PART X. UNIFORM CONTROLLED DANGEROUS  
SUBSTANCES LAW

§961. Definitions

As used in this Part, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

(1) "Administer" means to deliver, by a practitioner, in his presence, a controlled dangerous substance to the ultimate user or human research subject by injection, or for inhalation, or ingestion, or by any other means.

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

(3) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of the store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Part shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege, that is not granted to him by the pharmacy laws of this state.

(4) "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice.

(5) "Cannabis" includes all parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(6) "Control" means to add the placement of a drug, substance or immediate precursor.

(7) "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through IV of R.S. 40:964. The term shall not include distilled spirits, wine, malt beverages or tobacco.

(8) "Counterfeit substance" means a controlled dangerous substance which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person or persons who in fact, manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(9) "Deliver" or "delivery" means the transfer of a controlled dangerous substance whether or not there exists an agency relationship.

(10) "Dentist" means a person authorized by law to practice dentistry in this state.

(11) "Depressant" means a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid; or any derivative of barbituric acid which has been designated by the board of health as habit forming.

(12) "Stimulant" means a drug which contains a quantity of amphetamine or any of its optical isomers; any salt of amphetamine or any salt of an optical isomer of amphetamine; or any substance which the board of health after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system.

(13) "LSD" (Lysergic acid diethylamide) means a drug which contains any quantity of a substance which the state board of health after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect, on the central nervous system or its hallucinogenic effect.

(14) "Dispense" means to deliver a controlled dangerous substance to the ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

(15) "Distribute" means to deliver a controlled dangerous substance. "Distributor" means a person who delivers a controlled dangerous substance.

(16) "Drug" means (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (c) articles other than food intended to affect the structure or any function of the body of man or other animals; and (d) articles intended for use as a component of any article specified in clause (a), (b) or (c) of this Paragraph; but does not include devices or their components, parts, or accessories.

(17) "Drug dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

(18) "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the

resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(19) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer.

(20) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, and opiates;

(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically identical with any of the substances referred to in clauses (a) and (b) of this Paragraph, except that the words "narcotic drug" as used in this Part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

(21) "Opiate" means any dangerous substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having such addiction forming or addiction sustaining liability. It does not include, unless specifically designated as controlled under R.S. 40:963, the dextrorotatory isomer of 3-methoxyn-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(22) "Opium poppy" means the plant of the species *Papaver Somniferum* L., except the seeds thereof.

(23) "Person" includes any institution whether public or private and, hospitals or clinics operated by the state or

any of its political subdivisions; and any corporation, association, partnership or one or more individuals.

(24) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(25) "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state.

(26) "Prescription" means a written request issued by a licensed physician, dentist, veterinarian, osteopath, or podiatrist for a legitimate medical purpose, acting in good faith in the usual course of his professional practice.

(27) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance.

(28) "Immediate precursor" means a substance which the state board of health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

(29) "State" means the state of Louisiana.

(30) "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

#### §962. Authority to control

A. All controlled dangerous substances listed in R. S. 40:-964 are hereby controlled. The state board of health shall add a substance as a controlled dangerous substance depending on the board's determinations relative to its potential for abuse. In making such a determination the state board of health shall consider the following:

- (1) Its actual or relative potential for abuse;
- (2) Scientific evidence of its pharmacological effect, if known;
- (3) State of current scientific knowledge regarding the substance;
- (4) Its history and current pattern of abuse;

- (5) The scope, duration and significance of abuse;
- (6) What, if any, risk there is to public health;
- (7) Its psychic or physiological dependence liability; and
- (8) Whether the substance is an immediate precursor of a substance already controlled by this Section.

B. If the state board of health designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

C. The state board of health shall exclude any non-narcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription.

#### §963. Schedules of controlled dangerous substances

There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV and V. Such schedules shall initially consist of the substances listed in R.S. 40:964. In determining that a substance is to be added to these schedules, the state board of health shall find the following:

##### A. As to Schedule I:

- (1) The drug or other substance has a high potential for abuse;
- (2) The drug or other substance has no currently accepted medical use in treatment in the United States;
- (3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

##### B. As to Schedule II:

- (1) The drug or other substance has a high potential for abuse;
- (2) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions;
- (3) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

##### C. As to Schedule III:

- (1) The drug or other substance has a potential for abuse less than the drugs or other substances listed in Schedules I and II;
- (2) The drug or other substance has a currently accepted medical use in treatment in the United States;

(3) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

D. As to Schedule IV:

(1) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule III;

(2) The drug or other substance has a currently accepted medical use in treatment in the United States;

(3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances listed in Schedule III.

E. As to Schedule V:

(1) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule IV;

(2) The drug or other substance has a currently accepted medical use in treatment in the United States;

(3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances listed in Schedule IV.

§964. Composition of Schedules

Schedules I, II, III, IV and V shall, unless and until added to pursuant to R.S. 40:962, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

A. OPIATES. Unless specifically excepted or unless listed in another Schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- \* (1) Acetylmethadol
- \* (2) Allyprodine
- \* (3) Alphacetylmethadol
- \* (4) Alphameprodine
- \* (5) Alphamethadol
- \* (6) Benzethidine
- \* (7) Betacetylmethadol
- \* (8) Betameprodine
- \* (9) Betamethadol
- \* (10) Betaprodine
- \* (11) Clonitazene

- \* (12) Dextromoramide
- \* (13) Dextrorphan
- \* (14) Diampromide
- \* (15) Diethylthiambutene
- \* (16) Dimenoxadol
- \* (17) Dimepheptanol
- \* (18) Dimethylthiambutene
- \* (19) Dioxaphetyl butyrate
- \* (20) Dipipanone
- \* (21) Ethylmethylthiambutene
- \* (22) Etonitazene
- \* (23) Etoxidine
- \* (24) Furethidine
- \* (25) Hydroxypethidine
- \* (26) Ketobemidone
- \* (27) Levomoramide
- \* (28) Levophenacymorphan
- \* (29) Morpheridine
- \* (30) Noracymethadol
- \* (31) Norlevorphanol
- \* (32) Normethadone
- \* (33) Norpipanone
- \* (34) Phenadoxone
- \* (35) Phenampromide
- \* (36) Phenomorphan
- \* (37) Phenoperidine
- \* (38) Piritramide
- \* (39) Proheptazine
- \* (40) Properidine
- \* (41) Racemoramide
- \* (42) Trimeperidine

B. OPIUM DERIVATIVES. Unless specifically excepted or unless listed in another Schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- \* (1) Acetorphine
- \* (2) Acetyldihydrocodeine
- \* (3) Benzylmorphine
- \* (4) Codeine methylbromide
- \* (5) Codeine-N-Oxide
- \* (6) Cyprenorphine
- \* (7) Desomorphine
- \* (8) Dihydromorphine
- \* (9) Etorphine
- \* (10) Heroin
- \* (11) Hydromorphinol
- \* (12) Methyldesorphine
- \* (13) Methylhydromorphine
- \* (14) Morphine methylbromide



- \* (15) Morphine methylsulfonate
- \* (16) Morphine-N-Oxide
- \* (17) Myrophine
- \* (18) Nicocodeine
- \* (19) Nicomorphine
- \* (20) Normorphine
- \* (21) Pholcodine
- \* (22) Thebacon

C. HALLUCINOGENS. Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation :

- (1) 3, 4-methylenedioxy amphetamine
- (2) 5-methoxy-3, 4-methylenedioxy amphetamine
- (3) 3, 4, 5-trimethoxy amphetamine
- (4) Bufotenine
- (5) Diethyltryptamine
- (6) Dimethyltryptamine
- (7) 4-methyl-2, 5-dimethoxyamphetamine
- (8) Ibogaine
- (9) Lysergic acid diethylamide
- (10) Marijuana
- (11) Mescaline
- (12) Peyote
- (13) N-ethyl-3-piperidyl benzilate
- (14) N-methyl-3-piperidyl benzilate
- (15) Psilocybin
- (16) Psilocyn
- (17) Tetrahydrocannabinols

#### SCHEDULE II

A. Unless specifically excepted or unless listed in another Schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis :

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate
- (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in Paragraph (1), except that these substances shall not include the isoquinoline alkaloids of opium
- (3) Opium poppy and poppy straw
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative,

or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine

**B. OPIATE RELATED DRUGS.** Unless specifically excepted or unless listed in another Schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alphaprodine
- (2) Anileridine
- (3) Bezitramide
- (4) Dihydrocodeine
- (5) Diphenoxylate
- (6) Fentanyl
- (7) Isomethadone
- (8) Levomethorphan
- (9) Levorphanol
- (10) Metazocine
- (11) Methadone
- (12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane
- (13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid
- (14) Pethidine
- (15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine
- (16) Pethidine-Intermediate-B, ethyl-4-Phenylpiperidine-4-carboxylate
- (17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
- (18) Phenazocine
- (19) Piminodine
- (20) Racemethorphan
- (21) Racemorphan
- (22) Oxymorphone
- (23) Dilaudid

**C. METHAMPHETAMINES.** Unless specifically excepted or unless listed in another Schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

**D. AMPHETAMINES.** Amphetamine, its salts, optical isomers, and salts of its optical isomers.

### SCHEDULE III

**A. STIMULANTS.** Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture, or preparation which contains any quantity of the following

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substances having a stimulant effect on the central nervous system:

- (1) Phenmetrazine and its salts
- (2) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers
- (3) Methylphenidate

B. DEPRESSANTS. Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture, or a preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid
- (2) Chorhexadol
- (3) Glutethimide
- (4) Lysergic acid
- (5) Lysergic acid amide
- (6) Methyprylon
- (7) Phencyclidine
- (8) Sulfondiethylmethane
- (9) Sulfonethylmethane
- (10) Sulfonmethane

C. Nalorphine

D. LIMITED NARCOTIC DRUGS. Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts

(5) Not more than 1.8 grams of dihydrocodeine per 100

milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

#### SCHEDULE IV

- (1) Barbital
- (2) Chloral Betaine
- (3) Chloral Hydrate
- (4) Ethchlorvynol
- (5) Ethinamate
- (6) Methohexital
- (7) Meprobamate
- (8) Methylphenobarbital
- (9) Paraldehyde
- (10) Petrichloral
- (11) Phenobarbital

#### SCHEDULE V

A. Unless specifically excepted or unless listed in another Schedule, any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulphate per dosage unit

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams, or not more than 5 milligrams per dosage unit

§965. State board of health ; authority to except

The state board of health may by regulation except any material, compound, mixture, or preparation containing any depressant or stimulant substance listed in Subsection A or B of Schedule III or in Schedule IV or V from the application of all or any part of this Part if the material, compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system; provided, that such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

§966. Prohibited acts—Schedule I; penalties

A. MANUFACTURE; DISTRIBUTION. Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule I;

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule I.

B. PENALTIES FOR VIOLATION OF SUBSECTION A. Any person who violates Subsection A with respect to:

(1) A substance classified in Schedule I which is a narcotic drug (all substances in Schedule I preceded by an asterisk “\*”), upon conviction shall be sentenced to a term of imprisonment at hard labor for not less than five years nor more than thirty years and pay a fine of not more than fifteen thousand dollars;

(2) Any other controlled dangerous substance classified in Schedule I shall, upon conviction be sentenced to a term of imprisonment at hard labor for not more than ten years and pay a fine of not more than fifteen thousand dollars.

C. POSSESSION. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule I unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection shall, upon conviction, be imprisoned at hard labor for not more than ten years and pay a fine of not more than five thousand dollars.

**D. POSSESSION OF MARIJUANA.** (1) On a first conviction for violation of Subsection C of this Section with regard to marijuana, the offender shall be fined not more than five hundred dollars and/or imprisoned in the parish jail for not more than six months.

(2) On a second conviction for violation of Subsection C of this Section with regard to marijuana, the offender shall be fined not more than two thousand dollars and/or imprisoned with or without hard labor for not more than five years.

(3) On a third or subsequent conviction for violation of Subsection C of this Section with regard to marijuana the offender shall be sentenced to imprisonment with or without hard labor for not more than twenty years.

§967. Prohibited acts—Schedule II; penalties

**A. MANUFACTURE; DISTRIBUTION.** Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule II;

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule II.

**B. PENALTIES FOR VIOLATION OF SUBSECTION A.** Any person who violates Subsection A with respect to:

(1) A substance classified in Schedule II which is a narcotic drug, upon conviction shall be sentenced to a term of imprisonment at hard labor for not less than five years nor more than thirty years and pay a fine of not more than fifteen thousand dollars;

(2) Any other controlled dangerous substance classified in Schedule II shall, upon conviction be sentenced to a term of imprisonment at hard labor for not more than ten years and pay a fine of not more than fifteen thousand dollars.

**C. POSSESSION.** It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule II unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection shall, upon conviction, be imprisoned with or without hard labor for not more than five years and pay a fine of not more than five thousand dollars.

§968. Prohibited acts—Schedule III; penalties

A. MANUFACTURE; DISTRIBUTION. Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule III;

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule III.

B. PENALTIES FOR VIOLATION OF SUBSECTION A. Any person who violates Subsection A with respect to any controlled dangerous substance classified in Schedule III shall, upon conviction be sentenced to a term of imprisonment at hard labor for not more than ten years and pay a fine of not more than fifteen thousand dollars.

C. POSSESSION. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule III unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection shall, upon conviction, be imprisoned with or without hard labor for not more than five years and pay a fine of not more than five thousand dollars.

§969. Prohibited acts—Schedule IV; penalties

A. MANUFACTURE; DISTRIBUTION. Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule IV;

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule IV.

B. PENALTIES FOR VIOLATION OF SUBSECTION A. Any person who violates Subsection A with respect to any controlled dangerous substance classified in Schedule IV shall, upon conviction be sentenced to a term of imprisonment at hard labor for not more than ten years and pay a fine of not more than fifteen thousand dollars.

C. POSSESSION. It is unlawful for any person knowingly

or intentionally to possess a controlled dangerous substance classified in Schedule IV unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection shall, upon conviction, be imprisoned with or without hard labor for not more than five years and pay a fine of not more than five thousand dollars.

§970. Prohibited acts—Schedule V; penalties

A. MANUFACTURE; DISTRIBUTION. Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule V;

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule V.

B. PENALTIES FOR VIOLATION OF SUBSECTION A. Any person who violates Subsection A with respect to a substance classified in Schedule V shall, upon conviction be sentenced to a term of imprisonment with or without hard labor for not more than five years and pay a fine of not more than five thousand dollars.

C. POSSESSION. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Section shall, upon conviction, be imprisoned with or without hard labor for not more than five years and pay a fine of not more than five thousand dollars.

§971. Prohibited acts; all Schedules

A. (1) It shall be unlawful for any person:

(a) Who is subject to the requirements of this Part to distribute or dispense a controlled dangerous substance in violation of this Part; or

(b) Who is a licensee to manufacture, distribute, or dispense a controlled dangerous substance to another licensee or other authorized person not authorized by his license; or

(c) To omit, remove, alter, or obliterate a symbol required by the Uniform Controlled Dangerous Substances Law; or



(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this Part; or

(e) To refuse entry into any premises for inspection as authorized by this Part; or

(f) To keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is frequented by persons using controlled dangerous substances in violation of this Part for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this Part.

(2) Any person who violates this Subsection shall, upon conviction be punishable by a fine of not more than fifteen thousand dollars. Such proceeding shall be independent of, and not in lieu of, other proceedings under this Part or any other law of this state. If the violation is prosecuted by a bill of information or an indictment which alleges that the violation was committed knowingly or intentionally, such person, upon conviction shall be punishable by imprisonment for not more than six months and by a fine of not more than five hundred dollars.

B. (1) It shall be unlawful for any person knowingly or intentionally:

(a) To use in the course of the manufacture or distribution of a controlled dangerous substance a license number which is fictitious, revoked, suspended or issued to another person; or

(b) To acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery deception or subterfuge; or

(c) To furnish false or fraudulent material information in any application, report, or other document required to be kept by this Part;

(d) To make, distribute, or possess any punch, die, plate, stone or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance.

(2) Any person who violates this Subsection, upon conviction shall be punishable by imprisonment, with or without hard labor, for not more than five years and to payment of a fine of not more than five thousand dollars.

§972. Rules and regulations and fees

The state board of health is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled dangerous substances within this state. The fees collected by the state board of health for registration and licensing shall be retained by said board except in the case of those fees collectible from pharmacies registered and licensed by the state board of pharmacy, which latter fees shall be collected and retained by said board of pharmacy. All said fees collected in accordance with the provisions of this Act shall be deposited in a separate fund and used for the administration and enforcement of this Part, and for education and research as provided by R.S. 40:992, together with any supplemental funds appropriated by the legislature or federal funds or grants received.

#### §973. Licensing requirements

A. Every person who manufactures, distributes, or dispenses any controlled dangerous substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance within this state, shall obtain a license issued by the state board of health in accordance with the rules and regulations promulgated by it.

B. The following persons shall not be required to obtain a license and may lawfully possess controlled dangerous substances under the provisions of this Part:

(1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;

(3) An ultimate user or person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner.

C. The state board of health may, by regulation, waive the requirement for licensing of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

D. A separate license shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.

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E. The state board of health is authorized to inspect the establishment of a licensee or applicant for licensing in accordance with the rules and regulations promulgated by it.

§974. Licensing

A. The state board of health shall license an applicant to manufacture or distribute controlled dangerous substances included in Schedules I through V of R.S. 40:964 at such fees as it shall determine to be reasonable, unless it determines that the issuance of such license is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Prior conviction record of applicant under federal or state laws relating to the manufacture, distribution, or dispensing of such substances;

(4) Past experience in the manufacture of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

B. Licenses granted under Subsection A of this Section shall not entitle a licensee to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the license.

C. A license application by a practitioner who wishes to conduct research with a controlled substance shall be referred to the Louisiana Narcotics Rehabilitation Commission. Licensing by the Louisiana Narcotics Rehabilitation Commission for the purpose of bona fide research with a controlled dangerous substance by a practitioner deemed qualified by the Louisiana Narcotics Rehabilitation Commission or any successor agency assuming the functions of such commission, may be denied only on a ground specified in R.S. 40:975(A) or on the ground that the applicant's past practice or proposed procedures furnish grounds for the belief that the applicant will abuse or unlawfully transfer such substances from legitimate medical or scientific use.

§975. Denial, revocation, or suspension of license

A. A license pursuant to R.S. 40:974 to manufacture, distribute, or dispense a controlled dangerous substance may be

suspended or revoked by the state board of health upon a finding that the applicant:

(1) Has materially falsified any application filed pursuant to this Part or required by this Part; or

(2) Has been convicted of a felony under this Part or any law of the United States, or of any state, relating to any substances defined herein as a controlled dangerous substance, or any felony under any other law of the United States or of any state within five years of the date of the issuance of the license; or

(3) Has had his federal license suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances.

B. The state board of health may limit revocation or suspension of a license to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.

C. Before taking action pursuant to this Section or pursuant to a denial of license under R.S. 40:974, the state board of health shall serve upon the applicant or licensee an order to show cause why license should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or licensee to appear before the state board of health at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this Section in accordance with R.S. 49:951 et seq. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this Part or any law of the state.

D. The state board of health may, in its discretion, suspend any license simultaneously with the institution of proceedings under this Section in cases where it finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the state board of health or dissolved by a court of competent jurisdiction.

E. In the event the state board of health suspends or revokes a license granted under R.S. 40:974, all controlled dangerous substances owned or possessed by the licensee pursuant to such license at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the state board of health, be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have

been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances shall be forfeited to the state.

F. The Bureau of Narcotics and Dangerous Drugs shall promptly be notified of all orders suspending or revoking license and all forfeitures of controlled dangerous substances.

§976. Records of licensees

Each licensee manufacturing, distributing or dispensing controlled dangerous substances in Schedules I, II, III, IV or V shall make a complete and accurate record of all stocks of such dangerous substances on hand. Thereafter, complete and accurate records of all such dangerous substances shall be maintained until the next inventory is made for the next two-year period as required by this Section. At each two-year period after July 29, 1970, at the time of his regular physical inventory, each licensee manufacturing, distributing, or dispensing controlled dangerous substances shall prepare an inventory of each dangerous substance in his possession. Records and inventories shall contain such information as shall be provided by rules and regulations promulgated by the state board of health. This Section shall not apply to practitioners who lawfully prescribe or administer, but not otherwise dispense, controlled dangerous substances listed in Schedules II, III, IV or V of this Part.

§977. Order forms

Controlled dangerous substances in Schedules I and II shall be distributed only pursuant to an order form. Compliance with the regulations of the state board of health respecting order forms shall be deemed compliance with this Section.

§978. Prescriptions

A. Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under the Louisiana Revised Statutes may be dispensed without the written prescription of a practitioner; provided that in emergency situations, as prescribed by the state board of health by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist. Prescriptions shall be retained in conformity with the requirements of R.S. 40 :976. No prescription for a Schedule II substance may be refilled.

B. Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III and IV which is a pre-

scription drug as determined under the Louisiana Revised Statutes may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than six months after the date thereof or refilled more than five times after the date of the prescription, unless renewed by the practitioner.

C. No controlled dangerous substance included in Schedule V may be distributed or dispensed other than for a medical purpose by prescription of a licensed practitioner or as otherwise permitted by the provisions of this Part.

§979. Attempt and conspiracy

Any person who attempts or conspires to commit any offense denounced and/or made unlawful by the provisions of this Part shall, upon conviction, be fined or imprisoned in the same manner as for the offense planned or attempted, but such fine or imprisonment shall not exceed one-half of the punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

§980. Additional penalties

Any penalty imposed for violation of this Part shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

§981. Distribution to persons under age eighteen

A. Persons over twenty five to persons under eighteen. Any person who is at least twenty five years of age, or more, who violates R.S. 40:966 or R.S. 40:967 by distributing a substance, listed in Schedules I or II, which is a narcotic drug, to a person under eighteen years of age, shall, upon conviction, be imprisoned for the remainder of his natural life, without benefit of pardon, parole or suspension of sentence.

B. Any person who is at least eighteen years of age who violates R.S. 40:966 or R.S. 40:967 by distributing a substance listed in Schedules I or II which is a narcotic drug to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment of up to twice that authorized by R.S. 40:966 or R.S. 40:967 or by payment of not more than twice the fine authorized by R.S. 40:966 or R.S. 40:967, or both.

C. Any person who is at least eighteen years of age who violates R.S. 40:966 - R.S. 40:970 by distributing any other controlled dangerous substance listed in Schedules I, II, III, IV and V to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment up to twice that authorized by R.S.

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40:966-R.S. 40:970 or by payment of not more than twice the fine authorized by R.S. 40:966 - R.S. 40:970, or both.

§892. Second or subsequent offenses

A. Any person convicted of any offense under this Part, if the offense is a second or subsequent offense, shall be sentenced to a term of imprisonment that is twice that otherwise authorized or to payment of a fine that is twice that otherwise authorized, or both. If the conviction is for an offense punishable under R. S. 40:966(B), R. S. 40:967(B), R. S. 40:968(B) or R. S. 40:969(B), and if it is the offender's second or subsequent offense, the court may impose in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.

B. For purposes of this Section, an offense shall be considered a second or subsequent offense, if, prior to the commission of such offense, the offender had at any time been convicted of an offense or offenses under this Part relating to the unlawful use, possession, production, manufacture, distribution or dispensation of any narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs.

§983. Conditional discharge for possession as first offense

Whenever any person who has not previously been convicted of any offense under this Part pleads guilty to or is convicted of having violated Sections 966C, 967C, 968C, 969C, 970C of this Part, and when it appears that the best interests of the public and of the defendant will be served, the court may, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as may be required.

Upon the defendant's violation of any of the terms or conditions of his probation, the court may enter an adjudication of guilt and impose sentence upon such person.

Upon fulfillment of the terms and conditions of probation imposed in accordance with this Section, the court shall discharge such person and dismiss the proceedings against him.

Discharge and dismissal under this Section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under R. S. 40:982. Discharge and dismissal under this Section may occur only once with respect to any person.

§984. Powers of enforcement personnel

The president of the state board of health and his design-

nated employees and the director of the Louisiana Narcotics Rehabilitation Commission may:

(1) Carry firearms;

(2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;

(3) Make arrests without warrant for any offense under this Part on the same basis as provided in Code of Criminal Procedure Article 213;

(4) Make seizures of property pursuant to the authority granted under the provisions of this Part.

§985. Search warrants

A search warrant relating to offenses involving controlled dangerous substances may be authorized to be served at any time of the day or night if the judge or magistrate issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant.

§986. Administrative inspections and warrants

A. Issuance and execution of administrative inspection

(1) Any judge of a state court of record, or any state magistrate of any court of record may, within his jurisdiction, and upon proper oath or affirmation after being satisfied there is probable cause to believe that legal grounds exist for the issuance of such warrant, issue warrants for the purpose of conducting administrative inspections authorized by this Part or regulations thereunder, and may authorize seizure of property related to such inspections.

(2) A warrant shall issue only upon an affidavit of any law enforcement officer or employee designated in R. S. 40:984 having knowledge of the facts alleged, sworn to before a judge or magistrate of any court of record and establishing the grounds for issuing the warrant. If the judge or magistrate of any court of record is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall also identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by R. S. 40:984 to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area premises, building, or conveyance identified for the purposes specified, and, where



appropriate, shall also direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate of any court of record to whom it shall be returned.

(3) A warrant issued pursuant to this Section must be executed and returned within ten days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken. The judge or magistrate of any court of record, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate of any court of record who has issued a warrant under this Section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the state court for the judicial district in which the inspection was made.

B. The president of the state board of health and the director of the Louisiana Narcotics Rehabilitation Commission are authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this Section only, "controlled premises" means:

(a) Places where persons licensed or exempted from licensing requirements under this Part are required to keep records; and

(b) Places including factories, warehouses, establishments, and conveyances where persons licensed or exempted from licensing requirements under this Part are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to Subsection A of this Section a law enforcement officer or an employee as designated in R. S. 40:984 hereof or the director of the Louisiana Narcotics Rehabilitation Commission, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting such an administrative inspection.

(3) When so authorized by an administrative inspection

warrant, a law enforcement officer or an employee as designated in R. S. 40:984 hereof or the director of the Louisiana Narcotics Rehabilitation Commission shall have the right:

(a) To inspect and copy records required by this Part to be kept;

(b) To inspect, within reasonable limits and in a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in Subsection B(5) of this Section, all other things therein including records, files, papers, processes, controls, and facilities subject to regulation and control by the provisions of this Part or by regulations promulgated by the president of the state board of health; and

(c) To inventory any stock of any controlled dangerous substance therein and obtain samples of any such substance.

(4) This Section shall not be construed to prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with R. S. 40:986 nor shall this Section be construed to prevent entries and administrative inspections including seizures of property without a warrant:

(a) With the written consent of the owner, operator, or agent in charge of the controlled premises;

(b) In situations involving inspection of conveyances where there is probable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this Section shall extend to:

(a) Financial data;

(b) Sales data other than shipment data; or

(c) Pricing data.

#### §987. Injunctions

Any district court of this state shall have jurisdiction in proceedings in accordance with the rules of such courts to enjoin violations of this Part and in accordance with the Code of Civil Procedure and other laws of this state.

#### §988. Cooperative arrangements; inspections

A. The state board of health may cooperate with federal and other state agencies in discharging its responsibilities concerning dangerous substances. To this end, it is authorized to:

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(1) Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances;

(2) Coordinate and cooperate in training programs on dangerous substance law enforcement at the local and state levels;

(3) Cooperate with the Federal Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit which will receive, catalogue, file and collect statistics, including records of drug dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes;

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

B. Anything contained in any other provision of Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes to the contrary notwithstanding, the inspections authorized or required by said law, insofar as pharmacists and pharmacies registered and licensed under the state board of pharmacy only are concerned, shall be conducted by the state board of pharmacy, through its duly authorized officers, members, inspectors, agents and representatives, insofar as pharmacists and pharmacies registered and licensed under the state board of pharmacy are concerned; and compliance with requirements involving security measures, inventories, records and reports required by said law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the state board of pharmacy in cooperation with the state board of health, insofar as pharmacists and pharmacies registered and licensed under the state board of pharmacy only are concerned.

C. Anything contained in any other provision of Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes to the contrary notwithstanding, the inspections authorized or required by said law, insofar as persons licensed by the state board of health including physicians, dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state, shall be conducted and furnished exclusively by the state board of health, through its duly authorized officers, members, inspectors, agents and representatives, insofar as physicians, dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research

with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state registered and licensed under the state board of health are concerned; and compliance with requirements involving security measures, inventories, records and reports required by said law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the state board of health.

§989. Forfeitures

A. The following shall be subject to forfeiture and no property right shall exist in them:

(1) All controlled dangerous substances which have been produced, manufactured, distributed or dispensed or acquired in violation of the provisions of this Part;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in producing, manufacturing, dispensing, compounding, processing, importing, or exporting any controlled dangerous substance in violation of the provisions of this Part;

(3) All property which is used, or intended for use, as a container for property described in Paragraphs (1) and (2);

(4) All conveyances including aircraft, vehicles, or vessels, which are used or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, production, manufacture, compounding, dispensation or concealment of property described in Paragraphs (1) and (2), except that:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this Part unless it shall appear that the owner or other person in charge of such conveyance was knowingly and intentionally a consenting party or privy to a violation of this Part; and,

(b) No vessel, vehicle, or aircraft shall be forfeited under the provisions of this Section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such vessel, vehicle, or aircraft was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state; provided, however, that when the vessel, vehicle, or aircraft involved contained only marijuana, in an amount of one ounce or less, the vessel, vehicle, or aircraft shall not be forfeited under the provisions of this Section by reason of any act or omission upon proof by the owner thereof that such act or omission had

been committed or omitted by any person other than such owner without the consent of the owner ;

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this Part.

B. Any property subject to forfeiture under this Part may be seized upon process issued by any court of record having jurisdiction over the property except that seizure without such process may be made when :

(1) The seizure is incident to an arrest with probable cause or a search under a valid search warrant or an inspection under a valid administrative inspection warrant ;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this Part.

C. Property taken or detained under this Section shall not be repleviable, but shall be deemed to be in the custody of the law enforcement agency making the seizure subject only to the orders and decrees of the court of record having jurisdiction thereof. Whenever property is seized under the provisions of this Part, the law enforcement officer or employee, aforesaid, making the seizure shall :

(1) Place the property under seal ;

(2) Remove the property to a place designated by the valid warrant under which such property was seized ; or,

(3) Request that the department of public safety take custody of the property and remove it to an appropriate location for disposition in accordance with law.

D. Whenever property is forfeited under this Part the law enforcement agency making the seizure may :

(1) Retain the property for official use ;

(2) Sell any forfeited property, which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be used for payment of all costs of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising and court costs ;

(3) Request that the department of public safety take custody of the property and remove it for disposition in accordance with law ; or

(4) Forward it to the Bureau of Narcotics and Dangerous Drugs for disposition. Such disposition may include delivery for medical or scientific use to any federal or state agency under regulations of the president of the state department of health.

E. All substances listed in Schedule I that are produced, possessed, transferred, sold, distributed, dispensed or offered for sale in violation of the provisions of this Part shall be deemed contraband and seized and summarily forfeited to the state. Similarly, all substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the state.

(1) All species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this Part, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(2) The willful failure, upon demand by a duly authorized law enforcement officer, the president of the state board of health or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute grounds for the seizure and forfeiture of such species of plant, the regulation of which is herein provided for.

F. Any law enforcement agency is empowered to authorize, or designate, officers; agents, or other persons to carry out the seizure provisions of this Section. It shall be the duty of any officer, agent, or other person so authorized or designated, or authorized by law, whenever he shall discover any vessel, vehicle, or aircraft which has been or is being used in violation of any of the provisions of this Section, or in, upon, or by means of which any violation of this Section has taken or is taking place, to seize such vessel, vehicle, or aircraft and to place it in the custody of such person as may be authorized or designated for that purpose by the respective law enforcement agency pursuant to these provisions.

G. The district attorney within whose jurisdiction the vessel, vehicle, or aircraft or other property has been seized because of its use or attempted use in violation of any provision of this Part shall proceed against the vessel, vehicle, or aircraft or other property by rule to show cause in the district court having jurisdiction of the offense and have it forfeited to the use of or the sale by the law enforcement agency making the seizure on producing due proof that the vehicle was being used in violation of the provisions of this Part.

H. Where it appears by affidavit that the residence of the owner of the vessel, vehicle, or aircraft or other property is out of the state or is unknown to the district attorney, the court shall appoint an attorney-at-law to represent the absent owner, against whom the rule shall be tried contradictorily within ten days after its filing. This affidavit may be made

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by the district attorney or one of his assistants. The attorney so appointed may waive service and citation of the petition or rule but shall not waive time nor any legal defense.

I. Whenever the head of the law enforcement agency effecting the forfeiture deems it necessary or expedient to sell the property forfeited, rather than to retain it to the use of the law enforcement agency, he shall cause an advertisement to be inserted in the official paper of the parish where the seizure was made, and after ten days, shall dispose of said property at public auction to the highest bidder, for cash and without appraisal.

J. The proceeds of all funds collected from any such sale, except as provided in Subsection D(2) above, shall be paid into the general fund of the parish and in the parish of Orleans, to the Commission Council of the city of New Orleans.

K. The rights of any mortgage holder or holder of a vendor's privilege on the property seized under this Part shall not be affected by the seizure.

### §990. Burden of proof; liabilities

A. It shall not be necessary for the state to negate any exemption or exception set forth in this Part in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this Part, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

B. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this Part, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

C. No liability shall be imposed by virtue of this Part upon any duly authorized law enforcement officer, the president of the department of health, or his designated agents as provided in R.S. 40:984 engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances, the regulation and control of which is herein provided for.

### §991. Judicial review

All determinations, findings and conclusions of the state board of health under this Part shall be final and conclusive of the matters involved, except that any person aggrieved by such decision may obtain review of the decision in the appropriate state district or appellate court.

### §992. Education and research

A. The Louisiana Narcotics Rehabilitation Commission, or any successor agency assuming the functions of such commission, is authorized to carry out educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances. In connection with such programs it is authorized to:

(1) Promote better recognition of the problems of misuse and abuse of controlled dangerous substances within the regulated industry and among interested groups and organizations;

(2) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled dangerous substances;

(3) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances;

(5) Disseminate to the industry and the general public the results of research on misuse and abuse of controlled dangerous substances to promote a better public understanding of what problems exist and what can be done to combat them; and,

(6) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances.

B. The state board of health is authorized to encourage research on misuse and abuse of controlled dangerous substances. In connection with such research and in furtherance of the enforcement of this Part, it is authorized to:

(1) Establish methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse;

(2) Make studies and undertake programs of research to:

(a) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this Part.

(b) Determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof, and,

(c) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled dangerous substances; and,



(3) Enter into contracts with public agencies, institutions of higher education, for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled dangerous substances.

C. The state board of health in cooperation with the Louisiana Narcotics Rehabilitation Commission, or any successor agency assuming the functions of such commission, may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are subjects of such research. Persons who obtain this authorization shall not be compelled, in any civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which authorization was obtained.

D. The state board of health, in cooperation with the Louisiana Narcotics Rehabilitation Commission, or any successor agency assuming the functions of such commission, may authorize the possession and distribution of controlled dangerous substances by persons engaged in research in accordance with rules promulgated by the Louisiana Narcotics Rehabilitation Commission. Persons who obtain this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the state board of health and the Louisiana Narcotics Rehabilitation Commission.

#### §993. Pending proceedings

A. Prosecutions, for any violation of law occurring prior to July 26, 1972, shall not be affected by this Part or abated by reason thereof.

B. Civil seizures, forfeitures and injunctive proceedings commenced prior to July 26, 1972 shall not be affected by this Part or abated by reason thereof.

C. All administrative proceedings pending before the state board of health on July 26, 1972 shall be continued and brought to final determination in accordance with laws and regulations in effect prior to July 26, 1972. Such drugs placed under control prior to enactment of this Part, which are not listed within Schedules I through V, shall automatically be controlled and listed in the appropriate schedule.

D. The provisions of this Part shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following July 26, 1972.

#### §994. Continuation of regulations

Any orders, rules, and regulations which have been promulgated under any law affected by this Part, and which are in

effect on the day preceding enactment of this Section, shall continue in effect until modified, superseded or repealed by the Louisiana Narcotics Rehabilitation Commission, or any successor agency assuming the functions of such commission, or the state board of health, respectively.

§995. Short title

This Part may be cited as the Uniform Controlled Dangerous Substances Law.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor : July 12, 1972.

A true copy :

WADE O. MARTIN, JR.  
Secretary of State.

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ACT No. 635

House Bill No. 1507.

By: Mr. Guidry.

AN ACT

To amend and reenact Title 47 of the Louisiana Revised Statutes of 1950 to add thereto a new section to be designated as Section 1643, to provide for a prescriptive period for institution of proceedings for criminal statutes pertaining to the failure to perform any obligation arising out of any statute imposing or regulating a tax of this state.

Be it enacted by the Legislature of Louisiana :

Section 1. Section 1643 of Title 47 of the Louisiana Revised Statutes is hereby enacted to read as follows :

§1643. Running of time limitations

No person shall be prosecuted, tried or punished for an offense under this chapter unless the prosecution is instituted within a period of four years after the offense has been committed.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect