

Legalize Recreational Marijuana in West Virginia to Increase Tax Revenue, Create Jobs, and Make Communities Safer

Executive Summary

Although West Virginia legalized the medical use of marijuana, it has one of the [harshes penalties in the nation](#) for recreational use - a possible 90 days in prison for the first offense for possessing any amount. In contrast, more than 50% of states have legalized the recreational use of marijuana. And, [70% of West Virginians](#) support marijuana legalization at the federal level. Benefits to legalizing marijuana include increased tax revenue, decreased costs of enforcing drug laws, job creation in the marijuana industry, and safer communities due to less criminal activity.

Criminalizing Marijuana Loses Money for West Virginia

West Virginia has historically punished the possession and sale of marijuana through criminal penalties. [A criminal record is a significant barrier to employment](#) for affected individuals, so criminalizing drug abuse makes it harder for many people in the state to find jobs. Marijuana arrests are a major source of criminal records in the state. Among states in which marijuana is illegal, [most drug arrests are for marijuana-related offenses](#), including possession of the drug. Criminalizing marijuana also increases racial inequality in West Virginia, because the brunt of the enforcement of drug crime falls on people of color and impoverished individuals.

From a societal perspective, [about 1650 individuals](#) were arrested in West Virginia for marijuana possession or sales in 2021. The time these people spent in court and prison reduces the time they are able to work, provide tax revenues to their communities, and provide for their families. Taxpayer dollars may then end up going towards funding programs such as SNAP or SSI for families left without a main earner.

Legalizing Marijuana Generates Revenue for West Virginia

According to an analysis by the West Virginia Center on Budget and Priorities (see table below), financial benefits to the state could include \$45 million in tax revenue from sales. In states where marijuana is legal, it has been shown to [generate substantial tax revenue](#) that can be used to fund initiatives such as education, public safety, and drug treatment or other health programs. In Nevada, for example, [tax revenue from state-regulated marijuana sales](#) goes to fund education and local governments, among other initiatives. A boost from legal and regulated marijuana sales could provide extra funding to the state government.

Another economic benefit from marijuana legalization is the creation of new jobs related to selling, growing, or processing the plant. [According to a 2022 report](#), there are now 428,059 legal cannabis jobs nationwide. West Virginia currently has the [12th-highest unemployment rate](#) in the country, and has suffered the loss of jobs in key industries that may be difficult to replace in the future.



Key Findings

Legalizing recreational marijuana, including regulating and taxing the sale of the drug, could:

- Generate much-needed tax revenue for important initiatives
- Limit barriers to employment and create more jobs
- Make it easier for individuals to retain or obtain employment.
- Shift revenue towards efforts to combat the opioid epidemic

Key Findings from WV Center on Budget & Policy Report

Finding # 1	With a 25% tax on marijuana sales, the state could collect an estimated \$45 million annually. An additional \$194 million could be earned from out-of-state visitors.
Finding # 2	West Virginia spent more than \$17 million enforcing marijuana laws in 2010. Much of this enforcement burden was carried by people of color.
Finding # 3	The marijuana industry could add a significant amount of jobs in the state, both through the cultivation and sale of marijuana plus tourism.
Finding # 4	Marijuana may provide a safer and less-addictive alternative to opioid drugs. West Virginia has suffered one of the highest rates of opioid overdoses recently.

Social Benefits from Legalizing Marijuana in West Virginia

West Virginia consistently suffers among the [highest number of drug overdose deaths](#) per capita, much of it due to the ongoing opioid epidemic. Legalizing marijuana may help to turn the tide on the state's opioid epidemic. [Evidence](#) suggests that more liberal marijuana laws can reduce the number of opioid prescriptions filled in a state. Legalizing, regulating, and taxing marijuana could also help to shift some resources away from law enforcement and towards costly programs such as in-patient drug rehabilitation, harm reduction programs, and other initiatives that could help to combat the devastating opioid epidemic.

Incarceration is also very expensive; reducing WV's incarceration rate can save WV taxpayers an estimated [\\$27,458 per year per prison inmate](#), freeing up funding to be spent on education, drug treatment programs, or law enforcement. The incarceration rate resulting from the enforcement of marijuana laws affects people of color and impoverished individuals more as a proportion of the state population. Therefore, criminalizing drug abuse is a major source of racial discrimination within the state. Legalizing marijuana could significantly combat the racial disparities in the execution of justice, keeping more people out of incarceration, and keeping families together.

In states where marijuana is legal, black market sales of the drug contribute to higher crime rates. This is not just for the possession and distribution of the drug, but for other criminal activity, such as gang-related violence. Thus legalizing marijuana could help to reduce criminal activity by choking off the black market.

Concerns about Marijuana Legalization

One concern among opponents of marijuana legalization is that it will lead to increased usage rates and negative public health outcomes, including but not limited to more [impaired driving](#) and [workplace safety issues](#). Some also still cite marijuana as a ["gateway" drug](#), and thus see its legalization associated with higher usage rates of other, more deadly, drugs. It is unclear whether some of these arguments are based on research from U.S. states that have already legalized the drug, but they nonetheless do generate some political sway against the legalization of marijuana.

Conclusion

This policy brief lays out some of the benefits of legalizing recreational marijuana in West Virginia. Legalization could benefit the state financially, and also contribute to the goals of reducing inequality in and shifting funds away from the criminalization of marijuana towards drug treatment.

For More Information: This policy brief was written by Dr. Crosby Hipes, Assistant Professor at WVU Institute of Technology. Email: crosby.hipes@mail.wvu.edu



This work is licensed under a Creative Commons Attribution-No Derivative License Works 4.0 License.

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4873

By Delegates Hansen, Lewis, Garcia, Pushkin, Rowe,
Williams, Hamilton, Hornbuckle and Young

[Introduced January 17, 2024; Referred to the
Committee on Health and Human Resources then the
Judiciary then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §16A-17-1, §16A-17-2, §16A-17-3, §16A-17-4, §16A-17-5, §16A-17-6, §16A-
3 17-7, §16A-17-8, and §16A-17-9, all relating to legalizing cannabis production, sales, and
4 adult consumption; providing legislative purpose and findings; defining terms; legalizing
5 the possession of one ounce or less of cannabis and cannabis products by adults;
6 authorizing production, sales, transfer, and transport of cannabis upon passing county
7 referendums; providing procedure for county commissions to authorize county referendum
8 on legislation of production and sales; establishing mechanisms for permitting and
9 licensing production and sales facilities by the Bureau for Public Health and localities;
10 authorizing the Bureau of Public Health to propose legislative rules, establish licensing and
11 administrative penalties relating to the production, sales, transfer and transport cannabis in
12 authorizing counties; authorizing the Department of Revenue to promulgate rules and
13 administer tax collections; authorizing localities to regulate manufacturing and sales
14 locations; authorizing a special excise tax on cannabis; creating a new fund and dedicating
15 proceeds of the fund; authorizing county local sales tax to be collected and used for the
16 benefit of county and municipal governments; providing current laws relating to
17 employment, vehicle operation, underage use or private property use preserved; and that
18 the operation of this article is not intended to alter West Virginia Medical Cannabis Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. LEGAL ADULT CONSUMPTION OF CANNABIS.

§16A-17-1. Purpose and findings.

1 (a) In the interest of the efficient use of law-enforcement resources, enhancing revenue for
2 public purposes, and individual freedom, the Legislature finds and declares that the use of
3 cannabis should be legal for persons 21 years of age or older.

4 (b) In the interest of the health and public safety of our citizenry, the Legislature further
5 finds and declares that cannabis should be regulated in a manner similar to alcohol so that:

(1) Individuals will have to show proof of age before purchasing cannabis;

(2) Selling, distributing, or transferring cannabis to minors and other individuals under the age of 21 remains illegal;

(3) Driving under the influence of cannabis remains illegal;

(4) Legitimate, taxpaying businesspeople, and not criminal actors, will conduct sales of cannabis; and

(5) Cannabis sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The Legislature finds and declares that it is necessary to ensure consistency and fairness in the application of this article throughout the state and that the matters addressed by this article are, except as specified herein, matters of statewide concern.

§16a-17-2.

Definitions.

As used in this article, unless the context otherwise requires,

"Bureau" means the Bureau of Public Health in the Department of Health and Human Resources;

"Cannabis" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Cannabis does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product;

"Cannabis accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis,

15 or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

16 "Cannabis cultivation facility" means an entity licensed to cultivate, prepare, and package
17 cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities,
18 and to other cannabis cultivation facilities, but not to consumers;

19 "Cannabis establishment" means a cannabis cultivation facility, a cannabis testing facility,
20 a cannabis product manufacturing facility, or a retail cannabis store;

21 "Cannabis product manufacturing facility" means an entity licensed to purchase cannabis;
22 manufacture, prepare, and package cannabis products; and sell cannabis and cannabis products
23 to other cannabis product manufacturing facilities and to retail cannabis stores, but not to
24 consumers;

25 "Cannabis products" means concentrated cannabis products and cannabis products that
26 are comprised of cannabis and other ingredients and are intended for use or consumption, such
27 as, but not limited to, edible products, ointments, and tinctures;

28 "Cannabis testing facility" means an entity licensed to analyze and certify the safety and
29 potency of cannabis;

30 "Consumer" means a person 21 years of age or older who purchases cannabis or
31 cannabis products for personal use by persons 21 years of age or older, but not for resale to
32 others;

33 "Department" means the Department of Tax and Revenue or its successor agency;

34 "Industrial hemp" means the plant of the genus cannabis and any part of such plant,
35 whether growing or not, as authorized pursuant to §19-12D-1 *et seq.* of this code;

36 "Retail cannabis store" means an entity licensed to purchase cannabis from cannabis
37 cultivation facilities and cannabis and cannabis products from cannabis product manufacturing
38 facilities and to sell cannabis and cannabis products to consumers; and

39 "Unreasonably impracticable" means that the measures necessary to comply with the
40 requirements of this article require such a high investment of risk, money, time, or any other

resource or asset that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

§16A-17-3. Personal use of cannabis.

Notwithstanding any other provision of the code, the following acts are not unlawful and are not an offense under state law or a basis for seizure or forfeiture of assets under state law for persons 21 years of age or older:

(1) Possession of one ounce or less of cannabis;

(2) Consumption of cannabis: *Provided*, That this article does not permit consumption that is conducted openly and publicly or in a manner that endangers others, and for state and local governments to prohibit use on government owned property;

(3) Following the authorization by a county referendum authorized by §16A-17-4 of this code, manufacturing, displaying, purchasing, transporting or sales of up to one ounce of cannabis in an approved county to persons 21 years or older; or

(4) Assisting another person who is 21 years of age or older in any of the acts described in this section.

§16A-17-4. County option election on allowing production and sales of cannabis.

The county commission of any county may conduct a county option election on the question of whether the manufacture and sale to persons 21 years of age or older is allowed in the county as provided in this article, upon approval as provided in this section. The option election on this question may be placed on the ballot in each county at any primary or general election. The county commission of the county shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the 14 consecutive days next preceding the election. On the local option election ballot shall be printed the following: "Shall the production and sale of cannabis for consumption by persons 21 years or

11 older be lawful in this county?

12 If approved by the voters this would authorize licenses to be issued for the regulated
13 manufacture and sales of cannabis in the county for lawful consumption to persons 21 years or
14 older, and the collection for a special sales tax of five percent for the benefit of the county and its
15 municipalities on all retail cannabis sales".

16 ☐ Yes ☐ No

17 (Place a cross mark in the square opposite your choice.)

18 The ballots shall be counted, returns made and canvassed as in general elections and the
19 results certified by the commissioners of election to the county commission. The county
20 commission shall, without delay, certify the result of the election. Upon receipt of the results of the
21 election, if a majority of the votes are marked "Yes" all applicable licensees shall be permitted for
22 the manufacture and sales of cannabis in the county. If a majority of the votes are marked "No" the
23 manufacture and sales of cannabis shall remain unlawful.

§16A-17-5. Lawful operation of cannabis-related facilities.

1 Notwithstanding any other provision of law, the following acts are not unlawful and are not
2 an offense under state law or a basis for seizure or forfeiture of assets under state law for persons
3 21 years of age or older to possess one ounce or less.

4 In counties where the voters have by referendum so authorized:

5 (1) Manufacture, possession, or purchase of cannabis accessories or the sale of cannabis
6 accessories to a person who is 21 years of age or older;

7 (2) Possessing, displaying, or transporting cannabis or cannabis products; purchase of
8 cannabis from a cannabis cultivation facility; purchase of cannabis or cannabis products from a
9 cannabis product manufacturing facility; or sale of cannabis or cannabis products to consumers, if
10 the person conducting the activities described in this paragraph has obtained a current, valid
11 license to operate a retail cannabis store or is acting in his or her capacity as an owner, employee,
12 or agent of a licensed retail cannabis store;

(3) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing cannabis; delivery or transfer of cannabis to a cannabis testing facility; selling cannabis to a cannabis cultivation facility, a cannabis product manufacturing facility, or a retail cannabis store; or the purchase of cannabis from a cannabis cultivation facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a cannabis cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis cultivation facility;

(4) Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis or cannabis products; delivery or transfer of cannabis or cannabis products to a cannabis testing facility; selling cannabis or cannabis products to a retail cannabis store or a cannabis product manufacturing facility; the purchase of cannabis from a cannabis cultivation facility; or the purchase of cannabis or cannabis products from a cannabis product manufacturing facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a cannabis product manufacturing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis product manufacturing facility;

(5) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering cannabis or cannabis products if the person has obtained a current, valid license to operate a cannabis testing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis testing facility; or

(6) Leasing or otherwise allowing the use of property owned, occupied, or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance this section.

§16A-17-6. Regulation of cannabis.

(a) Not later than July 1, 2025, the bureau shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code necessary for implementation of this article. The rules may not prohibit the operation of cannabis establishments, either expressly

4 or through rule, that make their operation unreasonably impracticable, and shall include:

5 (1) Procedures for the issuance, renewal, suspension, and revocation of a license to
6 operate a cannabis establishment;

7 (2) A schedule of application, licensing, and renewal fees: *Provided*, That application fees
8 may not exceed \$5,000, with this upper limit adjusted annually for inflation, unless the bureau
9 determines a greater fee is necessary to carry out its responsibilities under this article: *Provided*,
10 *however*, That an entity that is licensed under this article to cultivate or sell cannabis or to
11 manufacture cannabis products for medical purposes at the time this article takes effect and that
12 chooses to apply for a separate cannabis establishment license may not be required to pay an
13 application fee greater than \$500 to apply for a license to operate a cannabis establishment in
14 accordance with the provisions of this article;

15 (3) Qualifications for licensure that are directly and demonstrably related to the operation of
16 a cannabis establishment;

17 (4) Security requirements for cannabis establishments;

18 (5) Requirements to prevent the sale or diversion of cannabis and cannabis products to
19 persons under the age of 21;

20 (6) Labeling requirements for cannabis and cannabis products sold or distributed by a
21 cannabis establishment;

22 (7) Health and safety regulations and standards for the manufacture of cannabis products
23 and the cultivation of cannabis;

24 (8) Restrictions on the advertising and display of cannabis and cannabis products; and

25 (9) Civil penalties for the failure to comply with rules made pursuant to this article.

26 (b) In order to ensure that individual privacy is protected, notwithstanding subsection (a) of
27 this section, the bureau may not require a consumer to provide a retail cannabis store with
28 personal information other than government-issued identification to determine the consumer's
29 age, and a retail cannabis store may not be required to acquire and record personal information

about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

(c) A municipality may enact ordinances, not in conflict with this state law or with legislative rules enacted pursuant to this article, governing the times of operation, locations, manner, and number of cannabis establishment operations.

(d) Each application for an annual license to operate a cannabis establishment shall be submitted to the bureau. The bureau shall:

(1) Begin accepting and processing applications by October 1, 2025;

(2) Immediately forward a copy of each application and half of the license application fee to the county and municipality in which the applicant desires to operate the cannabis establishment;

(3) Issue an annual license to the applicant between 45 and 90 days after receipt of an application unless the bureau has not received the fee or the bureau is notified by the relevant municipality that the applicant is not in compliance with its ordinances in effect at the time of application: *Provided*, That where a municipality has enacted a numerical limit on the number of cannabis establishments and a greater number of applicants seek licenses, the bureau shall solicit and consider input from the municipality as to its' preference or preferences for licensure; and

(4) Upon denial of an application, notify the applicant in writing of the specific reason for its denial.

§16A-17-7. Cannabis excise tax and sales tax, distribution.

(a) There shall be an excise tax to be levied upon cannabis sold or otherwise transferred by a cannabis cultivation facility to a cannabis product manufacturing facility or to a retail cannabis store at a rate of 15 percent of the sales price. The excise tax shall be deposited in the Cannabis Transfer Tax Fund created in this section and allocated pursuant to the provisions of this section.

(b) There is created a special fund in the State Treasury which shall be designated and known as the "Cannabis Transfer Tax Fund." All revenues received from licensees pursuant to §16A-17-7(a) of this code shall be deposited with the State Treasurer and placed in the Cannabis

Transfer Tax Fund. The fund shall be an interest-bearing account with interest to be credited to and deposited in the fund. The department shall establish procedures for the collection of all taxes levied and may promulgate legislative rules, pursuant to §29A-3-1 et seq. of this code, necessary to administer collection and enforcement of tax collections, on a monthly basis, as follows:

(1) Fifty percent of the revenue shall be deposited into the Public Employees Insurance Agency Stability Fund and expended pursuant to §11B-2-32 of this code;

(2) Twenty-five percent shall be deposited into the Fight Substance Abuse Fund created by §60A-9-8 of this code;

(3) Twelve and one-half percent shall be allocated to the Division of Justice and Community Services and expended pursuant to §15-9A-3 of this code for grants to state and local law-enforcement agencies for training in and promotion of community relations, training on identification of driving under the influence of cannabis, and other training and programs promoting effective drug law-enforcement activities;

(4) Twelve and one-half percent shall be allocated to the General Fund of the state for the purpose of state employee pay raises; and

(5) All proceeds from license fees and any administrative penalties shall be allocated to the Department of Health and Human Resources.

(c) A local sales tax shall be assessed on all cannabis derived products of six percent and shall be collected at the point of sale by the licensed retail cannabis store. The county shall receive all proceeds of the local sales tax within 30 days of collection, and the tax shall be distributed as follows:

(1) The county shall retain 50 percent of the tax; and

(2) The municipalities of the county shall receive 50 percent of the tax, to be divided among the municipalities on a per capita basis as determined by the most recent decennial United States census of population.

(d) Sales of cannabis derived products authorized for sale pursuant to this article are not

otherwise subject to the consumers sales and service tax as provided in §11-15-1 *et seq.* and §11-15B-1 *et seq.* of this code, or any other state taxes not provided pursuant to this section: *Provided*, That the calculation of the fractional percentage of the tax for parts of a dollar shall be determined by §11-15-3 of this code.

§16A-17-8. Employers, driving, minors and control of property.

(a) Nothing in this article is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis in the workplace or to affect the ability of employers to have policies restricting the use of cannabis by employees.

(b) Nothing in this article is intended to allow driving under the influence of cannabis or driving while impaired by cannabis or to supersede statutory laws related to driving under the influence of cannabis or driving while impaired by cannabis, nor shall this article prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by cannabis.

(c) Nothing in this article is intended to permit the transfer of cannabis, with or without remuneration, to a person under the age of 21 or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume cannabis.

(d) Nothing in this article prohibits a person, employer, school, hospital, detention facility, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of cannabis on or in that property.

§16A-17-9. Medical cannabis provisions unaffected.

Nothing in this article:

(1) Limits any privileges or rights of a medical cannabis patient, primary caregiver, or licensed entity as provided by this chapter;

(2) Permits a medical cannabis center to distribute cannabis to a person who is not a

- 5 medical cannabis patient;
6 (3) Permits a medical cannabis center licensed pursuant to this article to operate on the
7 same premises as a retail cannabis store; or
8 (4) Discharges the bureau or the department or the from their statutory and constitutional
9 duties to regulate medical cannabis pursuant to this chapter.

NOTE: The purpose of this bill is to legalize the personal use and possession of cannabis by adults; providing for a county option election to allow for the production and sales in that county; providing for regulation by the Bureau of Health; authorizing an excise and local sales tax on cannabis; prohibiting underage use; and preserving current laws relating to allowing employers and property owners to prohibit use or possession.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA CODE: §60A-2-204

§60A-2-204. Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section 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.

(b) Opiates.

Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl) -4-piperidinyl]—phenylacetamide);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-((propanilido) piperidine);

Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]—phenylpropanamide);

Benzethidine;

Betacetylmethadol;

Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2- hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetyl butyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxadine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacymorphan;

3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4- piperidyl]-N-phenylpropanamide);

3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4- piperidyl]—phenylpropanamide);

Morpheridine;

N-Methylnorfentanyl (N-(1-Methyl-4-piperidyl)-N-phenyl-propanamide, monohydrochloride);

Norfentanyl (N-Phenyl-N-4-piperidyl-propanamide);

MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

Noracymethadol;

Norlevorphanol;

Normethadone;

Norpipanone;

Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

Phenadoxone;

Phenampromide;

Phenomorphane;

Phenoperidine;

Piritramide;

Proheptazine;

Propiridine;

Propiram;

Racemoramide;

Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

Tilidine;

Trimeperidine.

(c) Opium derivatives,

Acetorphine;

Acetyldihydrocodeine;

Benzylmorphine;

Codeine methylbromide;

Codeine-N-Oxide;

Cyprenorphine;

Desomorphine;

Dihydromorphine;

Drotebanol;

Etorphine (except HCl Salt);

Heroin;

Hydromorphenol;

Methyldesorphine;

Methyldihydromorphine;

Morphine methylbromide;

Morphine methylsulfonate;

Morphine-N-Oxide;

Myrophine;

Nicocodeine;

Nicomorphine;

Normorphine;

Pholcodine;

Thebacon.

(d) Hallucinogenic substances.

Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethy-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the acronym 25B-NBOMe;

2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe);

2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe);

2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

3-Hydroxy-phencyclidine (other name hydroxy PCP);

5-methoxy-3, 4-methylenedioxy-amphetamine;

4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";

3,4-methylenedioxy amphetamine;

3,4-methylenedioxymethamphetamine (MDMA);

3,4-methylenedioxy-N-ethylamphetamine (also known as (ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (also known as (hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and (hydroxy MDA);

3,4,5-trimethoxy amphetamine;

5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

Alpha-methyltryptamine (other name: AMT);

Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N- dimethyltryptamine; mappine;

Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

Dimethyltryptamine; some trade or other names: DMT;

5-Methoxy-N,N-disopropyltryptamine (5-MeO-DIPT);

Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;

Lysergic acid diethylamide;

Marihuana; Marijuana (Cannabis, sp.);

Mescaline;

Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

Peyote; meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, immediate derivative, mixture, or preparation of such plant, its seeds or extracts;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity including, but not limited to the following:

delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;

delta-8 Cis or trans tetrahydrocannabinol and its optical isomers; and

delta-10 Cis or trans tetrahydrocannabinol and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Delta-8-tetrahydrocannabinol-O (delta-8-THC-O), Delta-9-tetrahydrocannabinol (delta-9-THC-O) and Synthetic and non-naturally occurring cannabinoids.

The provisions of this section related to tetrahydrocannabinols are inapplicable to products or substances lawfully manufactured, distributed, or possessed under the provisions of §19-12E-1 *et seq.* and Chapter 16H of this code.

Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP, TCP;

1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy;

4-methylmethcathinone (Mephedrone);

3,4-methylenedioxypyrovalerone (MDPV);

2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);

2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);

2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);

2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);

3,4-Methylenedioxy-N-methylcathinone (Methylone);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7, its optical isomers, salts and salts of isomers;

5-methoxy-N,N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT);

Alpha-methyltryptamine (other name: AMT);

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Synthetic Cannabinoids as follows:

2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol {also known as CP 47,497 and homologues};

rel-2-[(1S,3R)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol {also known as CP 47,497-C8 homolog};

[(6aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol] {also known as HU-210};

(dexanabinol);

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol {also known as HU-211};

1-Pentyl-3-(1-naphthoyl)indole {also known as JWH-018};

1-Butyl-3-(1-naphthoyl)indole {also known as JWH-073};

(2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-015};

(1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};

[1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-methanone {also known as JWH-200};

1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};

2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl)-5-(2-methyloctan-2-yl)phenol {also known as CP 55,940};

(4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-methanone {also known as JWH-122};

(4-methyl-1-naphthalenyl)(1-pentyl-1H-indol-3-yl)-methanone {also known as JWH-398};

(4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};

1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl)ethanone {also known as RCS-8};

1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201); and

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694).

Synthetic cannabinoids:

CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL)phenol);

HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10, 10A-tetrahydrobenzo[C] chromen-1-OL)];

HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-YL)-6A,7,10,10atetrahydrobenzo[C]chromen-1-OL);

JWH-018, 1-pentyl-3-(1-naphthoyl)indole;

JWH-019, 1-hexyl-3-(1-naphthoyl)indole;

JWH-073, 1-butyl-3-(1-naphthoyl)indole;

JWH-200, (1-(2-morpholin-4-ylethyl)indol-3-yl)- Naphthalen-1-ylmethanone;

JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl)indole.]

Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-ADB);

Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5F-AMB);

Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (FUB-AMB);

N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5F-APINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (ADB-FUBINACA);

Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (MDMB-CHMICA);

Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (MDMB-FUBINACA);

Tetrahydrocannabinols:

DELTA-1 CIS OR trans tetrahydrocannabinol and their Optical isomers.

DELTA-6 CIS OR trans tetrahydrocannabinol and their optical isomers.

DELTA-3,4 CIS or their trans tetrahydrocannabinol and their optical isomers.

Synthetic Phenethylamines

2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/ 2C-I-NBOMe);

2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-C-NBOMe);

2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/ 2C-B-NBOMe);

Synthetic Opioids (including their isomers, esters, ethers, salts and salts of isomers, esters and ethers):

N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);

furanyl fentanyl;

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700);

N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl);

N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidiny]-N-phenylpropanamide, (beta-hydroxythiofentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (acryl fentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (isobutyryl fentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (cyclopropyl fentanyl);

2-(2,4-dichlorophenyl)-N-((1S,2S)-2-(dimethylamino)cyclohexyl)-N-methylacetamide (also known as U-48800);

Trans-3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methyl-benzamide (also known as U-49900);

Trans-3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzeneacetamide (also known as U-51754);

2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine (butonitazene);

2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine

(etodesnitazene);

N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine
(flunitazene);

N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine
(metodesnitazene);

N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine
(metonitazene);

2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole (N-pyrrolidino
etionitazene, etonitazepyrine);

N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine
(protonitazene);

N-pyrrolidino etonitazene;

Etodesnitazene;

Isotonitazene;

Protonitazene;

Metonitazene;

Butonitazene;

Metodesnitazene;

Flunitazene;

Opioid Receptor Agonist

AH-7921 (3,4-dichloro-N-(1-dimethylamino)cyclohexylmethyl]benzamide).

Naphthoylindoles or any compound containing a 3-(1-Naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include the following:

JWH 015;

JWH 018;

JWH 019;

JWH 073;

JWH 081;

JWH 122;

JWH 200;

JWH 210;

JWH 398;

AM 2201; and

WIN 55,212.

Naphylmethyldindoles or any compound containing a 1-indol-3-yl-(1-naphthyl) methane structure with a substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

Naphthoylpyrroles or any compound containing a 3-(1-Naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 147 and JWH 307.

Naphthylmethyldinenes or any compound containing a Naphthylideneindene structure with substitution at the 3- Position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 176.

Phenylacetyldindoles or any compound containing a 3- Phenylacetyldindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

RCS-8, SR-18 OR BTM-8;

JWH 250;

JWH 203;

JWH 251; and

JWH 302.

Cyclohexylphenols or any compound containing a 2-(3- hydroxycyclohexyl) phenol structure

with a substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

CP 47,497 and its homologues and analogs;

Cannabicyclohexanol; and

CP 55,940.

Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

AM 694;

Pravadoline WIN 48,098;

RCS 4; and

AM 679.

[2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-naphthalenymethanone. This shall include WIN 55,212-2.

Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051, and JWH 133.

Adamantoylindoles or any compound containing a 3-(1- Adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the adamantoyl ring system to any extent. This shall include AM1248.

Tetramethylcyclopropylindoles or any compound containing A 3-tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV, and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research. Since nomenclature of these substances is not internationally standardized, any immediate precursor or immediate derivative of these

substances shall be covered.

Tryptamines:

5- methoxy- N- methyl-N-isopropyltryptamine (5-MeO-MiPT);

4-hydroxy-N,N-diisopropyltryptamine (4-HO-DiPT);

4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT);

4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET);

4-acetoxy-N,N-diisopropyltryptamine (4-AcO-DiPT);

5-methoxy- α -methyltryptamine (5-MeO-AMT);

4-methoxy-N,N-Dimethyltryptamine (4-MeO-DMT);

4-hydroxy Diethyltryptamine (4-HO-DET);

5- methoxy- N,N- diallyltryptamine (5-MeO-DALT);

4-acetoxy-N,N-Dimethyltryptamine (4-AcO DMT);

4-hydroxy Diethyltryptamine (4-HO-DET);

FDU-PB-22 (1-Naphthyl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate);

FUB-PB-22 (Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate);

5-Fluoro-MN-24 (1-(5-Fluoropentyl)-N-(naphthalen-1-yl)-1H-indole-3-carboxamide);

MN-24 (N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide);

SDB-005 (Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate);

SDB-006 (1-Pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide);

Methyl-Ethylaminopentiophenone;

FUB-AMB (Methyl(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate);

5-Fluoro-SDB-005 Indole (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate);

5F-AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide);

MMB-CHMICA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-

methylbutanoat);

MN-24 (N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide);

SDB-005 (Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate);

SDB-006 (1-Pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide);

Ethcathinone (2-(ethylamino)-1-phenyl-1-propanone, monohydrochloride);

Methyl-Ethylaminopentiophenone;

FUB-AMB (Methyl(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate);

5-Fluoro-SDB-005 Indole (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate);

5F-AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide);

MMB-CHMICA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoat);

Bromazolam (8-bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4 H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Cloniprazepam (5-(2-chlorophenyl)-1-(cyclopropylmethyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one);

Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine);

Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flubromazepam (7-bromo-5-(2-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one);

Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flunitrazolam (6-(2-fluorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine);

Nifoxipam (5-(2-fluorophenyl)-1,3-dihydro-3-hydroxy-7-nitro-2H-1,4-benzodiazepin-2-one) ;

Nitrazolam (1-methyl-8-nitro-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); and

Pyrazolam (8-bromo-1-methyl-6-(2-pyridinyl)-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine).

(e) Depressants.

4-CN-CUMYL-BUTINACA (1-(4-Cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide);

Alpha-Phenylacetoacetonitrile (3-Oxo-2-phenylbutanenitrile);

2-Fluoro Deschloroketamine (2-(2-Fluorophenyl)-2-(methylamino)-cyclohexanone, monohydrochloride);

4-MEAP (2-(Ethylamino)-1-(4-methylphenyl)pentan-1-one);

Mecloqualone;

Methaqualone;

Bromazolam (8-bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Cloniprazepam (5-(2-chlorophenyl)-1-(cyclopropylmethyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one);

Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine);

Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flubromazepam (7-bromo-5-(2-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one);

Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Flunitrazolam (6-(2-fluorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine);

Nifoxipam (5-(2-fluorophenyl)-1,3-dihydro-3-hydroxy-7-nitro-2H-1,4-benzodiazepin-2-one);

Nitrazolam (1-methyl-8-nitro-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Pyrazolam (8-bromo-1-methyl-6-(2-pyridinyl)-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine);

Declazepam (7-Chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-1,4-benzodiazepin-2-one);

and

Deschloroetizolam (2-Ethyl-9-methyl-4-phenyl-6H-thieno[3,2- f][1,2,4]triazolo[4,3-a][1,4]diazepine);

(f) Stimulants.

Aminorex; some other names: aminoxaphen; 2-amino-5- phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

Cathinone; some trade or other names: 2-amino-1-phenyl-1- propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

Fenethylamine;

Methcathinone, its immediate precursors and immediate derivatives, its salts, optical isomers and salts of optical isomers; some other names: (2-(methylamino)-propiophenone; alpha-

(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1- one; alpha—methylaminopropiophenone; monomethylpropion; 3,4-methylenedioxypropylphenone and/or mephedrone; 3,4-methylenedioxypropylphenone (MPVP); ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL- 463 and UR1432;

(-) cis-4-methylaminorex; ((-)cis-4,5-dihydro-4-methyl- 5-phenyl-2-oxazolamine);

N-ethylamphetamine;

N,N-dimethylamphetamine; also known as N,N-alpha- trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine;

Alpha-pyrrolidinopropiophenone, also known as alpha-PVP, optical isomers, salts and salts of isomers;

Substituted amphetamines:

2-Fluoroamphetamine;

3-Fluoroamphetamine;

4-Fluoroamphetamine;

2-chloroamphetamine;

3-chloroamphetamine;

4-chloroamphetamine;

2-Fluoromethamphetamine;

3-Fluoromethamphetamine;

4-Fluoromethamphetamine;

4-chloromethamphetamine;

Ethcathinone (2-(ethylamino)-1-phenyl-1-propanone, monohydrochloride);

Alpha-PHP (1-Phenyl-2-(pyrrolidin-1-yl)hexan-1-one);

MPHP (1-(4-Methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one);

PV8 (1-Phenyl-2-(pyrrolidin-1-yl)heptan-1-one);

4-Chloro-Alpha-PVP (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one);

N-Ethylhexedrone (2-(Ethylamino)-1-phenylhexan-1-one);

Methoxetamine (2-(Ethylamino)-2-(3-methoxyphenyl)-cyclohexanone); and

3-Fluorophenmetrazine (2-(3-Fluorophenyl)-3-methylmorpholine);

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture, or preparation which contains any quantity of the following substances:

N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers;

N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers.

N-benzylpiperazine, also known as BZP;

Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide);

4-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]-butyramide);

Isobutyryl fentanyl (2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]-propanamide);

Methoxyacetyl fentanyl (2-methoxy-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]-acetamide);

3-methylbutyryl fentanyl (N-[3-methyl-1-(2-phenylethyl)piperidin-4-yl]-N-phenylbutyramide);

4-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide);

Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)piperidin-4-yl]-acetamide);

Tetrahydrofuran fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide); and

Valeryl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]pentanamide).

(h) The following controlled substances are included in Schedule I:

Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research, structurally derived from 2- Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems, whether or not the compound is further modified in any of the following ways:

By substitution in the ring system to any extent with Alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide Substituents whether or not further substituted in the ring system by one or more other univalent substituents;

By substitution at the 3-position with an acyclic alkyl substituent;

By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups;

By inclusion of the 2-amino nitrogen atom in a cyclic structure; or

Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV, and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research.

WEST VIRGINIA CODE: §60A-4-412

§60A-4-412. Defeating drug and alcohol screening tests; penalties.

(a) Any person who:

- (1) Knowingly sells, gives away, distributes or markets any substance or product in this state or transports such a substance or product into this state with the intent that the substance or product will be used to defeat a drug or alcohol screening test;
- (2) Attempts to defeat a drug or alcohol screening test by the substitution of a false sample;
- (3) Knowingly advertises for sale or distribution any substance or product the advertised purpose of which is to defeat a bodily fluid screening test for drugs or alcohol;
- (4) Adulterates a bodily fluid sample with the intent to defeat a drug or alcohol screening test;
- (5) Knowingly possesses adulterants for the purpose of defeating a drug or alcohol screening test; or
- (6) Knowingly sells adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defeating a drug or alcohol screening test.

(b) A person who violates a provision of subsection (a) of this section:

- (1) For a first offense is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000;
- (2) For a second offense is guilty of a misdemeanor and, upon conviction, be fined not more than \$5,000; and
- (3) For a third or subsequent offense is guilty of a misdemeanor and, upon conviction, be fined not more than \$10,000 or confined in the regional jail for not more than one year, or both.

(c) As used in this section, "adulterate" means a substance that is not expected to be in human fluids but that is a concentration so high that it is not consistent with human bodily fluids, including, but not limited to:

- (1) Bleach;
- (2) Chromium;
- (3) Creatinine;

- (4) Detergent;
- (5) Glutaraldehyde;
- (6) Glutaraldehyde/squalene;
- (7) Hydrochloric acid;
- (8) Hydroiodic acid;
- (9) Iodine;
- (10) Nitrite;
- (11) Peroxidase;
- (12) Potassium dichromate;
- (13) Potassium nitrate;
- (14) Pyridinium chlorochromate; and
- (15) Sodium nitrite.

WEST VIRGINIA CODE

WV LEGISLATURE HOME PAGE ENROLLED BILLS




CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

Article 3 All Articles Article 5

ARTICLE 4. OFFENSES AND PENALTIES.

UK English Male



§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.

(a) Except as otherwise authorized by the provisions of this code, it is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both: *Provided*, That any person who violates this section knowing that the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall be fined not more than \$50,000 or imprisoned in a state correctional facility for a definite term of not less than 10 nor more than 20 years, or both fined and imprisoned.

(2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 10 years, or fined not more than \$15,000, or both: *Provided*, That for the substance marijuana, as scheduled in subdivision (24) subsection (d), §60A-2-204 of this code, the penalty, upon conviction of a violation of this subsection, shall be that set forth in subdivision (3) of this subsection.

(3) A substance classified in Schedule IV shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than \$10,000, or both;

(4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one kilogram or more of heroin, five kilograms or more of cocaine or cocaine base, 100 grams or more of phencyclidine, 10 grams or more of lysergic acid diethylamide, or 50 grams or more of methamphetamine or 500 grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 30 years.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving 100 but fewer than 1,000 grams of heroin, not less than 500 but fewer than 5,000 grams of cocaine or cocaine base, not less than ten but fewer than 99 grams of phencyclidine, not less than one but fewer than 10 grams of lysergic acid diethylamide, or not less than five but fewer than 50 grams of methamphetamine or not less than 50 grams but fewer than 500 grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 20 years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving not less than 10 grams nor more than 100 grams of heroin, not less than 50 grams nor more than 500 grams of cocaine or cocaine base, not less than two grams nor more than 10 grams of phencyclidine, not less than 200 micrograms nor more than one gram of lysergic acid diethylamide, or not less than 499 milligrams nor more than five grams of methamphetamine or not less than 20 grams nor more than 50 grams of a substance or material containing a measurable amount of methamphetamine is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 15 years.

(f) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.

Previous §60A-4-408. Second or subsequent offenses.

§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.

Next §60A-4-410. Prohibited acts – Withholding information from practitioner; additional controlled substances; penalties.

EMAIL

PDF

DOCX

Search Hide

Search in all Chapters

Type search terms here...

SEARCH

Chapter...

Article...

Section...

GO TO

Searches are case insensitive.

Search for phrases with double quotes around the phrase like this: “claims commission”

Use a + symbol in front of a word to include it and use a – in front of a word to exclude it from searches like this: +railroad -sign

If you type multiple words without quotes or +/- symbols, the search will look for all results containing any of the words

My Saved WV Code Clear All

No Code Saved Yet.

Signed Bills For §60A-4-409

- 2022 REGULAR SESSION
Enrolled Committee Substitute for Senate Bill 536
- 2017 REGULAR SESSION
Enrolled Committee Substitute for House Bill 2579
- 2005 REGULAR SESSION
Enrolled Committee Substitute for Committee Substitute for Senate Bill 147
- 1994 REGULAR SESSION
Enrolled Committee Substitute for House Bill 4012

Bill History For §60A-4-409

- 2024 REGULAR SESSION
Senate Bill 154
- 2023 REGULAR SESSION
Senate Bill 547
- 2022 REGULAR SESSION
Senate Bill 536
- 2017 REGULAR SESSION
House Bill 2579
- 2014 REGULAR SESSION
Senate Bill 552
- 2005 REGULAR SESSION
Senate Bill 147
- 1994 REGULAR SESSION
House Bill 4012

WEST VIRGINIA CODE

WV LEGISLATURE HOME PAGE

ENROLLED BILLS

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

▼

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

Article 3

All Articles

Article 5

ARTICLE 4. OFFENSES AND PENALTIES.

UK English Male

⌵

▶

◻

★

§60A-4-408. Second or subsequent offenses.

(a) Any person convicted of a second or subsequent offense under this act may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both. When a term of imprisonment is doubled under section 406, such term of imprisonment shall not be further increased for such offense under this subsection (a), even though such term of imprisonment is for a second or subsequent offense.

(b) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this act or under any statute of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

(c) This section does not apply to offenses under section 401(c).

Previous

§60A-4-407a. Authorizing additional requirements to obtain a final order of discharge and dismissal for persons charged with possession of controlled substances.

§60A-4-408. Second or subsequent offenses.

Next

§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.



Search

Hide

Search in all Chapters

▼

Type search terms here...

SEARCH

Chapter...

Article...

Section...

GO TO

Searches are case insensitive.

Search for phrases with double quotes around the phrase like this: “claims commission”

Use a + symbol in front of a word to include it and use a – in front of a word to exclude it from searches like this: +railroad -sign

If you type multiple words without quotes or +/- symbols, the search will look for all results containing any of the words

My Saved WV Code

Clear All

No Code Saved Yet.

Signed Bills For §60A-4-408

1971 REGULAR SESSION

Enrolled Committee Substitute for Senate Bill 38

Bill History For §60A-4-408

1971 REGULAR SESSION

Senate Bill 38

WEST VIRGINIA CODE

WV LEGISLATURE HOME PAGE

ENROLLED BILLS

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

▼

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

Article 3

All Articles

Article 5

ARTICLE 4. OFFENSES AND PENALTIES.

UK English Male

⌵

▶

◻

★

§60A-4-403. Prohibited acts C; penalties.

(a) It is unlawful for any person knowingly or intentionally:

- (1) To distribute as a registrant a controlled substance classified in Schedule I or II, except pursuant to an order form as required by section 307 of this act;
- (2) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, suspended, revoked, or issued to another person;
- (3) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, theft, deception, or subterfuge;
- (4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or
- (5) 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 the drug a counterfeit substance.

(b) Any person who violates this section is guilty of a felony and, upon conviction, may be imprisoned in a correctional facility for not less than one year nor more than four years, or fined not more than \$30,000, or both.

Previous

§60A-4-402. Prohibited acts B; penalties.

§60A-4-403. Prohibited acts C; penalties.

Next

§60A-4-403a. Prohibition of illegal drug paraphernalia businesses; definitions; places deemed common and public nuisances; abatement; suit to abate nuisances; injunction; search warrants; forfeiture of property; penalties.



Search

Hide

Search in all Chapters

Type search terms here...

SEARCH

Chapter...

Article...

Section...

GO TO

Searches are case insensitive.

Search for phrases with double quotes around the phrase like this: “claims commission”

Use a + symbol in front of a word to include it and use a – in front of a word to exclude it from searches like this: +railroad -sign

If you type multiple words without quotes or +/- symbols, the search will look for all results containing any of the words

My Saved WV Code

Clear All

No Code Saved Yet.

Signed Bills For §60A-4-403

2019 REGULAR SESSION

Enrolled House Bill 2509

1971 REGULAR SESSION

Enrolled Committee Substitute for Senate Bill 38

Bill History For §60A-4-403

2019 REGULAR SESSION

House Bill 2509

1971 REGULAR SESSION

Senate Bill 38



WEST VIRGINIA CODE

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

Article 3

All Articles

Article 5

ARTICLE 4. OFFENSES AND PENALTIES.

UK English Male

§60A-4-401. Prohibited acts; penalties

(a) Except as authorized by this act, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.

Any person who violates this subsection with respect to:

(i) A controlled substance classified in Schedule I or II, which is a narcotic drug or which is methamphetamine, is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both fined and imprisoned: *Provided*, That any person who violates this section knowing that the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall be fined not more than \$50,000, or be imprisoned in a state correctional facility for not less than 3 nor more than 15 years, or both fined and imprisoned;

(ii) Any other controlled substance classified in Schedule I, II, or III is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not more than \$15,000, or both fined and imprisoned;

(iii) A substance classified in Schedule IV is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than \$10,000, or both fined and imprisoned;

(iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both fined and confined: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

Any person who violates this subsection with respect to:

(i) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, or methamphetamine, is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both fined and imprisoned;

(ii) Any other counterfeit substance classified in Schedule I, II, or III is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not more than \$15,000, or both fined and imprisoned;

(iii) A counterfeit substance classified in Schedule IV is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than \$10,000, or both fined and imprisoned;

(iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both fined and confined: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor, and disposition may be made under §60A-4-407 of this code, subject to the limitations specified in said section, or upon conviction thereof, the person may be confined in jail not less than 90 days nor more than six months, or fined not more than \$1,000, or both fined and confined: *Provided*, That notwithstanding any other provision of this act to the contrary, any first offense for possession of synthetic cannabinoids as defined by §60A-1-101(d)(32) of this code; 3,4-methylenedioxypropyvalerone (MPVD) and 3,4-methylenedioxypropyvalerone and/or mephedrone as defined in §60A-1-101(f) of this code; or less than 15 grams of marijuana, shall be disposed of under §60A-4-407 of this code.

(d) It is unlawful for any person knowingly or intentionally:

- (1) To create, distribute, deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or
- (2) To create, possess, sell, or otherwise transfer any equipment with the intent that the equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled substance, or the container or label of a counterfeit substance or an imitation controlled substance.
- (3) Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both fined and confined. Any person 18 years old or more who violates subdivision (1) of this subsection and distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than that person is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than \$10,000, or both fined and imprisoned.
- (4) The provisions of subdivision (1) of this subsection shall not apply to a practitioner who administers or dispenses a placebo.
- (e) It is unlawful for any person knowingly or intentionally:

- (1) To adulterate another controlled substance using fentanyl as an adulterant;
- (2) To create a counterfeit substance or imitation controlled substance using fentanyl; or
- (3) To cause the adulteration or counterfeiting or imitation of another controlled substance using fentanyl.
- (4) Any person who violates this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years, or fined not more than \$50,000, or both fined and imprisoned.
- (5) For purposes of this section:
- (i) A controlled substance has been adulterated if fentanyl has been mixed or packed with it; and
- (ii) Counterfeit substances and imitation controlled substances are further defined in §60A-1-101 of this code.

Previous §60A-3-308. Prescriptions.

§60A-4-401. Prohibited acts; penalties

Next §60A-4-402. Prohibited acts B; penalties.



Search

Hide

Search in all Chapters

Type search terms here...

SEARCH

Chapter...

Article...

Section...

GO TO

Searches are case insensitive.

Search for phrases with double quotes around the phrase like this: "claims commission"

Use a + symbol in front of a word to include it and use a - in front of a word to exclude it from searches like this: +railroad -sign

If you type multiple words without quotes or +/- symbols, the search will look for all results containing any of the words

My Saved WV Code

Clear All

No Code Saved Yet.

- Signed Bills For §60A-4-401
- 2022 REGULAR SESSION
Enrolled Committee Substitute for Senate Bill 536
- 2020 REGULAR SESSION
Enrolled Committee Substitute for House Bill 4852
- 2011 REGULAR SESSION
Enrolled Committee Substitute for House Bill 2505
- 2005 REGULAR SESSION
Enrolled Committee Substitute for Committee Substitute for Senate Bill 147
- 1983 REGULAR SESSION
Enrolled Senate Bill 145
- 1971 REGULAR SESSION
Enrolled Committee Substitute for Senate Bill 38

- Bill History For §60A-4-401
- 2024 REGULAR SESSION
Senate Bill 154
- 2023 REGULAR SESSION
Senate Bill 547
- 2022 REGULAR SESSION
Senate Bill 536
- 2020 REGULAR SESSION
House Bill 4852
- 2020 REGULAR SESSION
Senate Bill 502
- 2012 REGULAR SESSION
Senate Bill 342
- 2011 REGULAR SESSION
House Bill 2505
- 2005 REGULAR SESSION
Senate Bill 147
- 1983 REGULAR SESSION
Senate Bill 145
- 1971 REGULAR SESSION
Senate Bill 38

U.S. Federal and State Cases, Codes, and Articles

Select a tab to search United States Cases, Codes, or Articles

Cases

Codes

Articles

Search by keyword or citation

* Indicates required field

Keyword or Citation *

Enter Keyword or Citation

⌕

View results >

[FINDLAW](#) / [CODES](#) / [WEST VIRGINIA](#) / [CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT](#) / [§ 60A-4-401](#)


West Virginia Code Chapter 60A. Uniform Controlled Substances Act § 60A-4-401. Prohibited acts A; penalties

Current as of January 01, 2020 | Updated by [FindLaw Staff](#)

- (a) Except as authorized by this act, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.
- Any person who violates this subsection with respect to:
- (i) A controlled substance classified in Schedule I or II, which is a narcotic drug, is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than fifteen years, or fined not more than twenty-five thousand dollars, or both;
- (ii) Any other controlled substance classified in Schedule I, II or III is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than fifteen thousand dollars, or both;
- (iii) A substance classified in Schedule IV is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both;
- (iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.
- (b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.
- Any person who violates this subsection with respect to:
- (i) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than fifteen years, or fined not more than twenty-five thousand dollars, or both;
- (ii) Any other counterfeit substance classified in Schedule I, II or III is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than fifteen thousand dollars, or both;
- (iii) A counterfeit substance classified in Schedule IV is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both;
- (iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.
- (c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor, and disposition may be made under section four hundred seven of this article, subject to the limitations specified in said section, or upon conviction, such person may be confined in jail not less than ninety days nor more than six months, or fined not more than one thousand dollars, or both: *Provided*, That notwithstanding any other provision of this act to the contrary, any first offense for possession of Synthetic Cannabinoids as defined by subdivision (32) subsection, (d), section 101, article 1 of this chapter; 3,4-methylenedioxypyrovalerone (MPVD)and 3,4-methylenedioxypyrovalerone and/or mephedrone as defined in subsection (f), section 101, article 1 of this chapter; or less than 15 grams of marijuana, shall be disposed of under said section.
- (d) It is unlawful for any person knowingly or intentionally:
- (1) To create, distribute or deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or
- (2) To create, possess or sell or otherwise transfer any equipment with the intent that such equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled substance, or the container or label of a counterfeit substance or an imitation controlled substance.
- (3) Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be imprisoned in jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both. Any person being eighteen years old or more who violates subdivision (1) of this subsection and, in so doing, distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than such person is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both.
- (4) The provisions of subdivision (1) of this subsection shall not apply to a practitioner who administers or dispenses a placebo.

< [Back to chapter list](#) [Previous part of code](#) [Next part of code](#) >

Cite this article: FindLaw.com - West Virginia Code Chapter 60A. Uniform Controlled Substances Act § 60A-4-401. Prohibited acts A; penalties - *last updated January 01, 2020* | <https://codes.findlaw.com/wv/chapter-60a-uniform-controlled-substances-act/wv-code-sect-60a-4-401/>

Copy

[Read this complete West Virginia Code Chapter 60A. Uniform Controlled Substances Act § 60A-4-401. Prohibited acts A; penalties on Westlaw](#)

FindLaw Codes may not reflect the most recent version of the law in your jurisdiction. Please verify the status of the code you are researching with the state legislature or via Westlaw before relying on it for your legal needs.

Was this helpful?

Yes

No



Learn About the Law

Get help with your legal needs

FindLaw's Learn About the Law features thousands of informational articles to help you understand your options. And if you're ready to hire an attorney, [find one in your area](#) who can help.

[Go to Learn About the Law](#) >

Need to find an attorney?

Search our directory by legal issue

Enter information in one or both fields (Required)

Legal issue

I need help near (city, ZIP code or country)

[Find a lawyer](#) >

[BACK TO TOP](#)



Questions?

At FindLaw.com, we pride ourselves on being the number one source of free legal information and resources on the web. [Contact Us](#).

Stay up-to-date with how the law affects your life. Sign up for our consumer newsletter.

ENTER YOUR EMAIL ADDRESS

>

FOLLOW US:



ABOUT US >

[Our Team](#)

[Accessibility](#)

[Contact Us](#)

FIND A LAWYER >

[By Location](#)

[By Legal Issue](#)

[By Lawyer Profiles](#)

[By Name](#)

SELF-HELP RESOURCES

[Legal Forms & Services](#)

LEGAL RESEARCH

[Learn About the Law](#)

[State Laws](#)

[U.S. Caselaw](#)

[U.S. Codes](#)

LEGAL NETWORK

[FindLaw.com](#) Free, trusted legal information for consumers and legal professionals

[SuperLawyers.com](#) Directory of U.S. attorneys with the exclusive Super Lawyers rating

[Abogado.com](#) The #1 Spanish-language legal website for consumers

[LawInfo.com](#) Nationwide attorney directory and legal consumer resources

Key: Green = existing Code. Red = new code to be enacted

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2091

By DELEGATE WALKER

[Introduced January 11, 2023; Referred to the Committee on Health and Human Resources then the Judiciary then Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated **§16A-17-1**, **§16A-17-2**, **§16A-17-3**, **§16A-17-4**, **§16A-17-5**, and **§16A-17-6**, all relating to the decriminalization and legalization of cannabis; providing for a legislative purpose and findings; defining certain terms; legalizing the possession of one ounce or less of cannabis and cannabis products by adults; authorizing a special excise tax on cannabis; creating a new fund and dedicating proceeds of the fund, including funding for PEIA, for orphan roads, and for the Herbert Henderson Office of Minority Affairs; providing current laws relating to employment, vehicle operation, underage use or private property use preserved; and that the operation of this article is not intended to alter the West Virginia Medical Cannabis Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. LEGAL ADULT CONSUMPTION OF CANNABIS.

§16A-17-1. Purpose and findings.

(a) In the interest of the efficient use of law-enforcement resources, enhancing revenue for public purposes, and individual freedom, the Legislature finds and declares that the use of cannabis should be legal for persons 21 years of age or older.

(b) In the interest of the health and public safety of our citizenry, the Legislature further finds and declares that cannabis should be regulated in a manner similar to alcohol so that:

(1) Individuals will have to show proof of age before purchasing cannabis;

(2) Selling, distributing, or transferring cannabis to minors and other individuals under the age of 21 remains illegal;

(3) Driving under the influence of cannabis remains illegal;

(4) Legitimate, taxpaying businesspeople, and not criminal actors, will conduct sales of cannabis; and

(5) Cannabis sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The Legislature finds and declares that it is necessary to ensure consistency and fairness in the application of this article throughout the state and that the matters addressed by this article are, except as specified herein, matters of statewide concern.

§16A-17-2. Definitions.

As used in this article, unless the context otherwise requires,

"Cannabis" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Cannabis does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product;

"Cannabis accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

"Cannabis cultivation facility" means an entity licensed to cultivate, prepare, and package cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities, and to other cannabis cultivation facilities, but not to consumers;

"Cannabis establishment" means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store;

"Cannabis product manufacturing facility" means an entity licensed to purchase cannabis; manufacture, prepare, and package cannabis products; and sell cannabis and cannabis products to other cannabis product manufacturing facilities and to retail cannabis stores, but not to consumers;

"Cannabis products" means concentrated cannabis products and cannabis products that are comprised of cannabis and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;

"Cannabis testing facility" means an entity licensed to analyze and certify the safety and potency of cannabis;

"Consumer" means a person 21 years of age or older who purchases cannabis or cannabis products for personal use by persons 21 years of age or older, but not for resale to others;

"Industrial hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, as authorized pursuant to **§19-12D-1 et seq.** of this code;

"Retail cannabis store" means an entity licensed to purchase cannabis from cannabis cultivation facilities and cannabis and cannabis products from cannabis product manufacturing facilities and to sell cannabis and cannabis products to consumers; and

"Unreasonably impracticable" means that the measures necessary to comply with the requirements of this article require such a high investment of risk, money, time, or any other resource or asset that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

§16A-17-3. Personal use of cannabis.

Notwithstanding any other provision of the code, the following acts are not unlawful and are not an offense under state law or a basis for seizure or forfeiture of assets under state law for persons 21 years of age or older:

(1) Possession of one ounce or less of cannabis;

(2) Consumption of cannabis: *Provided*, That this article does not permit consumption that is conducted openly and publicly or in a manner that endangers others, and for state and local governments to prohibit use on government owned property;

(3) Assisting another person who is 21 years of age or older in any of the acts described in this section.

§16A-17-4. Cannabis excise tax and sales tax; distribution of funds.

(a) There shall be an excise tax to be levied upon cannabis sold or otherwise transferred by a cannabis cultivation facility to a cannabis product manufacturing facility or to a retail cannabis store at a rate of 15 percent of the sales price. The excise tax shall be deposited in the Cannabis Transfer Tax Fund created in this section and allocated pursuant to the provisions of this section.

(b) There is created a special fund in the State Treasury which shall be designated and known as the "Cannabis Transfer Tax Fund." All revenues received from licensees pursuant to **§16A-17-7**(a) of this code shall be deposited with the State Treasurer and placed in the Cannabis Transfer Tax Fund. The fund shall be an interest-bearing account with interest to be credited to and deposited in the fund. The department shall establish procedures for the collection of all taxes levied and may promulgate legislative rules, pursuant to **§29A-3-1 et seq.** of this code, necessary to administer collection and enforcement of tax collections, on a monthly basis, as follows:

(1) Fifty percent of the revenue shall be deposited into the Public Employees Insurance Agency (PEIA) Stability Fund and expended pursuant to **§11B-2-32** of this code;

(2) The remaining fifty percent of the revenue shall be used for the following:

(A) For improvement of West Virginia infrastructure and infrastructure projects, including but not limited to childcare assistance;

(B) To create a program to assist with orphan roads throughout the state that shall be given assistance from the West Virginia Division of Highways (WVDOT) every 5 years;

(C) To increase the budget for Hebert Henderson of Minority Affairs to an additional \$100,000 per year; and

(D) To add a budget line item for the Minority Office of Health to \$250,000 for every year.

§16A-17-5. Employers, driving, minors and control of property.

(a) Nothing in this article is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis in the workplace or to affect the ability of employers to have policies restricting the use of cannabis by employees.

(b) Nothing in this article is intended to allow driving under the influence of cannabis or driving while impaired by cannabis or to supersede statutory laws related to driving under the influence of cannabis or driving while impaired by cannabis, nor shall this article prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by cannabis.

(c) Nothing in this article is intended to permit the transfer of cannabis, with or without remuneration, to a person under the age of 21 or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume cannabis.

(d) Nothing in this article prohibits a person, employer, school, hospital, detention facility, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of cannabis on or in that property.

§16A-17-6. Medical cannabis provisions unaffected.

Nothing in this article:

(1) Limits any privileges or rights of a medical cannabis patient, primary caregiver, or licensed entity as provided by this chapter;

(2) Permits a medical cannabis center to distribute cannabis to a person who is not a medical cannabis patient;

(3) Permits a medical cannabis center licensed pursuant to this article to operate on the same premises as a retail cannabis store; or

(4) Discharges the bureau or the department or the from their statutory and constitutional duties to regulate medical cannabis pursuant to this chapter.

NOTE: The purpose of this bill is to legalize the personal use and possession of cannabis by adults. The bill provides for a legislative purpose and findings. The bill defines certain terms. The bill legalizes the possession of one ounce or less of cannabis and cannabis products by adults. The bill authorizes a special excise tax on cannabis. The bill creates a new fund and dedicates proceeds of the fund, including funding for PEIA, for orphan roads, and for the Herbert Henderson Office of Minority Affairs. The bill provides that current laws relating to employment, vehicle operation, underage use or private property use are preserved. Finally, the bill is not intended to alter the West Virginia Medical Cannabis Act.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.