

House Bill 388

By: Representatives Alexander of the 66<sup>th</sup>, Mitchell of the 88<sup>th</sup>, Frye of the 122<sup>nd</sup>, Roberts of the 52<sup>nd</sup>, McClain of the 109<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to  
2 controlled substances, so as to provide that possession of certain quantities of marijuana  
3 constitute a misdemeanor; to change provisions relating to punishment; to amend Title 15,  
4 Title 16, Chapter 7 of Title 17, and Article 1 of Chapter 32 of Title 36 of the Official Code  
5 of Georgia Annotated, relating to courts, crimes and offenses, pretrial proceedings, and  
6 general provisions regarding municipal courts, respectively, so as to provide for conforming  
7 cross-references; to provide for related matters; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 PART I  
11 SECTION 1-1.

12 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled  
13 substances, is amended by revising subsection (b) of Code Section 16-13-2, relating to  
14 conditional discharge for possession of controlled substances as first offense and certain  
15 nonviolent property crimes, as follows:

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**SECTION 1-2.**

Said chapter is further amended by revising subsection (j) of Code Section 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of controlled substances or marijuana, as follows:

"(j)(1) It shall be unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute more than one ounce of marijuana.

(2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 ~~or in Code Section 16-13-2~~, any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years."

## SECTION 2-1.

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- (1) The trial of criminal cases below the grade of felony;
- (2) The trial of civil actions without regard to the amount in controversy, except those actions in which exclusive jurisdiction is vested in the superior courts;
- (3) The hearing of applications for and the issuance of arrest and search warrants;
- (4) The holding of courts of inquiry;
- (5) The punishment of contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding 20 days, or both; and
- (6) Review of decisions of other courts as may be provided by law.
- ~~(b) Each state court shall have jurisdiction, within the territorial limits of the county or counties for which it was created and concurrent with other courts having such jurisdiction, over possession of one ounce or less of marijuana, in accordance with Code Sections 16-13-2 and 16-13-30.~~
- (c) Each judge of the state court shall have the authority to perform any judicial act which he or she is lawfully entitled to perform, regardless of where such judge is located when such judicial act is performed."

## SECTION 2-2.

Said title is further amended by revising subsection (a) of Code Section 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol offenses, as follows:

"(a) Subject to the provisions of subsection (c) of this Code section, in addition to any other jurisdiction vested in the probate courts, probate courts which have jurisdiction over misdemeanor traffic offenses in accordance with Code Section 40-13-21 shall have the right and power to conduct trials, receive pleas of guilty, and impose sentence upon defendants for the following offenses:

- ~~(1) Possession of one ounce or less of marijuana, in accordance with Code Sections 16-13-2 and 16-13-30; and~~



of Code Section 3-3-23 pursuant to Code Section 15-9-30.6, the following offenses may be tried upon a summons or citation without an accusation:

(1) ~~Reserved Possession of one ounce or less of marijuana, in accordance with Code Sections 16-13-2 and 16-13-30; and~~

(2) Any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which is punishable as a misdemeanor, but not violations punishable as high and aggravated misdemeanors."

#### **SECTION 2-6.**

Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions regarding municipal courts, is amended by repealing Code Section 36-32-6, relating to municipal court jurisdiction in marijuana possession cases, in its entirety and designating said Code section as reserved.

### **PART III**

#### **SECTION 3-1.**

All laws and parts of laws in conflict with this Act are repealed.

TITLE 16. CRIMES AND OFFENSES  
CHAPTER 13. CONTROLLED SUBSTANCES  
ARTICLE 1. GENERAL PROVISIONS

§ 16-13-1. Drug related objects

(a) As used in this Code section, the term:

(1) "Controlled substance" shall have the same meaning as defined in Article 2 of this chapter, relating to controlled substances. For the purposes of this Code section, the term "controlled substance" shall include marijuana as defined by paragraph (16) of Code Section 16-13-21.

(2) "Dangerous drug" shall have the same meaning as defined in Article 3 of this chapter, relating to dangerous drugs.

(3) "Drug related object" means any machine, instrument, tool, equipment, contrivance, or device which an average person would reasonably conclude is intended to be used for one or more of the following purposes:

(A) To introduce into the human body any dangerous drug or controlled substance under circumstances in violation of the laws of this state;

(B) To enhance the effect on the human body of any dangerous drug or controlled substance under circumstances in violation of the laws of this state;

(C) To conceal any quantity of any dangerous drug or controlled substance under circumstances in violation of the laws of this state; or

(D) To test the strength, effectiveness, or purity of any dangerous drug or controlled substance under circumstances in violation of the laws of this state.

(4) "Knowingly" means having general knowledge that a machine, instrument, tool, item of equipment, contrivance, or device is a drug related object or having reasonable grounds to believe that any such object is or may, to an average person, appear to be a drug related object. If any such object has printed thereon or is accompanied by instructions explaining the purpose and use of such object and if following such instructions would cause a person to commit an act involving the use or possession of a dangerous drug or controlled substance in violation of the laws of this state, then such instructions shall constitute prima-facie evidence of knowledge that the object in question is a drug related object.

(5) "Minor" means any unmarried person under the age of 18 years.

(b) Except as otherwise provided by subsection (d) of this Code section, it shall be unlawful for any person knowingly to sell, deliver, distribute, display for sale, or provide to a minor or knowingly possess with intent to sell, deliver, distribute, display for sale, or provide to a minor any drug related object.

(c) It shall be unlawful for any minor falsely to represent to any person that such minor is 18 years of age or older with the intent to purchase or otherwise obtain any drug related object.

(d) No person shall be guilty of violating subsection (b) of this Code section if:

(1) The person had reasonable cause to believe that the minor involved was 18 years of age or older because the minor exhibited to such person a driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was 18 years of age or older;

(2) The person made an honest mistake in believing that the minor was 18 years of age or over after making a reasonable bona fide attempt to ascertain the true age of the minor;

(3) The person was the parent or guardian of the minor; or

(4) The person was acting in his capacity as an employee or official of any governmental agency, governmental institution, public school or other public educational institution, any bona fide private school, educational institution, health care facility, or institution; or the person was acting in his capacity as a registered pharmacist or veterinarian or under the direction of a registered pharmacist or veterinarian to sell such object for a legitimate medical purpose.

(e) Any person who violates subsection (b) of this Code section shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, a person violating subsection (b) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years or by a fine of not less than \$1,000.00 nor more than \$5,000.00, or both. Any person violating subsection (c) of this Code section shall be guilty of a misdemeanor.

**HISTORY:** Code 1933, § 26-9913, enacted by Ga. L. 1978, p. 2199, § 1; Ga. L. 1985, p. 149, § 16; Ga. L. 1999, p. 81, § 16.

§ 16-13-2. Conditional discharge for possession of controlled substances as first offense and certain nonviolent property crimes; dismissal of charges; restitution to victims

(a) Whenever any person who has not previously been convicted of any offense under Article 2 or Article 3 of this chapter or of any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a narcotic drug, marijuana, or

stimulant, depressant, or hallucinogenic drug, the court may without entering a judgment of guilt and with the consent of such person defer further proceedings and place him on probation upon such reasonable terms and conditions as the court may require, preferably terms which require the person to undergo a comprehensive rehabilitation program, including, if necessary, medical treatment, not to exceed three years, designed to acquaint him with the ill effects of drug abuse and to provide him with knowledge of the gains and benefits which can be achieved by being a good member of society. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed accordingly. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this Code section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Code section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Code section may occur only once with respect to any person.

(b) Notwithstanding any law to the contrary, any person who is charged with possession of marijuana, which possession is of one ounce or less, shall be guilty of a misdemeanor and punished by imprisonment for a period not to exceed 12 months or a fine not to exceed \$1,000.00, or both, or public works not to exceed 12 months.

(c) Persons charged with an offense enumerated in subsection (a) of this Code section and persons charged for the first time with nonviolent property crimes which, in the judgment of the court exercising jurisdiction over such offenses, were related to the accused's addiction to a controlled substance or alcohol who are eligible for any court approved drug treatment program may, in the discretion of the court and with the consent of the accused, be sentenced in accordance with subsection (a) of this Code section. The probated sentence imposed may be for a period of up to five years. No discharge and dismissal without court adjudication of guilt shall be entered under this subsection until the accused has made full restitution to all victims of the charged offenses. Discharge and dismissal under this Code section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Code section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Code section may not be used to disqualify a person in any application for employment or appointment to office in either the public or private sector.

**HISTORY:** Code 1933, § 79A-9917, enacted by Ga. L. 1971, p. 271, § 1; Ga. L. 1973, p. 688, § 1; Ga. L. 1974, p. 221, § 3; Ga. L. 1976, p. 1083, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1997, p. 1377, § 2; Ga. L. 2004, p. 488, § 1.

### § 16-13-3. Penalty for abandonment of dangerous drugs, poisons, or controlled substances

Any person who shall abandon, in a public place, any dangerous drug, poison, or controlled substance as defined by Article 2 or Article 3 of this chapter shall be guilty of a misdemeanor.

**HISTORY:** Code 1933, § 79A-9918, enacted by Ga. L. 1977, p. 625, § 9.



§ 16-13-4. Approval by Food and Drug Administration as prerequisite to sale of controlled substances and dangerous drugs

(a) No controlled substance or dangerous drug shall be sold for dispensing unless the controlled substance, as defined in Code Section 16-13-21, or the dangerous drug, as defined in Code Section 16-13-71:

(1) Is approved by the Food and Drug Administration for resale;

(2) Has a new approved drug application number (known as an NDA number) unless excepted by the Food and Drug Administration; or

(3) Has an approved abbreviated new drug application number (known as an ANDA number) unless excepted by the Food and Drug Administration.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of not less than one year nor more than five years.

**HISTORY:** Ga. L. 1981, p. 557, § 6; Ga. L. 1985, p. 1219, § 1; Ga. L. 1989, p. 14, § 16.

## ARTICLE 2. REGULATION OF CONTROLLED SUBSTANCES

§ 16-13-20. Short title

This article shall be known and may be cited as the "Georgia Controlled Substances Act."

**HISTORY:** Code 1933, § 79A-801, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-21. Definitions

As used in this article, the term:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or by any other means, to the body of a patient or research subject by:

(A) A practitioner or, in his presence, by his authorized agent; or

(B) The patient or research subject at the direction and in the presence of the practitioner.

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

(3) "Bureau" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(4) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of 21 C.F.R. Part 1308.

(5) "Conveyance" means any object, including aircraft, vehicle, or vessel, but not including a person, which may be used to carry or transport a substance or object.

(6) "Counterfeit substance" means:

(A) A controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the controlled substance;

(B) A controlled substance or noncontrolled substance, which is held out to be a controlled substance or marijuana, whether in a container or not which does not bear a label which accurately or truthfully identifies the substance contained therein; or

(C) Any substance, whether in a container or not, which bears a label falsely identifying the contents as a controlled substance.

(6.1) "Dangerous drug" means any drug, other than a controlled substance, which cannot be dispensed except upon the issuance of a prescription drug order by a practitioner authorized under this chapter.

(6.2) "DEA" means the United States Drug Enforcement Administration.

(7) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(8) "Dependent," "dependency," "physical dependency," "psychological dependency," or "psychic dependency" means and includes the state of dependence by an individual toward or upon a substance, arising from the use of that substance, being characterized by behavioral and other responses which include the loss of self-control with respect to that substance, or a strong compulsion to use that substance on a continuous basis in order to experience some psychic effect resulting from the use of that substance by that

individual, or to avoid any discomfort occurring when the individual does not use that substance.

(9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery, or the delivery of a controlled substance by a practitioner, acting in the normal course of his professional practice and in accordance with this article, or to a relative or representative of the person for whom the controlled substance is prescribed.

(10) "Dispenser" means a practitioner who dispenses.

(11) "Distribute" means to deliver a controlled substance, other than by administering or dispensing it.

(12) "Distributor" means a person who distributes.

(12.05) "FDA" means the United States Food and Drug Administration.

(12.1) "Imitation controlled substance" means:

(A) A product specifically designed or manufactured to resemble the physical appearance of a controlled substance, such that a reasonable person of ordinary knowledge would not be able to distinguish the imitation from the controlled substance by outward appearances; or

(B) A product, not a controlled substance, which, by representations made and by dosage unit appearance, including color, shape, size, or markings, would lead a reasonable person to believe that, if ingested, the product would have a stimulant or depressant effect similar to or the same as that of one or more of the controlled substances included in Schedules I through V of Code Sections 16-13-25 through 16-13-29.

(13) "Immediate precursor" means a substance which the State Board of Pharmacy has found to be and by rule identifies as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(14) "Isomers" means stereoisomers (optical isomers), geometrical isomers, and structural isomers (chain and positional isomers, but shall not include functional isomers).

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical

synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance:

(A) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(B) By a practitioner or by his authorized agent under his supervision for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(16) "Marijuana" means all parts of the plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include samples as described in subparagraph (P) of paragraph (3) of Code Section 16-13-25 and shall not include the completely defoliated mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination.

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

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (A) of this paragraph, but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or preparation of coca leaves, and any salt, compound, stereoisomers of cocaine, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(18) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Code Section 16-13-22, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(19) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(20) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or any other legal entity.

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

(22) "Potential for abuse" means and includes a substantial potential for a substance to be used by an individual to the extent of creating hazards to the health of the user or the safety of the public, or the substantial potential of a substance to cause an individual using that substance to become dependent upon that substance.

(23) "Practitioner" means:

(A) A physician, dentist, pharmacist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise authorized under the laws of this state to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state;

(B) A pharmacy, hospital, or other institution licensed, registered, or otherwise authorized by law to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state;

(C) An advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-26.3. For purposes of this chapter and Code Section 43-34-26.3, an advanced practice registered nurse is authorized to register with the federal Drug Enforcement Administration and appropriate state authorities; or

(D) A physician's assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section 43-34-103, a physician's assistant is authorized to register with the federal Drug Enforcement Administration and appropriate state authorities.

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

(25) "Registered" or "register" means registration as required by this article.

(26) "Registrant" means a person who is registered under this article.

(27) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, or any area subject to the legal authority of the United States.

(28) "Ultimate user" means a person who lawfully possesses a controlled substance for

his own use, for the use of a member of his household, or for administering to an animal owned by him or by a member of his household or an agent or representative of the person.

(29) "Noncontrolled substance" means any drug or other substance other than a controlled substance as defined by paragraph (4) of this Code section.

**HISTORY:** Code 1933, § 79A-802, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 2237, § 1; Ga. L. 1979, p. 859, § 4; Ga. L. 1980, p. 1746, § 3; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 1264, §§ 1, 3; Ga. L. 1982, p. 2370, §§ 1, 2; Ga. L. 1982, p. 2403, §§ 10, 15; Ga. L. 1984, p. 22, § 16; Ga. L. 1985, p. 149, § 16; Ga. L. 1986, p. 10, § 16; Ga. L. 1986, p. 1555, §§ 1, 2; Ga. L. 1988, p. 1065, § 1; Ga. L. 1999, p. 643, § 5.1; Ga. L. 2003, p. 349, § 1; Ga. L. 2006, p. 125, § 2/SB 480.

#### § 16-13-22. Administration of article; standards and schedules

(a) The State Board of Pharmacy shall administer this article and shall add substances to or reschedule all substances enumerated in the schedules in Code Sections 16-13-25 through 16-13-29 pursuant to the procedures of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." In making a determination or identification regarding a substance, the State Board of Pharmacy shall consider the following factors:

- (1) The actual or relative potential for abuse;
- (2) The scientific evidence of its pharmacological effect, if known;
- (3) The state of current scientific knowledge regarding the substance;
- (4) The history and current pattern of abuse;
- (5) The scope, duration, and significance of abuse;
- (6) The risk to the public health;
- (7) The potential of the substance to produce psychic or physiological dependence liability;
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article; and
- (9) The designation, deletion, or rescheduling of a substance under federal law controlling controlled substances.

(b) After considering the factors enumerated in subsection (a) of this Code section, the State Board of Pharmacy shall make findings with respect thereto and cause the publication of such findings as a rule, in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," controlling the substance if it finds the substance has a potential for abuse.

(c) If the State Board of Pharmacy identifies a substance as an immediate precursor, substances which are precursors of the controlled substance shall not be subject to control solely because they are precursors of the controlled substance.

(d) Authority to control under this Code section does not extend to distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Title 3 or 48.

**HISTORY:** Code 1933, § 79A-803, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

#### § 16-13-23. Nomenclature for controlled substances

The controlled substances listed in the schedules in Code Sections 16-13-25 through 16-13-29 are included by whatever official, common, usual, chemical, or trade name designated.

**HISTORY:** Code 1933, § 79A-804, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-24. Establishment of schedules of controlled substances

(a) There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. The schedules shall consist of the substances listed in Code Sections 16-13-25 through 16-13-29. The schedules so established shall be updated and republished by the State Board of Pharmacy on an annual basis.

(b) Except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to the drug or other substance. The findings for each of the schedules are as follows:

##### (1) Schedule I:

(A) The drug or other substance has a high potential for abuse;

(B) The drug or other substance has no currently accepted medical use in treatment in the United States; and

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

##### (2) Schedule II:

(A) The drug or other substance has a high potential for abuse;

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; and

(C) Abuse of the drug or other substance may lead to severe psychological or physical dependence.

(3) Schedule III:

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in Schedules I and II;

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

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

(4) Schedule IV:

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

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

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

(5) Schedule V:

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

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

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

**HISTORY:** Code 1933, § 79A-805, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-25. Schedule I

The controlled substances listed in this Code section are included in Schedule I:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, pursuant to this article, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:



- (A) Acetylmethadol;
- (B) Allylprodine;
- (C) Reserved;
- (D) Alphameprodine;
- (E) Alphamethadol;
- (F) Benzethidine;
- (G) Betacetylmethadol;
- (H) Betameprodine;
- (I) Betamethadol;
- (J) Betaprodine;
- (K) Clonitazene;
- (L) Dextromoramide;
- (M) Dextromorphan;
- (N) Diampromide;
- (O) Diethylthiambutene;
- (P) Dimenoxadol;
- (Q) Dimetheptanol;
- (R) Dimethylthiambutene;
- (S) Dioxaphetyl butyrate;
- (T) Dipipanone;
- (U) Ethylmethylthiambutene;
- (V) Etonitazene;
- (W) Etoxidene;

(X) Furethidine;  
(Y) Hydroxypethidine;  
(Z) Ketobemidone;  
(AA) Levomoramide;  
(BB) Levophenacymorphan;  
(CC) Morpheridine;  
(DD) Noracymethadol;  
(EE) Norlevorphanol;  
(FF) Normethadone;  
(GG) Norpipanone;  
(HH) Phenadoxone;  
(II) Phenampromide;  
(JJ) Phenomorphan;  
(KK) Phenoperidine;  
(LL) Piritramide;  
(MM) Proheptazine;  
(NN) Properidine;  
(OO) Propiram;  
(PP) Racemoramide;  
(QQ) Trimeperidine;

(2) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

- (B) Acetyldihydrocodeine;
- (C) Benzylmorphine;
- (D) Codeine methylbromide;
- (E) Codeine-N-Oxide;
- (F) Cyprenorphine;
- (G) Desomorphine;
- (H) Dihydromorphine;
- (I) Etorphine;
- (J) Heroin;
- (K) Hydromorphenol;
- (L) Methyldesorphine;
- (M) Methyldihydromorphine;
- (N) Morphine methylbromide;
- (O) Morphine methylsulfonate;
- (P) Morphine-N-Oxide;
- (Q) Myrophine;
- (R) Nicocodeine;
- (S) Nicomorphine;
- (T) Normorphine;
- (U) Pholcodine;
- (V) Thebacon;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers (whether optical, position, or geometrics), and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical

designation:

- (A) 3, 4-methylenedioxyamphetamine;
- (B) 5-methoxy-3, 4-methylenedioxyamphetamine;
- (C) 3, 4, 5-trimethoxyamphetamine;
- (D) Bufotenine;
- (E) Diethyltryptamine;
- (F) Dimethyltryptamine;
- (G) 4-methyl-2, 5-dimethoxyamphetamine;
- (H) Ibogaine;
- (I) Lysergic acid diethylamide;
- (J) Mescaline;
- (K) Peyote;
- (L) N-ethyl-3-piperidyl benzilate;
- (M) N-methyl-3-piperidyl benzilate;
- (N) Psilocybin;
- (O) Psilocyn (Psilocin);
- (P) Tetrahydrocannabinols which shall include, but are not limited to:

(i) All synthetic or naturally produced samples containing more than 15 percent by weight of tetrahydrocannabinols; and

(ii) All synthetic or naturally produced tetrahydrocannabinol samples which do not contain plant material exhibiting the external morphological features of the plant cannabis;

- (Q) 2, 5-dimethoxyamphetamine;
- (R) 4-bromo-2, 5-dimethoxyamphetamine;
- (S) 4-methoxyamphetamine;

(T) Cyanoethylamphetamine;

(U) (1-phenylcyclohexyl) ethylamine;

(V) 1-(1-phenylcyclohexyl) pyrrolidine;

(W) Phencyclidine;

(X) 1-piperidinocyclohexanecarbonitrile;

(Y) 1-phenyl-2-propanone (phenylacetone);

(Z) 3, 4-Methylenedioxymethamphetamine (MDMA);

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

(BB) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine;

(CC) 3-methylfentanyl;

(DD) N-ethyl-3, 4-methylenedioxyamphetamine;

(EE) Para-fluorofentanyl;

(FF) 2,5-Dimethoxy-4-Ethylamphetamine;

(GG) Cathinone;

(HH) MPPP (1-Methyl-4-Phenyl-4-Propionoxypiperidine);

(II) PEPAP (1-(2-phenethyl)-4 phenyl-4-acetoxypiperide);

(JJ) Alpha-Methylthiofentanyl;

(KK) Acetyl-Alpha-Methylfentanyl;

(LL) 3-Methylthiofentanyl;

(MM) Beta-Hydroxyfentanyl;

(NN) Thiofentanyl;

(OO) 3,4-Methylenedioxy-N-Ethylamphetamine;

(PP) 4-Methylaminorex;

(QQ) N-Hydroxy-3,4-Methylenedioxyamphetamine;

(RR) Beta-Hydroxy-3-Methylfentanyl;

(SS) Reserved;

(TT) N, N-Dimethylamphetamine;

(UU) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine;

(VV) 4-Bromo-2,5-Dimethoxyphenethylamine (DMPE);

(WW) Alpha-Ethyltryptamine;

(XX) Methcathinone;

(YY) Aminorex;

(4) Any material, compound, mixture, or preparation which contains any of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Fenethylamine;

(B) N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzyl-fentanyl);

(C) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl);

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances, their salts, isomers (whether optical, position, or geometrical), and salts of isomers, unless specifically excepted, whenever the existence of these substances, their salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Gamma hydroxybutyric acid (gamma hydroxy butyrate); provided, however, that this does not include any amount naturally and normally occurring in the human body; and

(B) Sodium oxybate, when the FDA approved form of this drug is not:

(i) In a container labeled in compliance with subsection (a) or (b) of Code Section 26-3-8; and

(ii) In the possession of:

(I) A registrant permitted to dispense the drug;

(II) Any person other than to whom the drug was prescribed; or

(III) Any person who attempts to or does unlawfully possess, sell, distribute, or give this drug to any other person;

(6) Notwithstanding the fact that Schedule I substances have no currently accepted medical use, the General Assembly recognizes certain of these substances which are currently accepted for certain limited medical uses in treatment in the United States but have a high potential for abuse. Accordingly, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of methaqualone, including its salts, isomers, optical isomers, salts of their isomers, and salts of these optical isomers, is included in Schedule I;

(7) 2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);

(8) 1-(3-Trifluoromethylphenyl) Piperazine (TFMPP);

(9) N-Benzylpiperazine (BZP);

(10) 5-Methoxy-N,N-Diisopropyltryptamine (5-MeO-DIPT);

(11) Alpha-Methyltryptamine (AMT).

**HISTORY:** Code 1933, § 79A-806, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 6; Ga. L. 1979, p. 859, § 5; Ga. L. 1980, p. 1746, § 4; Ga. L. 1981, p. 557, § 3; Ga. L. 1982, p. 2403, §§ 11, 16; Ga. L. 1984, p. 22, § 16; Ga. L. 1984, p. 1019, § 1; Ga. L. 1985, p. 1219, § 2; Ga. L. 1986, p. 1555, § 3; Ga. L. 1987, p. 261, § 1; Ga. L. 1989, p. 233, § 1; Ga. L. 1990, p. 8, § 16; Ga. L. 1990, p. 640, § 1; Ga. L. 1992, p. 1131, § 1; Ga. L. 1994, p. 169, §§ 1-3, 3.1; Ga. L. 1996, p. 356, § 1; Ga. L. 2001, p. 816, § 1; Ga. L. 2002, p. 415, § 16; Ga. L. 2003, p. 349, § 2; Ga. L. 2005, p. 1028, § 1/SB 89; Ga. L. 2006, p. 219, § 1/HB 1054.

## § 16-13-26. Schedule II

The controlled substances listed in this Code section are included in Schedule II:

(1) Any of the following substances, or salts thereof, except those narcotic drugs specifically exempted or listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone hydrochloride, but including the following:

- (i) Raw opium;
- (ii) Opium extracts;
- (iii) Opium fluid extracts;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Hydrocodone;
- (x) Hydromorphone;
- (xi) Metopon;
- (xii) Morphine;
- (xiii) Oxycodone;
- (xiv) Oxymorphone;
- (xv) Thebaine;

(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (A) of this paragraph, except that these substances shall not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Cocaine, coca leaves, any salt, compound, derivative, stereoisomers of cocaine, or preparation of coca leaves, and any salt, compound, derivative, stereoisomers of cocaine, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:



- (A) Alfentanil;
- (A.1) Alphaprodine;
- (B) Anileridine;
- (C) Bezitramide;
- (D) Dihydrocodeine;
- (E) Diphenoxylate;
- (F) Fentanyl;
- (G) Isomethadone;
- (G.5) Levo-alphacetylmethadol (some other names: levomethadyl acetate, LAAM);
- (H) Levomethorphan;
- (I) Levorphanol;
- (J) Methazocine;
- (K) Methadone;
- (L) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-di-phenyl butane;
- (M) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (N) Pethidine (meperidine);
- (O) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpi-peridine;
- (P) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4- carboxylate;
- (Q) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4- carboxylic acid;
- (R) Phenazocine;
- (S) Piminodine;

(T) Racemethorphan;

(U) Racemorphan;

(U.1) Remifentanil;

(V) Sufentanil;

(3) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a stimulant effect on the central nervous system:

(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(B) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(C) Phenmetrazine and its salts;

(D) Methylphenidate;

(E) Carfentanil;

(F) Nabilone;

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any of the following substances included as having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Amobarbital;

(A.5) Glutethimide;

(B) Secobarbital;

(C) Pentobarbital.

**HISTORY:** Code 1933, § 79A-807, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1977, p. 625, § 7; Ga. L. 1978, p. 1668, § 7; Ga. L. 1979, p. 859, §§ 6, 7; Ga. L. 1980, p. 1746, § 5; Ga. L. 1982, p. 2403, §§ 12, 17, 17.1; Ga. L. 1985, p. 1219, § 3; Ga. L. 1987, p. 261, §§ 2-4; Ga. L. 1988, p. 420, § 1; Ga. L. 1989, p. 233, § 2; Ga. L. 1992, p. 1131, § 2; Ga. L. 1994, p. 169, § 4; Ga. L. 1997, p. 1311, § 1; Ga. L. 2000, p. 1317, § 1; Ga. L. 2007, p. 605, § 1/HB 286.

§ 16-13-27. Schedule III

The controlled substances listed in this Code section are included in Schedule III:

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, included as having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit forms containing any stimulant substances which are listed as excepted compounds by the State Board of Pharmacy pursuant to this article, and any other drug of quantitative composition so excepted or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine;

(E) Phendimetrazine;

(2) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salts thereof and one or more active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the State Board of Pharmacy for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

(D) Chlorhexadol;

(E) Reserved;

(F) Lysergic acid;

(G) Lysergic acid amide;

(H) Methypylon;

(I) Sulfondiethylmethane;

(J) Sulfonethylmethane;

(K) Sulfonmethane;

(L) Tiletamine/Zolozepam (Telazol);

(3) Nalorphine;

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs, or any salts thereof:

(A) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

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

(C) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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

(H) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) The State Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (1) and (2) of this Code section from the application of all or any part of this article if the compound, mixture, or preparation contains one or more active, medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system;

(6) Any anabolic steroid or any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration:

(A) Boldenone;

(B) Chlorotestosterone;

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone;

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebolone;

(J) Mesterolone;

(K) Methandienone;

(L) Methandranone;

(M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone;

(AA) Trenbolone;

(7) Ketamine;

(8) Dronabinol (synthetic) in sesame oil and encapsulated in a U.S. Food and Drug Administration approved drug product also known as Marinol;

(9) Sodium oxybate, when the FDA approved form of this drug is in a container labeled in compliance with subsection (a) or (b) of Code Section 26-3-8, in the possession of a registrant permitted to dispense the drug, or in the possession of a person to whom it has been lawfully prescribed;

(10) Buprenorphine.

**HISTORY:** Code 1933, § 79A-808, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 8; Ga. L. 1980, p. 1746, § 6; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 13, 18; Ga. L. 1989, p. 233, § 3; Ga. L. 1991, p. 312, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 1131, §§ 3, 4; Ga. L. 1996, p. 356, § 2; Ga. L. 1997, p. 1311, § 2; Ga. L. 1998, p. 778, § 1; Ga. L. 2000, p. 1317, § 2; Ga. L. 2003, p. 349, § 3.

§ 16-13-27. Schedule III

The controlled substances listed in this Code section are included in Schedule III:

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, included as having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit forms containing any stimulant substances which are listed as excepted compounds by the State Board of Pharmacy pursuant to this article, and any other drug of quantitative composition so excepted or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine;

(E) Phendimetrazine;

(2) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salts thereof and one or more active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the State Board of Pharmacy for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

(D) Chlorhexadol;

(E) Reserved;

(F) Lysergic acid;

(G) Lysergic acid amide;

(H) Methypylon;

(I) Sulfondiethylmethane;

(J) Sulfonethylmethane;

(K) Sulfonmethane;

(L) Tiletamine/Zolozepam (Telazol);

(3) Nalorphine;

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs, or any salts thereof:

(A) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

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

(C) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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

(H) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or



per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) The State Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (1) and (2) of this Code section from the application of all or any part of this article if the compound, mixture, or preparation contains one or more active, medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system;

(6) Any anabolic steroid or any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration:

- (A) Boldenone;
- (B) Chlorotestosterone;
- (C) Clostebol;
- (D) Dehydrochlormethyltestosterone;
- (E) Dihydrotestosterone;
- (F) Drostanolone;
- (G) Ethylestrenol;
- (H) Fluoxymesterone;
- (I) Formebolone;
- (J) Mesterolone;
- (K) Methandienone;
- (L) Methandranone;
- (M) Methandriol;
- (N) Methandrostenolone;

- (O) Methenolone;
- (P) Methyltestosterone;
- (Q) Mibolerone;
- (R) Nandrolone;
- (S) Norethandrolone;
- (T) Oxandrolone;
- (U) Oxymesterone;
- (V) Oxymetholone;
- (W) Stanolone;
- (X) Stanozolol;
- (Y) Testolactone;
- (Z) Testosterone;
- (AA) Trenbolone;

(7) Ketamine;

(8) Dronabinol (synthetic) in sesame oil and encapsulated in a U.S. Food and Drug Administration approved drug product also known as Marinol;

(9) Sodium oxybate, when the FDA approved form of this drug is in a container labeled in compliance with subsection (a) or (b) of Code Section 26-3-8, in the possession of a registrant permitted to dispense the drug, or in the possession of a person to whom it has been lawfully prescribed;

(10) Buprenorphine.

**HISTORY:** Code 1933, § 79A-808, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 8; Ga. L. 1980, p. 1746, § 6; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 13, 18; Ga. L. 1989, p. 233, § 3; Ga. L. 1991, p. 312, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 1131, §§ 3, 4; Ga. L. 1996, p. 356, § 2; Ga. L. 1997, p. 1311, § 2; Ga. L. 1998, p. 778, § 1; Ga. L. 2000, p. 1317, § 2; Ga. L. 2003, p. 349, § 3.

#### § 16-13-28. Schedule IV

(a) The controlled substances listed in this Code section are included in Schedule IV. Unless specifically excepted or unless listed in another schedule, any material,

compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specified chemical designation, included as having a stimulant or depressant effect on the central nervous system or a hallucinogenic effect:

(1) Alprazolam;

(2) Barbital;

(2.1) Bromazepam;

(2.15) Butorphanol;

(2.2) Camazepam;

(2.25) Carisoprodol;

(2.3) Cathine;

(3) Chloral betaine;

(4) Chloral hydrate;

(5) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clidinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens);

(5.1) Clobazam;

(6) Clonazepam;

(7) Clorazepate;

(7.1) Clotiazepam;

(7.2) Cloxazolam;

(7.3) Delorazepam;

(8) Desmethyldiazepam;

(8.5) Dexfenfluramine;

(9) Reserved;

- (10) Diazepam;
- (11) Diethylpropion;
- (11.05) Difenoxin;
- (11.1) Estazolam;
- (12) Ethchlorvynol;
- (13) Ethinamate;
- (13.1) Ethyl loflazepate;
- (13.2) Fencamfamin;
- (14) Fenfluramine;
- (14.1) Flunitrazepam;
- (14.2) Fenproporex;
- (15) Flurazepam;
- (16) Halazepam;
- (16.1) Haloxazolam;
- (16.2) Ketazolam;
- (16.3) Lometazepam;
- (16.4) Loprazolam;
- (17) Lorazepam;
- (18) Mazindol;
- (19) Mebutamate;
- (19.1) Medazepam;
- (19.2) Mefenorex;
- (20) Meprobamate;

- (21) Methohexital;
- (22) Methylphenobarbital;
  - (22.1) Midazolam;
  - (22.15) Modafinil;
  - (22.2) Nimetazepam;
  - (22.3) Nitrazepam;
  - (22.4) Nordiazepam;
- (23) Oxazepam;
  - (23.1) Oxazolam;
- (24) Paraldehyde;
- (25) Pemoline;
- (26) Pentazocine;
- (27) Petrichloral;
- (28) Phenobarbital;
- (29) Phentermine;
  - (29.1) Pipradrol;
- (30) Prazepam;
  - (30.05) Propoxyphene (including all salts and optical isomers);
  - (30.1) Quazepam;
  - (30.2) Sibutramine;
  - (30.3) SPA (-)-1-dimethylamino-1, 2-diphenylethane;
- (31) Temazepam;
- (32) Triazolam;

(32.5) Zaleplon;

(33) Zolpidem;

(34) Zopiclone.

(b) The State Board of Pharmacy may except by rule any compound, mixture, or preparation containing any depressant, stimulant, or hallucinogenic substance listed in subsection (a) of this Code section from the application of all or any part of this article if the compound, mixture, or preparation contains one or more active, medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant or stimulant effect on the central nervous system.

**HISTORY:** Code 1933, § 79A-809, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1977, p. 1287, § 1; Ga. L. 1979, p. 859, § 8; Ga. L. 1980, p. 1746, § 7; Ga. L. 1981, p. 557, § 4; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 14, 19; Ga. L. 1984, p. 22, § 16; Ga. L. 1985, p. 1219, § 4; Ga. L. 1986, p. 10, § 16; Ga. L. 1986, p. 1555, § 4; Ga. L. 1987, p. 261, § 5; Ga. L. 1989, p. 233, § 4; Ga. L. 1990, p. 8, § 16; Ga. L. 1993, p. 590, § 2; Ga. L. 1994, p. 169, § 5; Ga. L. 1996, p. 1023, § 1; Ga. L. 1997, p. 1311, § 3; Ga. L. 1998, p. 778, § 2; Ga. L. 1999, p. 643, § 1; Ga. L. 2000, p. 1317, § 3; Ga. L. 2003, p. 349, § 4; Ga. L. 2006, p. 219, § 2/HB 1054; Ga. L. 2007, p. 47, § 16/SB 103.

#### § 16-13-29. Schedule V

The controlled substances listed in this Code section are included in Schedule V:

(1) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or salts thereof, which also contains one or more nonnarcotic, active, medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(B) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(C) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(D) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(2) Reserved;

(3) Pregabalin; or

(4) Pyrovalerone.

**HISTORY:** Code 1933, § 79A-810, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 9; Ga. L. 1979, p. 859, § 9; Ga. L. 1980, p. 1746, § 8; Ga. L. 1981, p. 557, § 5; Ga. L. 1984, p. 1019, § 2; Ga. L. 1986, p. 1555, § 5; Ga. L. 1989, p. 233, § 5; Ga. L. 1993, p. 590, § 3; Ga. L. 2003, p. 349, § 5; Ga. L. 2007, p. 605, § 2/HB 286.

§ 16-13-29.1. Nonnarcotic substances excluded from schedules of controlled substances

The following nonnarcotic substances which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, are excluded from all schedules of controlled substances under this article:

Trade name or designation (Dosage form)	Composition/Potency	Manufacturer or distributor
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Amodrine (Tablet)	Phenobarbital/8.00 mg; Aminophylline/100.00 mg; Racephedrine/25.00 mg	Searle, G.D. & Co.
Amodrine E C (Enteric- coated tablet)	Phenobarbital/8.00 mg; Aminophylline/100.00 mg; Racephedrine/25.00 mg	Searle, G.D. & Co.
Anodyne (Ointment)	Chloral hydrate/0.69 g/30 g	Zemmer Co.
Anti-Asthma (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 25.00 mg	Ormont Drug & Chem.
Anti-asthmatic (Tablet)	Phenobarbital/8.10 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Zenith Labs., Inc.
Asma-Ese (Tablet)	Phenobarbital/8.10 mg; Theophylline/129.60 mg; Ephedrine hydrochloride/ 24.30 mg	Parmed Pharm.
Asma-Lief (Tablet)	Phenobarbital/8.10 mg; Ephedrine hydrochloride/ 24.30 mg; Theophylline/ 129.60 mg	Columbia Medical Co.
Asma-Lief Pediatric	Phenobarbital/4.00 mg/05 ml; Ephedrine hydrochloride/	Columbia Medical Co.

(Suspension)	12.00 mg/05 ml; Theophylline/65.00 mg/05 ml	
Asma Tuss (Syrup)	Phenobarbital/4.00 mg/05 ml; Glyceryl guaiacolate/50.00 mg/05 ml; Chlorphentramine maleate/1.00 mg/05 ml; Ephedrine sulfate/12.00 mg/05 ml; Theophylline/ 15.00 mg/05 ml	Halsey Drug Co.
Azma-Aid (Tablet)	Phenobarbital/8.00 mg; Theophylline/129.60 mg Ephedrine hydrochloride/ 24.30 mg	Rondex Labs.
Azmadrine (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	U.S. Ethicals.
Benzedrex Inhaler (Inhaler)	Propylhexedrine	Smith Kline Consumer Products.
Bet-U-Lol (Liquid)	Chloral hydrate/0.54 g/30 ml; Methyl salicylate/ 30.10 g/30 ml; Menthol/ 0.69 g/30 ml	Huxley Pharm.
Bronkoxir (Elixir)	Phenobarbital/4.00 mg/05 ml; Theophylline/15.00 mg/05 ml; Ephedrine sulfate/12.00 mg/05 ml; Glyceryl guaiacolate/50.00 mg/05 ml	Breon Labs.
Bronkotabs (Tablet)	Phenobarbital/8.00 mg; Theophylline/100.00 mg; Glyceryl guaiacolate/ 100.00 mg; Ephedrine sulfate/24.00 mg	Breon Labs.
Bronkotabs- Hafs (Tablet)	Phenobarbital/4.00 mg; Glyceryl guaiacolate/ 50.00 mg; Theophylline/ 50.00 mg; Ephedrine sulfate/12.00 mg	Breon Labs.
Ceepea (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Geneva Drugs.
Chlorasal (Ointment)	Chloral hydrate/648.00 mg/30 g; Menthol/	Wisconsin Pharmacal.



	972.00 mg/30 g; Methyl salicylate/ 4.277 g/30 g	
Choate's Leg Freeze (Liquid)	Chloral hydrate/7.40 g/30 ml; Ether/10.3 ml/30 ml; Menthol/6.3 g/30 ml; Camphor/8.7 g/30 ml	Bickmore, Inc.
Chloro- salicylate (Ointment)	Chloral hydrate/648.00 mg/30 g; Methyl salicylate/6.66 g/30 g; Menthol/1.13 g/30 g	Kremers- Urban Co.
Menthalgescic (Ointment)	Chloral hydrate/0.45 g/30 g; Menthol/0.45 g/30 g; Methyl salicylate/3.60 g/30 g; Camphor/0.45 g/30 g	Blue Line Chem Co.
Neoasma (Tablet)	Phenobarbital/10.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Tarmac Products.
P.E.C.T. (Tablet)	Phenobarbital/8.10 mg; Chlorpheniramine maleate/ 2.00 mg; Ephedrine sulfate/24.30 mg; Theophylline/129.60 mg	Halsom Drug Co.
Primatene (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Whitehall Labs.
Rynal (Spray)	d1-methamphetamine hydrochloride/0.11 g/50 ml; Antipyrine/ 0.14 g/50 ml; Pyriamine maleate/0.005 g/50 ml; Hyamine 2389/0.01 g/50 ml	Blaine Co.
S-K Asthma (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.30 mg; Theophylline/ 129.60 mg	S-K Research Labs.
Tedral (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Warner- Chilcott.
Tedral Anti H (Tablet)	Phenobarbital/8.00 mg; Chlorpheniramine maleate/ 2.00 mg; Theophylline/	Warner- Chilcott.

	130.00 mg; Ephedrine hydrochloride/24.00 mg	
Tedral Antiasthmatic (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Parke-Davis & Co.
Tedral Elixir (Elixir)	Phenobarbital/2.00 mg/05 ml; Ephedrine hydro- chloride/6.00 mg/05 ml; Theophylline/32.50 mg/ 05 ml	Warner- Chilcott.
Tedral Pediatric (Suspension)	Phenobarbital/4.00 mg/05 ml; Ephedrine hydro- chloride/12.00 mg/05 ml; Theophylline/65.00 mg/05 ml	Warner- Chilcott.
Teephen (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Robinson Labs.
Teephen Pediatric (Suspension)	Phenobarbital/4.00 mg/05 ml; Ephedrine hydro- chloride/12.00 mg/05 ml; Theophylline anhydrous/ 65.00 mg/05 ml	Robinson Labs.
TEP (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Towne, Paulsen & Co., Inc.
T.E.P. Compound (Tablet)	Phenobarbital/8.10 mg; Theophylline/129.60 mg; Ephedrine hydrochloride/ 24.30 mg	Stanlabs, Inc.
Thedrizem (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 25.00 mg; Theophylline/ 100.00 mg	Zemmer Co.
Theobal (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Halsey Drug Co.
Val-Tep (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Vale Chemical Co.
Verequad	Phenobarbital/4.00 mg/05 ml;	Knoll

(Suspension)	Ephedrine hydrochloride/ 12.00 mg/05 ml; Theophylline calcium salicylate/65.00 mg/05 ml; Glyceryl guaiacolate/ 50.00 mg/05 ml	Pharm.
Verequad (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Glyceryl guaiacolate/100.00 mg; Theophylline calcium salicylate/130.00 mg	Knoll Pharm.
Vicks Inhaler (Inhaler)	1-Desoxyephedrine/113.00 mg Co.	Vick Chemical

**HISTORY:** Code 1981, § 16-13-29.1, enacted by Ga. L. 1983, p. 349, § 1; Ga. L. 1989, p. 233, § 6; Ga. L. 1990, p. 8, § 16.

§ 16-13-29.2. Authority for exemption of over-the-counter Schedule V controlled substances

The Georgia State Board of Pharmacy shall have the authority to exempt and control the sale of Schedule V controlled substances by rule which shall allow the sale of such substances without the need for issuance of a prescription from a medical practitioner and shall require such substances to be sold only in a pharmacy when such substances are sold without a prescription. Such substances shall be known as Exempt Over-the-Counter (OTC) Schedule V Controlled Substances.

**HISTORY:** Code 1981, § 16-13-29.2, enacted by Ga. L. 2003, p. 349, § 6.

§ 16-13-30. Purchase, possession, manufacture, distribution, or sale of controlled substances or marijuana; penalties

(a) Except as authorized by this article, it is unlawful for any person to purchase, possess, or have under his control any controlled substance.

(b) Except as authorized by this article, it is unlawful for any person to manufacture, deliver, distribute, dispense, administer, sell, or possess with intent to distribute any controlled substance.

(c) Except as otherwise provided, any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule I or a narcotic drug in Schedule II shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two years nor more than 15 years. Upon conviction of a second or subsequent offense, he shall be imprisoned for not less than five years nor more than 30 years.

(d) Except as otherwise provided, any person who violates subsection (b) of this Code section with respect to a controlled substance in Schedule I or Schedule II shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 30 years. Upon conviction of a second or subsequent offense, he or she shall be imprisoned for not less than ten years nor more than 40 years or life imprisonment. The provisions of subsection (a) of Code Section 17-10-7 shall not apply to a sentence imposed for a second such offense; provided, however, that the remaining provisions of Code Section 17-10-7 shall apply for any subsequent offense.

(e) Any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule II, other than a narcotic drug, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two years nor more than 15 years. Upon conviction of a second or subsequent offense, he shall be punished by imprisonment for not less than five years nor more than 30 years.

(f) Reserved.

(g) Any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than five years. Upon conviction of a second or subsequent offense, he shall be imprisoned for not less than one year nor more than ten years.

(h) Any person who violates subsection (b) of this Code section with respect to a controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(i) Except as authorized by this article, it is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute a counterfeit substance. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(j)(1) It is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute marijuana.

(2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 or in Code Section 16-13-2, any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(k) It shall be unlawful for any person to hire, solicit, engage, or use an individual under the age of 17 years, in any manner, for the purpose of manufacturing, distributing, or dispensing, on behalf of the solicitor, any controlled substance, counterfeit substance, or

marijuana unless the manufacturing, distribution, or dispensing is otherwise allowed by law. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 20 years or by a fine not to exceed \$20,000.00, or both.

(1)(1) Any person who violates subsection (a) of this Code section with respect to flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two years nor more than 15 years. Upon conviction of a second or subsequent offense, such person shall be punished by imprisonment for not less than five years nor more than 30 years.

(2) Any person who violates subsection (b) of this Code section with respect to flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 30 years. Upon conviction of a second or subsequent offense, such person shall be punished by imprisonment for not less than ten years nor more than 40 years or life imprisonment. The provisions of subsection (a) of Code Section 17-10-7 shall not apply to a sentence imposed for a second such offense, but that subsection and the remaining provisions of Code Section 17-10-7 shall apply for any subsequent offense.

**HISTORY:** Code 1933, § 79A-811, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1975, p. 1112, § 1; Ga. L. 1979, p. 1258, § 1; Ga. L. 1980, p. 432, § 1; Ga. L. 1985, p. 149, § 16; Ga. L. 1990, p. 992, § 1; Ga. L. 1992, p. 2041, § 1; Ga. L. 1996, p. 1023, §§ 1.1, 2; Ga. L. 1997, p. 1311, § 4.

§ 16-13-30.1. Unlawful manufacture, delivery, distribution, possession, or sale of noncontrolled substances

(a)(1) It is unlawful for any person knowingly to manufacture, deliver, distribute, dispense, possess with the intent to distribute, or sell a noncontrolled substance upon either:

(A) The express or implied representation that the substance is a narcotic or nonnarcotic controlled substance;

(B) The express or implied representation that the substance is of such nature or appearance that the recipient of said delivery will be able to distribute said substance as a controlled substance; or

(C) The express or implied representation that the substance has essentially the same pharmacological action or effect as a controlled substance.

(2) The definitions of the terms "deliver," "delivery," "distribute," "dispense," and "manufacture" provided in Code Section 16-13-21 shall not be applicable to this Code section; but such terms as used in this Code section shall have the meanings ascribed to them in the ordinary course of business.

(b) An implied representation may be shown by proof of any two of the following:

(1) The manufacture, delivery, distribution, dispensing, or sale included an exchange or a demand for money or other valuable property as consideration for delivery of the substance and the amount of such consideration was substantially in excess of the reasonable value of the noncontrolled substance;

(2) The physical appearance of the finished product containing the substance is substantially identical to a specific controlled substance;

(3) The finished product bears an imprint, identifying mark, number, or device which is substantially identical to the trademark, identifying mark, imprint, number, or device of a manufacturer licensed by the Food and Drug Administration of the United States Department of Health and Human Services.

(c) In any prosecution for unlawful manufacture, delivery, distribution, possession with intent to distribute, dispensing, or sale of a noncontrolled substance, it is no defense that the accused believed the noncontrolled substance to be actually a controlled substance.

(d) The provisions of this Code section shall not prohibit a duly licensed business establishment, acting in the usual course of business, from selling or for a practitioner, acting in the usual course of his professional practice, from dispensing a drug preparation manufactured by a manufacturer licensed by the Food and Drug Administration of the United States Department of Health and Human Services for over-the-counter sale which does not bear a label stating "Federal law prohibits dispensing without a prescription" or similar language meaning that the drug preparation requires a prescription.

(e) The unlawful manufacture, delivery, distribution, dispensing, possession with the intention to distribute, or sale of a noncontrolled substance in violation of this Code section is a felony and, upon conviction thereof, such person shall be punished by imprisonment for not less than one year nor more than ten years or by a fine not to exceed \$25,000.00, or both.

(f) All property which would be subject to forfeiture under the provisions of subsection (d) of Code Section 16-13-49 for a violation of this article which is used, or intended for use, to facilitate, or is derived from, a violation of this Code section and any noncontrolled substance which is manufactured, distributed, dispensed, possessed with the intent to distribute, or sold in violation of this Code section are declared to be contraband and there shall be no property interest therein. Any property or noncontrolled substance which is subject to the provisions of this subsection shall be forfeited in accordance with the procedures of Code Section 16-13-49.

**HISTORY:** Code 1981, § 16-13-30.1, enacted by Ga. L. 1982, p. 2370, § 3; Ga. L. 1991, p. 886, § 2.

§ 16-13-30.2. Unlawful manufacture, distribution, or possession with intent to distribute of imitation controlled substances

(a) Any person who knowingly manufactures, distributes, or possesses with intent to

distribute an imitation controlled substance as defined in paragraph (12.1) of Code Section 16-13-21 is guilty of a misdemeanor of a high and aggravated nature.

(b) The provisions of this Code section are cumulative and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party.

(c) No civil or criminal liability shall be imposed by virtue of this Code section on any person registered under this article who manufactures, distributes, or possesses an imitation controlled substance for use by a practitioner, as defined in paragraph (23) of Code Section 16-13-21, in the course of lawful professional practice or research.

(d) All materials which are manufactured, distributed, or possessed in violation of this Code section are declared to be contraband and shall be forfeited according to the procedure described in Code Section 16-13-49.

**HISTORY:** Code 1981, § 16-13-30.2, enacted by Ga. L. 1988, p. 1065, § 2.

§ 16-13-30.3. Possession of substances containing ephedrine, pseudoephedrine, and phenylpropanolamine; restrictions on sales of products containing pseudoephedrine

(a) As used in this Code section, the term:

(1) "Ephedrine," "pseudoephedrine," or "phenylpropanolamine" means any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, alone or in a mixture.

(2) "Personal use" means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine in quantities at or below that specified in subsection (b) of this Code section, and includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(3) "Retail distributor" means a grocery store, general merchandise store, drugstore, convenience store, or other related entity, the activities of which involve the distribution of ephedrine, pseudoephedrine, or phenylpropanolamine products.

(b)(1) It is unlawful for any person, other than a person or entity described in paragraph (28), (29), or (33) of Code Section 26-4-5 or a retail distributor, to knowingly possess any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine in an amount which exceeds 300 pills, tablets, gelcaps, capsules, or other individual units or more than 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances, whichever is smaller.

(2) It shall be unlawful for any person to possess any amount of a substance set forth in this Code section with the intent to manufacture amphetamine or methamphetamine.

(3) Any person who violates the provisions of this Code section shall be guilty of a

felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(b.1)(1) Products whose sole active ingredient is pseudoephedrine may be offered for retail sale only if sold in blister packaging. Such products may not be offered for retail sale by self-service but only from behind a counter or other barrier so that such products are not directly accessible by the public but only by a retail store employee or agent.

(2) No person shall deliver in any single over the counter sale more than three packages of any product containing pseudoephedrine as the sole active ingredient or in combination with other active ingredients or any number of packages that contain a combined total of more than nine grams of pseudoephedrine or its base, salts, optical isomers, or salts of its optical isomers.

(3) It shall be unlawful for a retail distributor to purchase any product containing pseudoephedrine from any person or entity other than a manufacturer or a wholesale distributor licensed by the Georgia State Board of Pharmacy.

(4) This subsection shall not apply to:

(A) Pediatric products labeled pursuant to federal regulation as primarily intended for administration to children under 12 years of age according to label instructions; and

(B) Products that the Georgia State Board of Pharmacy, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors.

(5) This subsection shall preempt all local ordinances or regulations governing the retail sale of over the counter products containing pseudoephedrine by a retail business except such local ordinances or regulations that existed on or before December 31, 2004. Effective January 1, 2006, this subsection shall preempt all local ordinances.

(6)(A) Except as otherwise provided herein, it shall be unlawful for any person knowingly to violate any prohibition contained in paragraph (1), (2), or (3) of this subsection.

(B) Any person convicted of a violation of paragraph (1) or (2) of this subsection shall be guilty of a misdemeanor which, upon the first conviction, shall be punished by a fine of not more than \$500.00 and, upon the second or subsequent conviction, shall be punished by not more than six months' imprisonment or a fine of not more than \$1,000.00, or both.

(C) Any person convicted of a violation of paragraph (3) of this subsection shall, upon the first conviction, be guilty of a misdemeanor and, upon the second or subsequent conviction, be guilty of a misdemeanor of a high and aggravated nature.

(D) It shall be a defense to a prosecution of a retail business or owner or operator



thereof for violation of paragraph (1) or (2) of this subsection that, at the time of the alleged violation, all of the employees of the retail business had completed training under Georgia Meth Watch, the retail business was in compliance with Georgia Meth Watch, and the defendant did not knowingly, willfully, or intentionally violate paragraph (1) or (2) of this subsection. For purposes of this subsection only, the term "Georgia Meth Watch" shall mean that program entitled "Georgia Meth Watch" or similar program which has been promulgated, approved, and distributed by the Georgia Council on Substance Abuse.

(7) Except as otherwise provided in this subsection, the Georgia State Board of Pharmacy may adopt reasonable rules and regulations to effectuate the provisions of this subsection. The board is further authorized to charge reasonable fees to defray expenses incurred in maintaining any records or forms necessitated by this subsection or otherwise administering any other provisions of this subsection.

(c) This Code section shall not apply to:

(1) Pediatric products primarily intended for administration to children under 12 years of age, according to label instructions, either:

(A) In solid dosage form whose recommended dosage, according to label instructions, does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per individual dosage unit; or

(B) In liquid form whose recommended dosage, according to label instructions, does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce; or

(3) Products that the Georgia State Board of Pharmacy, upon application of a manufacturer, exempts by rule from this Code section because the product has been formulated in such a way as to prevent effectively the conversion of the active ingredient into methamphetamine or its salts or precursors.

(d) Except as authorized by this article, it is unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute any substance containing any amounts of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers which have been altered from their original condition so as to be powdered, liquefied, or crushed. This subsection shall not apply to any of the substances identified within this subsection which are possessed or altered for a legitimate medical purpose. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than

one year nor more than ten years.

**HISTORY:** Code 1981, § 16-13-30.3, enacted by Ga. L. 2003, p. 177, § 3; Ga. L. 2005, p. 194, § 1/HB 216; Ga. L. 2006, p. 72, § 16/SB 465; Ga. L. 2007, p. 47, § 16/SB 103.

§ 16-13-30.4. Licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine; reporting and record-keeping requirements; grounds for denial, suspension, or revocation of licenses; rules and regulations; exceptions; forfeiture; violations

(a) As used in this Code section and unless otherwise specified, the term "board" or "board of pharmacy" shall mean the Georgia State Board of Pharmacy.

(b)(1) A wholesale distributor who sells, transfers, purchases for resale, or otherwise furnishes any product containing pseudoephedrine must first obtain a license from the board of pharmacy; provided, however, that a wholesale distributor that has a valid license as a wholesale distributor under Code Section 26-4-113 shall not be required to obtain an additional license under this Code section.

(2) Wholesale distributors licensed under Code Section 26-4-113 shall be subject to the provisions of this Code section in the same manner as wholesale distributors licensed under this Code section.

(3) Every wholesale distributor licensed as provided in this Code section shall:

(A) Submit reports, upon verbal or written request from the Georgia Drugs and Narcotics Agency, the Georgia Bureau of Investigation, or the sheriff of a county or the police chief of a municipality located in this state, to account for all transactions with persons or firms located within this state; such reportable transactions shall include all sales, distribution, or transactions dealing with products containing pseudoephedrine; and

(B) Within seven days, notify the Georgia Drugs and Narcotics Agency of any purchases of products containing pseudoephedrine from the wholesale distributor which the wholesaler judges to be excessive.

(4) Whenever any firm or person located in this state receives, purchases, or otherwise gains access to products containing pseudoephedrine from any wholesale distributor, whether located in or outside this state, such firm or person shall maintain a copy of such wholesale distributor's license issued by the Georgia State Board of Pharmacy. Such firm or person shall maintain copies of all invoices, receipts, and other records regarding such products containing pseudoephedrine for a minimum of three years from the date of receipt, purchase, or access. Failure to maintain records to verify the presence of any and all products containing pseudoephedrine being held by a firm or person shall subject such products containing pseudoephedrine to being embargoed or seized by proper law enforcement authorities until such time as proof can be shown that such products containing pseudoephedrine were obtained from a Georgia licensed wholesale distributor.

(5) Agents of the Georgia Drugs and Narcotics Agency, agents of the Georgia Bureau

of Investigation, and the sheriff of a county or the police chief of a county or municipality in this state in which a firm or person that receives, purchases, or otherwise gains access to products containing pseudoephedrine is located may request to review the receiving records for such products. Failure to provide such records within five business days following such request to account for the presence of such products shall result in the embargo or seizure of such products.

(c) A license or permit obtained pursuant to this Code section shall be denied, suspended, or revoked by the board of pharmacy upon finding that the licensee or permit holder has:

(1) Furnished false or fraudulent material information in any application filed under this Code section;

(2) Been convicted of a crime under any state or federal law relating to any controlled substance;

(3) Had his or her federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;

(4) Violated the provisions of Chapter 4 of Title 26; or

(5) Failed to maintain effective controls against the diversion of products containing pseudoephedrine to unauthorized persons or entities.

(d) The board of pharmacy may adopt reasonable rules and regulations to effectuate the provisions of this Code section. The board is further authorized to charge reasonable fees to defray expenses incurred in issuing any licenses or permits, maintaining any records or forms required by this Code section, and the administration of the provisions of this Code section.

(e) Notwithstanding any other provision of this Code section to the contrary, no person shall be required to obtain a license or permit for the sale, receipt, transfer, or possession of a product containing pseudoephedrine when:

(1) Such lawful distribution takes place in the usual course of business between agents or employees of a single regulated person or entity; or

(2) A product containing pseudoephedrine is delivered to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman.

(f) All products containing pseudoephedrine that have been or that are intended to be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation of a provision of this Code section shall be subject to forfeiture to the state and no property right shall exist in them.

(g)(1) Any person who sells, transfers, receives, or possesses a product containing pseudoephedrine violates this Code section if the person:

(A) Knowingly fails to comply with the reporting requirements of this Code section;

(B) Knowingly makes a false statement in a report or record required by this Code section or the rules adopted thereunder; or

(C) Is required by this Code section to have a license or permit and knowingly or deliberately fails to obtain such a license or permit.

(2) It shall be illegal for a person to possess, sell, transfer, or otherwise furnish a product containing pseudoephedrine if such person possesses, sells, transfers, or furnishes the substance with the knowledge or intent that the substance will be used in the unlawful manufacture of a controlled substance.

(3)(A) A person who violates paragraph (2) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 15 years or by a fine not to exceed \$100,000.00, or both.

(B) A person who violates any provision of this Code Section other than paragraph (2) of this subsection shall be guilty of a misdemeanor on the first offense and a misdemeanor of a high and aggravated nature on the second and subsequent offenses.

**HISTORY:** Code 1981, § 16-13-30.4, enacted by Ga. L. 2005, p. 194, § 2/HB 216; Ga. L. 2007, p. 47, § 16/SB 103.

§ 16-13-30.5. Possession of substances with intent to use or convey such substances for the manufacture of Schedule I or Schedule II controlled substances

(a) It shall be illegal for a person to possess, whether acquired through theft or other means, any substance with the intent to:

(1) Use such substance in the manufacture of a Schedule I or Schedule II controlled substance; or

(2) Knowingly convey such substance to another for use in the manufacture of a Schedule I or Schedule II controlled substance.

(b) In determining whether a particular substance is possessed with the intent required to violate subsection (a) of this Code section, the court or other authority making such a determination may, in addition to all other logically relevant factors, consider the following:

(1) Statements by the owner or anyone in control of the substance concerning its use;

(2) Prior convictions, if any, of the owner or of anyone in control of the substance for

violation of any state or federal law relating to the sale or manufacture of controlled substances;

(3) Instructions or descriptive materials of any kind accompanying the substance or found in the owner's or controlling person's possession concerning, explaining, or depicting its use;

(4) The manner in which the substance is displayed or offered for sale;

(5) The quantity and location of the substance considered in relation to the existence and scope of legitimate uses for the substance in the community; and

(6) Expert testimony concerning the substance's use.

(c) This Code section shall not apply where possession was by a person authorized by law to dispense, prescribe, manufacture, or possess the substance in question.

(d) A person who violates this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 15 years or by a fine not to exceed \$100,000.00, or both.

**HISTORY:** Code 1981, § 16-13-30.5, enacted by Ga. L. 2005, p. 194, § 3/HB 216; Ga. L. 2006, p. 72, § 16/SB 465.

§ 16-13-31. Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine; penalties

(a)(1) Any person who knowingly sells, manufactures, delivers, or brings into this state or who is knowingly in possession of 28 grams or more of cocaine or of any mixture with a purity of 10 percent or more of cocaine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in cocaine and, upon conviction thereof, shall be punished as follows:

(A) If the quantity of the cocaine or the mixture involved is 28 grams or more, but less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(B) If the quantity of the cocaine or the mixture involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(C) If the quantity of the cocaine or the mixture involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(2) Any person who knowingly sells, manufactures, delivers, or brings into this state or who is knowingly in possession of any mixture with a purity of less than 10 percent of

cocaine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in cocaine if the total weight of the mixture multiplied by the percentage of cocaine contained in the mixture exceeds any of the quantities of cocaine specified in paragraph (1) of this subsection. Upon conviction thereof, such person shall be punished as provided in paragraph (1) of this subsection depending upon the quantity of cocaine such person is charged with knowingly selling, manufacturing, delivering, or bringing into this state or knowingly possessing.

(b) Any person who knowingly sells, manufactures, delivers, brings into this state, or has possession of 4 grams or more of any morphine or opium or any salt, isomer, or salt of an isomer thereof, including heroin, as described in Schedules I and II, or 4 grams or more of any mixture containing any such substance in violation of this article commits the felony offense of trafficking in illegal drugs and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of such substances involved is 4 grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$50,000.00;

(2) If the quantity of such substances involved is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$100,000.00; and

(3) If the quantity of such substances involved is 28 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$500,000.00.

(c) Any person who knowingly sells, manufactures, grows, delivers, brings into this state, or has possession of a quantity of marijuana exceeding 10 pounds commits the offense of trafficking in marijuana and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of marijuana involved is in excess of 10 pounds, but less than 2,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$100,000.00;

(2) If the quantity of marijuana involved is 2,000 pounds or more, but less than 10,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of seven years and shall pay a fine of \$250,000.00; and

(3) If the quantity of marijuana involved is 10,000 pounds or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$1 million.

(d) Any person who knowingly sells, manufactures, delivers, or brings into this state 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in paragraph (6) of Code Section 16-13-25, in violation of this article commits the felony

offense of trafficking in methaqualone and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of the methaqualone or the mixture involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$50,000.00; and

(2) If the quantity of the methaqualone or the mixture involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$250,000.00.

(e) Any person who knowingly sells, delivers, or brings into this state or has possession of 28 grams or more of methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in methamphetamine or amphetamine and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 28 grams or more, but less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(2) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(3) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(f) Any person who knowingly manufactures methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Schedule II, in violation of this article commits the felony offense of trafficking methamphetamine or amphetamine and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(2) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(3) If the quantity of methamphetamine, amphetamine, or a mixture containing either

substance involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(g)(1) Except as provided in paragraph (2) of this subsection and notwithstanding Code Section 16-13-2, with respect to any person who is found to have violated this Code section, adjudication of guilt or imposition of sentence shall not be suspended, probated, deferred, or withheld prior to serving the mandatory minimum term of imprisonment prescribed by this Code section.

(2) The district attorney may move the sentencing court to impose a reduced or suspended sentence upon any person who is convicted of a violation of this Code section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may impose a reduced or suspended sentence if he finds that the defendant has rendered such substantial assistance.

(h) Any person who violates any provision of this Code section in regard to trafficking in cocaine, illegal drugs, marijuana, or methamphetamine shall be punished by imprisonment for not less than five years nor more than 30 years and by a fine not to exceed \$1 million.

**HISTORY:** Ga. L. 1980, p. 432, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2215, § 1; Ga. L. 1983, p. 620, § 1; Ga. L. 1985, p. 149, § 16; Ga. L. 1985, p. 552, § 1; Ga. L. 1986, p. 10, § 16; Ga. L. 1986, p. 397, § 1; Ga. L. 1988, p. 420, § 2; Ga. L. 1989, p. 1594, § 1; Ga. L. 1992, p. 2106, § 1; Ga. L. 1994, p. 169, § 5.1; Ga. L. 1997, p. 1311, § 5; Ga. L. 2003, p. 177, § 4; Ga. L. 2003, p. 257, § 1.

#### § 16-13-32. Transactions in drug related objects; forfeitures and penalties

(a) As used in this Code section, the term:

(1) "Drug related object" means any instrument, device, or object which is designed or marketed as useful primarily for one or more of the following purposes:

(A) To inject, ingest, inhale, or otherwise introduce marijuana or a controlled substance into the human body;

(B) To enhance the effect of marijuana or a controlled substance on the human body;

(C) To test the strength, effectiveness, or purity of marijuana or a controlled substance;

(D) To process or prepare marijuana or a controlled substance for introduction into the human body;

(E) To conceal any quantity of marijuana or a controlled substance; or

(F) To contain or hold marijuana or a controlled substance while it is being



introduced into the human body.

(2) "Knowing" means either actual or constructive knowledge of the drug related nature of the object; and a person or corporation has constructive knowledge of the drug related nature of the object if he or it has knowledge of facts which would put a reasonable and prudent person on notice of the drug related nature of the object.

(b) It shall be unlawful for any person or corporation, knowing the drug related nature of the object, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug related object. It shall also be unlawful for any person or corporation, knowing the drug related nature of the object, to display for sale, or possess with the intent to distribute any drug related object. Unless stated within the body of the advertisement or notice that the object that is advertised or about which information is disseminated is not available for distribution of any sort in this state, it shall be unlawful for any person or corporation, knowing the drug related nature of the object, to distribute or disseminate in any manner to any person any advertisement of any kind or notice of any kind which gives information, directly or indirectly, on where, how, from whom, or by what means any drug related object may be obtained or made.

(c) It shall be unlawful for any person or corporation, other than a licensed pharmacist, a pharmacy intern or pharmacy extern as defined in Code Section 26-4-5, or a practitioner licensed to dispense dangerous drugs, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person a hypodermic syringe or needle designed or marketed primarily for human use. It shall be an affirmative defense that the hypodermic syringe or needle was marketed for a legitimate medical purpose.

(d) For a first offense, any person or corporation which violates any provision of this Code section shall be guilty of a misdemeanor. For a second offense, the defendant shall be guilty of a misdemeanor of a high and aggravated nature. For a third or subsequent offense, the defendant shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years and shall be fined not more than \$5,000.00.

(e) All instruments, devices, and objects which are distributed or possessed in violation of this Code section are declared to be contraband.

(f) After conviction and after all direct appeals from the conviction have been exhausted, any instruments, devices, or objects which are the subject of prosecution under this Code section may be destroyed by the state or any county or municipality thereof without court order.

(g) Any instruments, devices, or objects which are seized after July 1, 1980, on condemnation as being distributed or possessed in violation of this Code section and which are not made the subject of prosecution under this Code section may be destroyed by the state or any county or municipality thereof if within 90 days after such seizures are made, the district attorney or the solicitor-general of any court that has jurisdiction to try

misdemeanors in the county where the seizure occurred shall institute condemnation proceedings in the court by petition, a copy of which shall be served upon the owner of the seized items, if known; and if the owner is unknown, notice of such proceedings shall be published once a week for two weeks in the newspaper in which the sheriff's advertisements are published. The petition shall allege that the seized items were distributed or possessed in violation of this Code section; and, if no defense is filed within 30 days from the filing of the petition, judgment by default shall be entered by the court at chambers, and the court shall order the seized items to be destroyed; otherwise, the case shall proceed as other civil cases in the court. Should the state prove, by a preponderance of the evidence, that the seized items were distributed or possessed in violation of this Code section, the court shall order the seized items to be destroyed.

**HISTORY:** Code 1933, § 79A-811.1, enacted by Ga. L. 1978, p. 2237, § 1; Ga. L. 1980, p. 1288, § 1; Ga. L. 1996, p. 748, § 13; Ga. L. 2004, p. 488, § 2.

§ 16-13-33. Attempt or conspiracy to commit offense under this article

Any person who attempts or conspires to commit any offense defined in this article shall be, upon conviction thereof, punished by imprisonment not exceeding the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

**HISTORY:** Code 1933, § 79A-812, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-34. Promulgation of rules relating to registration and control of controlled substances; registration fees

The State Board of Pharmacy may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

**HISTORY:** Code 1933, § 79A-813, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-35. General registration requirements

(a) Every person who manufactures, distributes, or dispenses any controlled substances within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state must obtain annually a registration issued by the State Board of Pharmacy in accordance with its rules.

(b) Persons registered by the State Board of Pharmacy under this article to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with this article.

(c) The following persons need not register and may lawfully possess controlled substances under this article:

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

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

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance; and

(4) Officers and employees of this state, or of a political subdivision of this state, or of the United States while acting in the course of their official duties.

(d) The State Board of Pharmacy may waive by rule the requirements for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The State Board of Pharmacy, the director of the Georgia Drugs and Narcotics Agency, or other drug agents designated by the State Board of Pharmacy for this purpose may inspect the establishment of a registrant or applicant for registration in accordance with the State Board of Pharmacy rules and the provisions of this article.

(g) The following persons are registered under this article and are exempt from the registration fee and registration application requirements of this article:

(1) Persons licensed by the State Board of Pharmacy as a pharmacist or a pharmacy under Chapter 4 of Title 26;

(2) Persons licensed as a physician, dentist, or veterinarian under the laws of the state to use, mix, prepare, dispense, prescribe, and administer drugs in connection with medical treatment to the extent provided by the laws of this state; and

(3) An employee, agent, or representative of any person described in paragraph (1) or (2) of this subsection acting in the usual course of his employment or occupation and not on his own account, provided that suspension or revocation of licensure as set forth in paragraphs (1) and (2) of this subsection shall nullify the exemption as set forth in this subsection.

**HISTORY:** Code 1933, § 79A-814, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-36. Factors considered in determining whether to register manufacturer or distributor

(a) The State Board of Pharmacy shall register an applicant to manufacture or distribute controlled substances included in Code Sections 16-13-25 through 16-13-29 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the State Board of Pharmacy shall consider the following factors:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of the applicant under any federal or state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against illegal diversion of controlled substances;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this article;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law;

(7) Suspension or revocation of the applicant's registration or license to manufacture, distribute, or dispense controlled substances, drugs, or narcotics in this state or any other state of the United States; and

(8) Any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this Code section does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered under state law to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The State Board of Pharmacy need not require separate registration under this Code section for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the State Board of Pharmacy satisfactory evidence of that federal registration. Any

practitioner conducting research with Schedule I controlled substances must obtain a separate registration with the State Board of Pharmacy.

(d) Compliance by manufacturers and distributors with the provisions of federal law respecting registration (excluding fees) entitles them to be registered under this article.

**HISTORY:** Code 1933, § 79A-815, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1977, p. 625, § 8; Ga. L. 1982, p. 3, § 16.

§ 16-13-37. Grounds for suspending or revoking registration; disposition of controlled substances; notification to bureau

(a) A registration under Code Section 16-13-36 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the State Board of Pharmacy upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this article;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance;

(3) Has had his federal registration to manufacture, distribute, or dispense controlled substances suspended or revoked;

(4) Has violated any provision of this article or the rules and regulations promulgated under this article; or

(5) Has failed to maintain sufficient controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

(b) The State Board of Pharmacy may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the State Board of Pharmacy suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order shall be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances shall be forfeited to the state.

(d) The State Board of Pharmacy shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

**HISTORY:** Code 1933, § 79A-816, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1992, p. 6, § 16.

§ 16-13-38. Procedure for denying, suspending, revoking, or limiting registration; automatic suspension

(a) Before denying, suspending, revoking, or limiting registration, or refusing a renewal of registration, the State Board of Pharmacy shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, limited, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the State Board of Pharmacy at a time and place not less than 30 days after the date of service of the order; but in the case of a denial of renewal of registration the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal or registration shall not abate the existing registration, which shall remain in effect pending the outcome of the administrative hearing.

(b) The State Board of Pharmacy shall suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Code Section 16-13-37 or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the State Board of Pharmacy or dissolved by a court of competent jurisdiction.

**HISTORY:** Code 1933, § 79A-817, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-39. Manufacturers, distributors, and dispensers to maintain records of controlled substances

Persons registered to manufacture, distribute, or dispense controlled substances under this article shall keep a complete and accurate record of all controlled substances on hand, received, manufactured, sold, dispensed, or otherwise disposed of and shall maintain such records and inventories in conformance with the record-keeping and inventory requirements of federal law and with any rules issued by the State Board of Pharmacy.

**HISTORY:** Code 1933, § 79A-810, enacted by Ga. L. 1967, p. 296, § 1; Code 1933, § 79A-818, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-40. Distribution of Schedule I and II substances

Controlled substances in Schedules I and II shall be distributed by a registrant to

another registrant only pursuant to an order form. Compliance with federal law respecting order forms shall be deemed compliance with this Code section.

**HISTORY:** Code 1933, § 79A-819, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-41. Prescriptions

(a) Except when dispensed directly by a registered practitioner, other than a pharmacy or pharmacist, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a registered practitioner.

(b) When a practitioner writes a prescription drug order to cause the dispensing of a Schedule II substance, he or she shall include the name and address of the person for whom it is prescribed, the kind and quantity of such Schedule II controlled substance, the directions for taking, the signature, and the name, address, telephone number, and DEA registration number of the prescribing practitioner. Such prescription shall be signed and dated by the practitioner on the date when issued, and the nature of such signature shall be defined in regulations promulgated by the State Board of Pharmacy. Prescription drug orders for Schedule II controlled substances may be transmitted via facsimile machine or other electronic means only in accordance with regulations promulgated by the State Board of Pharmacy in accordance with Code Section 26-4-80 or 26-4-80.1, or in accordance with DEA regulations at 21 C.F.R. 1306.

(c) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed upon oral prescription of a registered practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Code Section 16-13-39. No prescription for a Schedule II substance may be refilled.

(d)(1) Except when dispensed directly by a practitioner, other than a pharmacy or pharmacist, to an ultimate user, a controlled substance included in Schedule III, IV, or V, which is a prescription drug as determined under any law of this state or the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301, 52 Stat. 1040 (1938), shall not be dispensed without a written or oral prescription of a registered practitioner. The prescription shall not be filled or refilled more than six months after the date on which such prescription was issued or be refilled more than five times.

(2) When a practitioner writes a prescription drug order to cause the dispensing of a Schedule III, IV, or V controlled substance, he or she shall include the name and address of the person for whom it is prescribed, the kind and quantity of such controlled substance, the directions for taking, the signature, and the name, address, telephone number, and DEA registration number of the practitioner. Such prescription shall be signed and dated by the practitioner on the date when issued or may be issued orally, and the nature of the signature of the prescriber shall meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the State Board of Pharmacy, or both such guidelines and regulations.

(e) A controlled substance included in Schedule V shall not be distributed or dispensed

other than for a legitimate medical purpose.

(f) No person shall prescribe or order the dispensing of a controlled substance, except a registered practitioner who is:

- (1) Licensed or otherwise authorized by this state to prescribe controlled substances;
- (2) Acting in the usual course of his professional practice; and
- (3) Prescribing or ordering such controlled substances for a legitimate medical purpose.

(g) No person shall fill or dispense a prescription for a controlled substance except a person who is licensed by this state as a pharmacist or a pharmacy intern acting under the immediate and direct personal supervision of a licensed pharmacist in a pharmacy licensed by the State Board of Pharmacy, provided that this subsection shall not prohibit a registered physician, dentist, veterinarian, or podiatrist authorized by this state to dispense controlled substances as provided in this article if such registered person complies with all record-keeping, labeling, packaging, and storage requirements regarding such controlled substances and imposed upon pharmacists and pharmacies in this chapter and in Chapter 4 of Title 26 and complies with the requirements of Code Section 26-4-130.

(h) It shall be unlawful for any practitioner to issue any prescription document signed in blank. The issuance of such document signed in blank shall be prima-facie evidence of a conspiracy to violate this article. The possession of a prescription document signed in blank by a person other than the person whose signature appears thereon shall be prima-facie evidence of a conspiracy between the possessor and the signer to violate the provisions of this article.

**HISTORY:** Code 1933, § 79A-820, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1979, p. 859, § 10; Ga. L. 1982, p. 3, § 16; Ga. L. 1983, p. 349, § 2; Ga. L. 1985, p. 149, § 16; Ga. L. 1985, p. 1219, § 5; Ga. L. 1986, p. 1031, § 1; Ga. L. 1999, p. 81, § 16; Ga. L. 2003, p. 349, § 7; Ga. L. 2007, p. 47, § 16/SB 103.

§ 16-13-42. Unauthorized distribution and dispensation; refusal or failure to keep records; refusal to permit inspection; unlawfully maintaining structure or place; penalty

(a) It is unlawful for any person:

- (1) Who is subject to the requirements of Code Section 16-13-35 to distribute or dispense a controlled substance in violation of Code Section 16-13-41;
- (2) Who is a registrant to manufacture a controlled substance not authorized by his registration or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;
- (3) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this article;



(4) To refuse an entry into any premises for any inspection authorized by this article; or

(5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this article for the purpose of using these substances, or which is used for keeping or selling them in violation of this article.

(b) Any person who violates this Code section is guilty of a felony and, upon conviction thereof, may be imprisoned for not more than five years, fined not more than \$25,000.00, or both.

**HISTORY:** Code 1933, § 79A-821, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 10.

§ 16-13-43. Unauthorized distribution; penalties

(a) It is unlawful for any person:

(1) Who is a registrant to distribute a controlled substance classified in Schedule I or II, except pursuant to an order form as required by Code Section 16-13-40;

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

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

(4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document or record required to be kept or filed under this article;

(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; or

(6) To withhold information from a practitioner that such person has obtained a controlled substance of a similar therapeutic use in a concurrent time period from another practitioner.

(b) Any person who violates this Code section is guilty of a felony and, upon conviction thereof, may be imprisoned for not more than eight years or fined not more than \$50,000.00, or both.

**HISTORY:** Code 1933, § 79A-819, enacted by Ga. L. 1967, p. 296, § 1; Code 1933, § 79A-822, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 11; Ga. L. 1985, p. 1219, § 6; Ga. L. 1987, p. 261, § 6.

§ 16-13-44. Penalties under other laws

Any penalty imposed for violation of this article is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

**HISTORY:** Code 1933, § 79A-823, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-45. Powers of enforcement personnel

Any officer or employee of the State Board of Pharmacy designated by the director of the Georgia Drugs and Narcotics Agency may:

- (1) Carry firearms in the performance of his official duties;
- (2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;
- (3) Make arrests without warrant for any offense under this article committed in his presence or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this article which may constitute a felony;
- (4) Make seizures of property pursuant to this article; or
- (5) Perform other law enforcement duties as the State Board of Pharmacy or the director of the Georgia Drugs and Narcotics Agency designates.

**HISTORY:** Code 1933, § 79A-824, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-46. Administrative inspections and warrants

(a) Issuance and execution of inspection warrants shall be as follows:

(1) A judge of the superior, state, city, or magistrate court, or any municipal officer clothed by law with the powers of a magistrate, upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting inspections authorized by this article, or rules promulgated under this article, and seizures of property appropriate to the inspections. For the purpose of the issuance of inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this article, or rules promulgated under this article, sufficient to justify inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of a designated officer, drug agent, or employee of the State Board of Pharmacy having knowledge of the facts alleged, sworn to before the judicial officer and establishing the grounds for issuing the warrant. If the judicial officer is satisfied that grounds for the application exist or that there is probable

cause to believe they exist, he shall issue a warrant identifying the area, premises, building, registrant, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(B) Be directed to persons authorized by Code Section 16-13-45 to execute it;

(C) Command the persons to whom it is directed to inspect the area, premises, building, registrant, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(D) Identify the item or types of property to be seized, if any; and

(E) Designate the judicial officer to whom it shall be returned;

(3) A warrant issued pursuant to this Code section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be provided upon request to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. A copy of the inventory shall be delivered upon request to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judicial officer who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the superior court for the county in which the inspection was made.

(b) The State Board of Pharmacy, the director of the Georgia Drugs and Narcotics Agency or drug agents may make inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this Code section only, "controlled premises" means:

(A) Places where persons registered or exempted from registration requirements under this article are required to keep records; and

(B) Places, including factories, warehouses, establishments, and conveyances, in which persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance;

(2) When authorized by an inspection warrant issued pursuant to subsection (a) of this Code section, an officer or employee designated by the State Board of Pharmacy or the

director of the Georgia Drugs and Narcotics Agency, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an inspection;

(3) When authorized by an inspection warrant, an officer or employee designated by the State Board of Pharmacy or the director of the Georgia Drugs and Narcotics Agency may:

(A) Inspect and copy records required by this article to be kept;

(B) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein, and, except as provided in paragraph (5) of subsection (b) of this Code section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this article; and

(C) Inventory any stock of any controlled substance therein and obtain samples thereof;

(4) This Code section does not prevent the inspection without a warrant of books and records pursuant to an administrative inspection in accordance with subsection (c) of this Code section, nor does it prevent entries and inspections, including seizures of property, without a warrant:

(A) If the owner, operator, or agent in charge of the controlled premises consents;

(B) In situations presenting imminent danger to health or safety;

(C) In situations involving inspection of conveyance if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(D) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(E) In all other situations in which a warrant is not constitutionally required;

(5) An inspection authorized by this Code section shall not extend to financial data, sales data other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

(c) The State Board of Pharmacy, its members, or duly authorized agents or drug agents shall have the power to inspect, without a warrant, in a lawful manner at all reasonable hours, any pharmacy or other place licensed by the State Board of Pharmacy pursuant to Chapter 4 of Title 26 for the purpose:

(1) Of determining if any of the provisions of this article or any rule or regulation

promulgated under its authority is being violated;

(2) Of securing samples or specimens of any drug or medical supplies, after first paying or offering to pay for such samples or specimens; and

(3) Of securing other such evidence as may be needed for an administrative proceedings action, as provided by this article.

**HISTORY:** Code 1933, § 79A-825, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1983, p. 884, § 3-16; Ga. L. 1992, p. 6, § 16; Ga. L. 1999, p. 81, § 16.

#### § 16-13-47. Injunctions

(a) The superior courts of this state may exercise jurisdiction to restrain or enjoin violations of this article.

(b) The defendant may demand a trial by jury for an alleged violation of an injunction or restraining order under this Code section.

**HISTORY:** Code 1933, § 79A-826, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-48. Cooperative arrangements with federal and other state agencies

(a) The State Board of Pharmacy shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:

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

(2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records, other than medical treatment records, of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes; and

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

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this article, including results of inspections conducted by it, may be relied and acted upon by the State Board of Pharmacy or drug agents in the exercise of its or their regulatory functions under this article.

**HISTORY:** Code 1933, § 79A-827, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-48.1. Funds or property transferred to state or local agencies under federal drug laws

Money or property seized or forfeited pursuant to federal law regarding controlled substances, marijuana, or dangerous drugs, which money, property, or proceeds therefrom are authorized by that federal law to be transferred to a cooperating law enforcement agency of this state or any political subdivision thereof, shall be utilized by the law enforcement agency or political subdivision to which the money, property, or proceeds are so transferred as provided by such federal law and regulations thereunder. Unless otherwise required by federal law or regulation, such funds shall be received and utilized as provided by Georgia law.

**HISTORY:** Code 1981, § 16-13-48.1, enacted by Ga. L. 1987, p. 840, § 1.

§ 16-13-49. Forfeitures

(a) As used in this Code section, the term:

(1) "Controlled substance" shall have the same meaning as provided in paragraph (4) of Code Section 16-13-21 and shall also include marijuana as such term is defined in paragraph (16) of Code Section 16-13-21, notwithstanding any other provisions of this article.

(2) "Costs" means, but is not limited to:

(A) All expenses associated with the seizure, towing, storage, maintenance, custody, preservation, operation, or sale of the property; and

(B) Satisfaction of any security interest or lien not subject to forfeiture under this Code section.

(3) "Court costs" means, but is not limited to:

(A) All court costs, including the costs of advertisement, transcripts, and court reporter fees; and

(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed by the court pursuant to this Code section.

(4) "Enterprise" means any person, sole proprietorship, partnership, corporation, trust, association, or other legal entity created under the laws of this state, of the United States or any of the several states of the United States, or of any foreign nation or a group of individuals associated in fact although not a legal entity and includes illicit as well as licit enterprises and governmental as well as other entities.

(5) "Governmental agency" means any department, office, council, commission, committee, authority, board, bureau, or division of the executive, judicial, or legislative branch of a state, the United States, or any political subdivision thereof.

(6) "Interest holder" means a secured party within the meaning of Code Section 11-9-102 or the beneficiary of a perfected encumbrance pertaining to an interest in property.

(7) "Owner" means a person, other than an interest holder, who has an interest in property and is in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value.

(8) "Proceeds" means property derived directly or indirectly from, maintained by, or realized through an act or omission and includes any benefit, interest, or property of any kind without reduction for expenses incurred for acquisition, maintenance, or any other purpose.

(9) "Property" means anything of value and includes any interest in anything of value, including real property and any fixtures thereon, and tangible and intangible personal property, including but not limited to currency, instruments, securities, or any other kind of privilege, interest, claim, or right.

(10) "United States" includes its territories, possessions, and dominions and the District of Columbia.

(b)(1) An action filed pursuant to this Code section shall be filed in the name of the State of Georgia and may be brought:

(A) In the case of an in rem action, by the district attorney for the judicial circuit where the property is located;

(B) In the case of an in personam action, by the district attorney for the judicial circuit in which the defendant resides; or

(C) By the district attorney having jurisdiction over any offense which arose out of the same conduct which made the property subject to forfeiture.

Such district attorney may bring an action pursuant to this Code section in any superior court of this state.

(2) If more than one district attorney has jurisdiction to file an action pursuant to this Code section, the district attorney having primary jurisdiction over a violation of this article shall, in the event of a conflict, have priority over any other district attorney.

(3) Any action brought pursuant to this Code section may be compromised or settled in the same manner as other civil actions.

(c) An action for forfeiture brought pursuant to this Code section shall be tried:

(1) If the action is in rem against real property, in the county where the property is located, except where a single tract is divided by a county line, in which case the superior court of either county shall have jurisdiction;

(2) If the action is in rem against tangible or intangible personal property, in any county where the property is located or will be during the pendency of the action; or

(3) If the action is in personam, as provided by law.

(d) The following are declared to be contraband and no person shall have a property right in them:

(1) All controlled substances, raw materials, or controlled substance analogs that have been manufactured, distributed, dispensed, possessed, or acquired in violation of this article;

(2) All property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or any proceeds derived or realized therefrom;

(3) All property located in this state which was, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom;

(4) All weapons possessed, used, or available for use in any manner to facilitate a violation of this article or any of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year;

(5) Any interest, security, claim, or property or contractual right of any kind affording a source of influence over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of in violation of this article or any of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom; and

(6) All moneys, negotiable instruments, securities, or other things of value which are found in close proximity to any controlled substance or marijuana or other property which is subject to forfeiture under this subsection.

(e)(1) A property interest shall not be subject to forfeiture under this Code section if the owner of such interest or interest holder establishes that the owner or interest holder:

(A) Is not legally accountable for the conduct giving rise to its forfeiture, did not consent to it, and did not know and could not reasonably have known of the conduct or



that it was likely to occur;

(B) Had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in an arm's length commercial transaction;

(C) With respect to conveyances for transportation only, did not hold the property jointly, in common, or in community with a person whose conduct gave rise to its forfeiture;

(D) Does not hold the property for the benefit of or as nominee for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value without knowingly taking part in an illegal transaction; and

(E) Acquired the interest:

(i) Before the completion of the conduct giving rise to its forfeiture, and the person whose conduct gave rise to its forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or

(ii) After the completion of the conduct giving rise to its forfeiture:

(I) As a bona fide purchaser for value without knowingly taking part in an illegal transaction;

(II) Before the filing of a lien on it and before the effective date of a notice of pending forfeiture relating to it and without notice of its seizure for forfeiture under this article; and

(III) At the time the interest was acquired, was reasonably without cause to believe that the property was subject to forfeiture or likely to become subject to forfeiture under this article.

(2) A property interest shall not be subject to forfeiture under this Code section for a violation involving only one gram or less of a mixture containing cocaine or four ounces or less of marijuana unless said property was used to facilitate a transaction in or a purchase of or sale of a controlled substance or marijuana.

(f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable for the conduct which would otherwise subject the vehicle to forfeiture, consented to the conduct, or knew or reasonably should have known of the conduct or that it was likely to occur. Upon learning of the address or phone number of the company which owns any rented or leased vehicle which is present at the scene of an arrest or other action taken pursuant to this Code section, the duly authorized authorities shall

immediately contact the company to inform it that the vehicle is available for the company to take possession.

(g)(1) Property which is subject to forfeiture under this Code section may be seized by the director of the Georgia Drugs and Narcotics Agency or any duly authorized agent or drug agent of this state or by any law enforcement officer of this state or of any political subdivision thereof who has power to make arrests or execute process or a search warrant issued by any court having jurisdiction over the property. A search warrant authorizing seizure of property which is subject to forfeiture pursuant to this Code section may be issued on an affidavit demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of this state, any other state, or the United States. The court may order that the property be seized on such terms and conditions as are reasonable.

(2) Property which is subject to forfeiture under this Code section may be seized without process if there is probable cause to believe that the property is subject to forfeiture under this article or the seizure is incident to an arrest or search pursuant to a search warrant or to an inspection under an inspection warrant.

(3) The court's jurisdiction over forfeiture proceedings is not affected by a seizure in violation of the Constitution of Georgia or the United States Constitution made with process or in a good faith belief of probable cause.

(h)(1) When property is seized pursuant to this article, the sheriff, drug agent, or law enforcement officer seizing the same shall report the fact of seizure, in writing, within 20 days thereof to the district attorney of the judicial circuit having jurisdiction in the county where the seizure was made.

(2) Within 60 days from the date of seizure, a complaint for forfeiture shall be initiated as provided for in subsection (n), (o), or (p) of this Code section.

(3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2) of this subsection, the property must be released on the request of an owner or interest holder, pending further proceedings pursuant to this Code section, unless the property is being held as evidence.

(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure to any person who was present at the time of seizure who may assert an interest in the property.

(2) When property is seized pursuant to this article, the district attorney or the sheriff, drug agent, or law enforcement officer seizing the same shall give notice of the seizure to any owner or interest holder who is not present at the time of seizure by personal service, publication, or the mailing of written notice:

(A) If the owner's or interest holder's name and current address are known, by either personal service or mailing a copy of the notice by certified mail or statutory overnight delivery to that address;

(B) If the owner's or interest holder's name and address are required by law to be on record with a government agency to perfect an interest in the property but the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail or statutory overnight delivery, return receipt requested, to any address on the record; or

(C) If the owner's or interest holder's address is not known and is not on record as provided in subparagraph (B) of this paragraph or the owner's or interest holder's interest is not known, by publication in two consecutive issues of a newspaper of general circulation in the county in which the seizure occurs.

(3) Notice of seizure must include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture, and the violation of law alleged.

(j) A district attorney may file, without a filing fee, a lien for forfeiture of property upon the initiation of any civil or criminal proceeding under this article or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the property owned by the named person. The filing shall include the following:

(1) The lien notice must set forth:

(A) The name of the person and, in the discretion of the state, any alias and any corporations, partnerships, trusts, or other entities, including nominees, that are either owned entirely or in part or controlled by the person; and

(B) The description of the property, the criminal or civil proceeding that has been brought under this article, the amount claimed by the state, the name of the court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing;

(2) A lien under this subsection applies to the described property and to one named person and to any aliases, fictitious names, or other names, including names of corporations, partnerships, trusts, or other entities, that are either owned entirely or in part or controlled by the named person and any interest in real property owned or controlled by the named person. A separate lien for forfeiture of property must be filed for any other person;

(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized property or to the named person or related entities with respect to said property. The lien secures the amount of potential liability for civil judgment and, if applicable, the fair market value of seized property relating to all proceedings under this article enforcing the lien. The forfeiture lien referred to in this subsection must be filed in accordance with the provisions of the laws in this state pertaining to the type of property that is subject to the lien. The state may amend or release, in whole or in part, a lien filed under this subsection at any time by filing, without a filing fee, an amended lien in accordance with this

subsection which identifies the lien amended. The state, as soon as practical after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a lien filed in accordance with this subsection;

(4) Upon entry of judgment in favor of the state, the state may proceed to execute on the lien as in the case of any other judgment;

(5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as the owner of record shall furnish, within ten days, to the district attorney or his designee the following information:

(A) The name and address of the person or entity for whom the property is held;

(B) The names and addresses of all beneficiaries for whose benefit legal title to the seized property, or property of the named person or related entity, is held; and

(C) A copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as the owner of record of the property; and

(6) A trustee, constructive or otherwise, who fails to comply with this subsection shall be guilty of a misdemeanor.

(k) Property taken or detained under this Code section is not subject to replevin, conveyance, sequestration, or attachment. The seizing law enforcement agency or the district attorney may authorize the release of the property if the forfeiture or retention is unnecessary or may transfer the action to another agency or district attorney by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other law enforcement agency or district attorney. An action under this Code section may be consolidated with any other action or proceeding under this article relating to the same property on motion by an interest holder and must be so consolidated on motion by the district attorney in either proceeding or action. The property is deemed to be in the custody of the State of Georgia subject only to the orders and decrees of the superior court having jurisdiction over the forfeiture proceedings.

(l)(1) If property is seized under this article, the district attorney may:

(A) Remove the property to a place designated by the superior court having jurisdiction over the forfeiture proceeding;

(B) Place the property under constructive seizure by posting notice of pending forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of seizure in any appropriate public record relating to the property;

(C) Remove the property to a storage area, within the jurisdiction of the court, for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, the district attorney may authorize its being deposited in an interest-bearing account in a financial institution in this state. Any accrued interest shall follow the principal in any judgment with respect thereto;

(D) Provide for another governmental agency, a receiver appointed by the court pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the property and remove it to an appropriate location within the county where the property was seized; or

(E) Require the sheriff or chief of police of the political subdivision where the property was seized to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) If any property which has been attached or seized pursuant to this Code section is perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the expense of keeping the same is excessive or disproportionate to the value thereof, the court, upon motion of the state, a claimant, or the custodian, may order the property or any portion thereof to be sold upon such terms and conditions as may be prescribed by the court; and the proceeds shall be paid into the registry of the court pending final disposition of the action.

(m) As soon as possible, but not more than 30 days after the seizure of property, the seizing law enforcement agency shall conduct an inventory and estimate the value of the property seized.

(n) If the estimated value of personal property seized is \$25,000.00 or less, the district attorney may elect to proceed under the provisions of this subsection in the following manner:

(1) Notice of the seizure of such property shall be posted in a prominent location in the courthouse of the county in which the property was seized. Such notice shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture, a statement that the owner of such property has 30 days within which a claim must be filed, and the violation of law alleged;

(2) A copy of the notice, which shall include a statement that the owner of such property has 30 days within which a claim must be filed, shall be served upon an owner, interest holder, or person in possession of the property at the time of seizure as provided in subsection (i) of this Code section and shall be published for at least three successive weeks in a newspaper of general circulation in the county where the seizure was made;

(3) The owner or interest holder may file a claim within 30 days after the second publication of the notice of forfeiture by sending the claim to the seizing law enforcement agency and to the district attorney by certified mail or statutory overnight delivery, return

receipt requested;

(4) The claim must be signed by the owner or interest holder under penalty of perjury and must set forth:

(A) The caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;

(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of the transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought;

(5) If a claim is filed, the district attorney shall file a complaint for forfeiture as provided in subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim. A person who files a claim shall be joined as a party; and

(6) If no claim is filed within 30 days after the second publication of the notice of forfeiture, all right, title, and interest in the property is forfeited to the state and the district attorney shall dispose of the property as provided in subsection (u) of this Code section.

(o) In rem proceedings.

(1) In actions in rem, the property which is the subject of the action shall be named as the defendant. The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. Such complaint shall describe the property with reasonable particularity; state that it is located within the county or will be located within the county during the pendency of the action; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) A copy of the complaint and summons shall be served on any person known to be an owner or interest holder and any person who is in possession of the property.

(A) Service of the complaint and summons shall be as provided in subsections (a), (b), (c), and (e) of Code Section 9-11-4.

(B) If real property is the subject of the action or the owner or interest holder is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceeding shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any sale of the property resulting therefrom, but shall not constitute notice to an interest holder unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself to avoid service.

(C) If tangible property which has not been seized is the subject of the action, the court may order the sheriff or another law enforcement officer to take possession of the property. If the character or situation of the property is such that the taking of actual possession is impracticable, the sheriff shall execute process by affixing a copy of the complaint and summons to the property in a conspicuous place and by leaving another copy of the complaint and summons with the person having possession or his agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer is authorized to make a written request with the appropriate governmental agency not to permit the departure of such vessel or aircraft until notified by the sheriff or his deputy that the vessel or aircraft has been released.

(3) An owner of or interest holder in the property may file an answer asserting a claim against the property in the action in rem. Any such answer shall be filed within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, an owner or interest holder shall file an answer within 30 days of the date of final publication. An answer must be verified by the owner or interest holder under penalty of perjury. In addition to complying with the general rules applicable to an answer in civil actions, the answer must set forth:

(A) The caption of the proceedings as set forth in the complaint and the name of the claimant;

(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought.

(4) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(5) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(6) An action in rem may be brought by the state in addition to or in lieu of any other in rem or in personam action brought pursuant to this title.

(p) In personam proceedings.

(1) The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. It shall describe with reasonable particularity the property which is sought to be forfeited; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) Service of the complaint and summons shall be as follows:

(A) Except as otherwise provided in this subsection, service of the complaint and summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section 9-11-4; and

(B) If the defendant is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceedings shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed sufficient notice to any such defendant.

(3) A defendant shall file a verified answer within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, a defendant shall file such answer within 30 days of the date of final publication. In addition to complying with the general rules applicable to an answer in civil actions, the answer must contain all of the elements set forth in paragraph (3) of subsection (o) of this Code section.

(4) Any interest holder or person in possession of the property may join any action brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the "Georgia Civil Practice Act."

(5) If at the expiration of the period set forth in paragraph (3) of this subsection no



answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(6) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(7) On a determination of liability of a person for conduct giving rise to forfeiture under this Code section, the court must enter a judgment of forfeiture of the property described in the complaint and must also authorize the district attorney or his agent or any law enforcement officer or peace officer to seize all property ordered to be forfeited which was not previously seized or was not then under seizure. Following the entry of an order declaring the property forfeited, the court, on application of the state, may enter any appropriate order to protect the interest of the state in the property ordered to be forfeited.

(8) Except as provided in this subsection, no person claiming an interest in property subject to forfeiture under this Code section may intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

(q) In conjunction with any civil or criminal action brought pursuant to this article:

(1) The court, on application of the district attorney, may enter any restraining order or injunction; require the execution of satisfactory performance bonds; appoint receivers, conservators, appraisers, accountants, or trustees; or take any action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this article, including issuing a warrant for its seizure and writ of attachment, whether before or after the filing of a complaint for forfeiture;

(2) A temporary restraining order under this Code section may be entered on application of the district attorney, without notice or an opportunity for a hearing, if the district attorney demonstrates that:

(A) There is probable cause to believe that the property with respect to which the order is sought, in the event of final judgment or conviction, would be subject to forfeiture under this title; and

(B) Provision of notice would jeopardize the availability of the property for forfeiture;

(3) Notice of the entry of a restraining order and an opportunity for a hearing must be afforded to persons known to have an interest in the property. The hearing must be held at the earliest possible date consistent with the date set in subsection (b) of Code Section 9-11-65 and is limited to the issues of whether:

(A) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property's being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture; and

(B) The need to preserve the availability of property through the entry of the requested order outweighs the hardship on any owner or interest holder against whom the order is to be entered;

(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under paragraph (2) of this subsection, the court, on an application filed by an owner of or interest holder in the property within 30 days after notice of its seizure or lien or actual knowledge of such seizure or lien, whichever is earlier, and complying with the requirements for an answer to an in rem complaint, and after five days' notice to the district attorney of the judicial circuit where the property was seized or, in the case of a forfeiture lien, to the district attorney filing such lien, may issue an order to show cause to the seizing law enforcement agency for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing must be held within 30 days unless continued for good cause on motion of either party. If the court finds that there is no probable cause for forfeiture of the property, the property must be released pending the outcome of a judicial proceeding which may be filed pursuant to this Code section; and

(5) The court may order property that has been seized for forfeiture to be sold to satisfy a specified interest of any interest holder, on motion of any party, and after notice and a hearing, on the conditions that:

(A) The interest holder has filed a proper claim and:

(i) Is authorized to do business in this state and is under the jurisdiction of a governmental agency of this state or of the United States which regulates financial institutions, securities, insurance, or real estate; or

(ii) Has an interest that the district attorney has stipulated is exempt from forfeiture;

(B) The interest holder must dispose of the property by commercially reasonable public sale and apply the proceeds first to its interest and then to its reasonable expenses incurred in connection with the sale or disposal; and

(C) The balance of the proceeds, if any, must be returned to the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this Code section.

(r) A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this Code section, regardless of the pendency of an appeal from that conviction; however, evidence of the pendency of an appeal is admissible. For the purposes of this Code section, a conviction results from a verdict or plea of guilty, including a plea of nolo contendere.

(s) In hearings and determinations pursuant to this Code section:

(1) The court may receive and consider, in making any determination of probable cause or reasonable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17, together with inferences therefrom;

(2) The fact that money or a negotiable instrument was found in proximity to contraband or to an instrumentality of conduct giving rise to forfeiture authorizes the trier of the fact to infer that the money or negotiable instrument was the proceeds of conduct giving rise to forfeiture or was used or intended to be used to facilitate such conduct; and

(3) There is a rebuttable presumption that any property of a person is subject to forfeiture under this Code section if the state establishes probable cause to believe that:

(A) The person has engaged in conduct giving rise to forfeiture;

(B) The property was acquired by the person during the period of the conduct giving rise to forfeiture or within a reasonable time after the period; and

(C) There was no likely source for the property other than the conduct giving rise to forfeiture.

(t)(1) All property declared to be forfeited under this Code section vests in this state at the time of commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any property or proceeds transferred later to any person remain subject to forfeiture and thereafter must be ordered to be forfeited unless the transferee claims and establishes in a hearing under this Code section that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under subsection (e) of this Code section.

(2) On entry of judgment for a person claiming an interest in the property that is subject to proceedings to forfeit property under this Code section, the court shall order that the property or interest in property be released or delivered promptly to that person free of liens and encumbrances, as provided under this article.

(3) The court shall order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture under subsection (e) of this Code section to pay the reasonable costs relating to the disproving of the claim which were incurred by the state, including costs for investigation, prosecution, and attorneys' fees.

(u)(1) Whenever property is forfeited under this article, any property which is required by law to be destroyed or which is harmful to the public shall, when no longer needed for evidentiary purposes, be destroyed or forwarded to the Division of Forensic Sciences of the Georgia Bureau of Investigation or any other agency of state or local government for destruction or for any medical or scientific use not prohibited under the laws of the United States or this state.

(2) When property, other than money or real property, is forfeited under this article, the court may:

(A) Order the property to be sold, with the proceeds of the sale to be distributed as provided in paragraph (4) of this subsection; or

(B) Provide for the in-kind distribution of the property as provided for in paragraph (4) of this subsection.

(2.1) When real property is forfeited, the court may order that:

(A) The real property be turned over to the state;

(B) The appropriate political subdivision take charge of the property and:

(i) Sell the property with such conditions as the court deems proper, and distribute the proceeds in such manner as the court so orders; or

(ii) Hold the property for use by one or more law enforcement agencies;

(C) The real property be turned over to an appropriate political subdivision without restrictions;

(D) The real property be deeded to a land bank authority as provided in Article 4 of Chapter 4 of Title 48; or

(E) The real property be disposed of in such other manner as the court deems proper.

(3) Where property is to be sold pursuant to this subsection, the court may direct that such property be sold by:

(A) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that the court may establish a minimum acceptable price for such property; or

(B) Any commercially feasible means, including, but not limited to, in the case of real property, listing such property with a licensed real estate broker, selected by the district attorney through competitive bids.

(4) All money and property forfeited in the same forfeiture proceeding shall be pooled together for distribution as follows:

(A) A fair market value shall be assigned to all items of property other than money in such pool; and a total value shall be established for the pool by adding together the fair market value of all such property in the pool and the amount of money in the pool;

(B) All costs, including court costs, shall be paid and the remaining pool shall be distributed pro rata to the state and to local governments, according to the role which their law enforcement agencies played in the seizure of the assets; provided, however, that the amount distributed to the state shall not exceed 25 percent of the amount distributed; county governments are authorized upon request of the district attorney to provide for payment of any and all necessary expenses for the operation of the office from the said forfeiture pool up to 10 percent of the amount distributed, in addition to any other expenses paid by the county to the district attorney's office.

(C) An order of distribution provided for in this subsection shall be submitted by the district attorney to the court for approval; and

(D)(i) Property and money distributed to a local government shall be passed through to the local law enforcement agency until the sum equals 33 1/3 percent of the amount of local funds appropriated or otherwise made available to such agency for the fiscal year in which such funds are distributed. Proceeds received may be used for any official law enforcement purpose except for the payment of salaries or rewards to law enforcement personnel, at the discretion of the chief officer of the local law enforcement agency, or may be used to fund victim-witness assistance programs or a state law enforcement museum. Such property shall not be used to supplant any other local, state, or federal funds appropriated for staff or operations.

(ii) The local governing authority shall expend any remaining proceeds for any law enforcement purpose; for the representation of indigents in criminal cases; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; to fund victim-witness assistance programs; or for any combination of the foregoing. If real property is distributed to a local government, the local government may transfer the real property to a land bank authority as provided in Article 4 of Chapter 4 of Title 48.

(iii) Any local law enforcement agency receiving property under this subsection shall submit an annual report to the local governing authority. The report shall be submitted with the agency's budget request and shall itemize the property received during the fiscal year and the utilization made thereof.

(iv) Money distributed to the state pursuant to this subsection shall be paid into the general fund of the state treasury, it being the intent of the General Assembly that the same be used, subject to appropriation from the general fund in the manner provided by law for representation of indigents in criminal cases; for funding of the Crime Victims Emergency Fund; for law enforcement and prosecution agency programs and particularly for funding of advanced drug investigation and prosecution training for law enforcement officers and prosecuting attorneys; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; or for financing the judicial system of the state.

(v) Property distributed in kind to the state pursuant to this subsection may be designated by the Attorney General, with the approval of the court, for use by such agency or officer of the state as may be appropriate or, otherwise, shall be turned over to the Department of Administrative Services for such use or disposition as may be determined by the commissioner of the Department of Administrative Services.

(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings under this article.

(w) For good cause shown, the court may stay civil forfeiture proceedings during the criminal trial resulting from a related indictment or information alleging a violation of this article.

(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up to the value of property found by the court to be subject to forfeiture under the provisions of this Code section if any of the forfeited property:

(A) Cannot be located;

(B) Has been transferred or conveyed to, sold to, or deposited with a third party;

(C) Is beyond the jurisdiction of the court;

(D) Has been substantially diminished in value while not in the actual physical custody of the receiver or governmental agency directed to maintain custody of the property; or

(E) Has been commingled with other property that cannot be divided without difficulty.

(2) In addition to any other remedy provided for by law, a district attorney on behalf of the state may institute an action in any court of this state or of the United States or any of the several states against any person acting with knowledge or any person to whom notice of a lien for forfeiture of property has been provided in accordance with subsection (j) of this Code section; to whom notice of seizure has been provided in accordance with subsection (i) of this Code section; or to whom notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section has been provided, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section, as the case may be. The state may recover judgment in an amount equal to the value of the lien but not to exceed the fair market value of the property or, if there is no lien, in an amount not to exceed the fair market value of the property, together with reasonable investigative expenses and attorneys' fees. If a civil proceeding is pending, the action must be heard by the court in which the civil proceeding is pending.

(3) A district attorney may file and prosecute in any of the courts of this state or of the United States or of any of the several states such civil actions as may be necessary to enforce any judgment rendered pursuant to this Code section.

(4) No person claiming an interest in property subject to forfeiture under this article may commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this Code section. Except as specifically authorized by this Code section, no person claiming an interest in such property may file any counterclaim or cross-claim to any action brought pursuant to this Code section.

(5) A civil action under this article must be commenced within five years after the last conduct giving rise to forfeiture or to the claim for relief became known or should have become known, excluding any time during which either the property or defendant is out of the state or in confinement or during which criminal proceedings relating to the same conduct are in progress.

(y) Controlled substances included in Schedule I which are contraband and any controlled substance whose owners are unknown are summarily forfeited to the state. The court may include in any judgment of conviction under this article an order forfeiting any controlled substance involved in the offense to the extent of the defendant's interest.

(z) This Code section must be liberally construed to effectuate its remedial purposes.

**HISTORY:** Code 1933, § 79A-828, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1975, p. 919, §§ 1, 2; Ga. L. 1979, p. 879, §§ 1-3; Ga. L. 1981, p. 180, § 3; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2273, § 1; Ga. L. 1982, p. 2325, § 2; Ga. L. 1983, p. 469, § 1; Ga. L. 1986, p. 451, § 1; Ga. L. 1988, p. 958, § 1; Ga. L. 1991, p. 886, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1993, p. 1434, § 1; Ga. L. 2000, p. 1225, § 5; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 362, § 30; Ga. L. 2002, p. 1039, §§ 1A-1C; Ga. L. 2002, p. 1286, § 1; Ga. L. 2003, p. 191, § 7; Ga. L. 2004, p. 488, § 3.

#### § 16-13-49. Forfeitures

(a) As used in this Code section, the term:

(1) "Controlled substance" shall have the same meaning as provided in paragraph (4) of Code Section 16-13-21 and shall also include marijuana as such term is defined in paragraph (16) of Code Section 16-13-21, notwithstanding any other provisions of this article.

(2) "Costs" means, but is not limited to:

(A) All expenses associated with the seizure, towing, storage, maintenance, custody, preservation, operation, or sale of the property; and

(B) Satisfaction of any security interest or lien not subject to forfeiture under this Code section.

(3) "Court costs" means, but is not limited to:

(A) All court costs, including the costs of advertisement, transcripts, and court reporter fees; and

(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed by the court pursuant to this Code section.

(4) "Enterprise" means any person, sole proprietorship, partnership, corporation, trust, association, or other legal entity created under the laws of this state, of the United States or any of the several states of the United States, or of any foreign nation or a group of individuals associated in fact although not a legal entity and includes illicit as well as licit enterprises and governmental as well as other entities.

(5) "Governmental agency" means any department, office, council, commission, committee, authority, board, bureau, or division of the executive, judicial, or legislative branch of a state, the United States, or any political subdivision thereof.

(6) "Interest holder" means a secured party within the meaning of Code Section 11-9-102 or the beneficiary of a perfected encumbrance pertaining to an interest in property.

(7) "Owner" means a person, other than an interest holder, who has an interest in property and is in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value.

(8) "Proceeds" means property derived directly or indirectly from, maintained by, or realized through an act or omission and includes any benefit, interest, or property of any kind without reduction for expenses incurred for acquisition, maintenance, or any other purpose.

(9) "Property" means anything of value and includes any interest in anything of value, including real property and any fixtures thereon, and tangible and intangible personal property, including but not limited to currency, instruments, securities, or any other kind of privilege, interest, claim, or right.

(10) "United States" includes its territories, possessions, and dominions and the District of Columbia.

(b)(1) An action filed pursuant to this Code section shall be filed in the name of the State of Georgia and may be brought:

(A) In the case of an in rem action, by the district attorney for the judicial circuit where the property is located;

(B) In the case of an in personam action, by the district attorney for the judicial circuit in which the defendant resides; or

(C) By the district attorney having jurisdiction over any offense which arose out of



the same conduct which made the property subject to forfeiture.

Such district attorney may bring an action pursuant to this Code section in any superior court of this state.

(2) If more than one district attorney has jurisdiction to file an action pursuant to this Code section, the district attorney having primary jurisdiction over a violation of this article shall, in the event of a conflict, have priority over any other district attorney.

(3) Any action brought pursuant to this Code section may be compromised or settled in the same manner as other civil actions.

(c) An action for forfeiture brought pursuant to this Code section shall be tried:

(1) If the action is in rem against real property, in the county where the property is located, except where a single tract is divided by a county line, in which case the superior court of either county shall have jurisdiction;

(2) If the action is in rem against tangible or intangible personal property, in any county where the property is located or will be during the pendency of the action; or

(3) If the action is in personam, as provided by law.

(d) The following are declared to be contraband and no person shall have a property right in them:

(1) All controlled substances, raw materials, or controlled substance analogs that have been manufactured, distributed, dispensed, possessed, or acquired in violation of this article;

(2) All property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or any proceeds derived or realized therefrom;

(3) All property located in this state which was, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom;

(4) All weapons possessed, used, or available for use in any manner to facilitate a violation of this article or any of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year;

(5) Any interest, security, claim, or property or contractual right of any kind affording a source of influence over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of in violation of this article or any of the laws

of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom; and

(6) All moneys, negotiable instruments, securities, or other things of value which are found in close proximity to any controlled substance or marijuana or other property which is subject to forfeiture under this subsection.

(e)(1) A property interest shall not be subject to forfeiture under this Code section if the owner of such interest or interest holder establishes that the owner or interest holder:

(A) Is not legally accountable for the conduct giving rise to its forfeiture, did not consent to it, and did not know and could not reasonably have known of the conduct or that it was likely to occur;

(B) Had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in an arm's length commercial transaction;

(C) With respect to conveyances for transportation only, did not hold the property jointly, in common, or in community with a person whose conduct gave rise to its forfeiture;

(D) Does not hold the property for the benefit of or as nominee for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value without knowingly taking part in an illegal transaction; and

(E) Acquired the interest:

(i) Before the completion of the conduct giving rise to its forfeiture, and the person whose conduct gave rise to its forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or

(ii) After the completion of the conduct giving rise to its forfeiture:

(I) As a bona fide purchaser for value without knowingly taking part in an illegal transaction;

(II) Before the filing of a lien on it and before the effective date of a notice of pending forfeiture relating to it and without notice of its seizure for forfeiture under this article; and

(III) At the time the interest was acquired, was reasonably without cause to believe that the property was subject to forfeiture or likely to become subject to forfeiture under this article.

(2) A property interest shall not be subject to forfeiture under this Code section for a violation involving only one gram or less of a mixture containing cocaine or four ounces or less of marijuana unless said property was used to facilitate a transaction in or a purchase of or sale of a controlled substance or marijuana.

(f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable for the conduct which would otherwise subject the vehicle to forfeiture, consented to the conduct, or knew or reasonably should have known of the conduct or that it was likely to occur. Upon learning of the address or phone number of the company which owns any rented or leased vehicle which is present at the scene of an arrest or other action taken pursuant to this Code section, the duly authorized authorities shall immediately contact the company to inform it that the vehicle is available for the company to take possession.

(g)(1) Property which is subject to forfeiture under this Code section may be seized by the director of the Georgia Drugs and Narcotics Agency or any duly authorized agent or drug agent of this state or by any law enforcement officer of this state or of any political subdivision thereof who has power to make arrests or execute process or a search warrant issued by any court having jurisdiction over the property. A search warrant authorizing seizure of property which is subject to forfeiture pursuant to this Code section may be issued on an affidavit demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of this state, any other state, or the United States. The court may order that the property be seized on such terms and conditions as are reasonable.

(2) Property which is subject to forfeiture under this Code section may be seized without process if there is probable cause to believe that the property is subject to forfeiture under this article or the seizure is incident to an arrest or search pursuant to a search warrant or to an inspection under an inspection warrant.

(3) The court's jurisdiction over forfeiture proceedings is not affected by a seizure in violation of the Constitution of Georgia or the United States Constitution made with process or in a good faith belief of probable cause.

(h)(1) When property is seized pursuant to this article, the sheriff, drug agent, or law enforcement officer seizing the same shall report the fact of seizure, in writing, within 20 days thereof to the district attorney of the judicial circuit having jurisdiction in the county where the seizure was made.

(2) Within 60 days from the date of seizure, a complaint for forfeiture shall be initiated as provided for in subsection (n), (o), or (p) of this Code section.

(3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2) of this subsection, the property must be released on the request of an owner or interest holder, pending further proceedings pursuant to this Code section, unless the property is being held as evidence.

(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure to any person who was present at the time of seizure who may assert an interest in the property.

(2) When property is seized pursuant to this article, the district attorney or the sheriff, drug agent, or law enforcement officer seizing the same shall give notice of the seizure to any owner or interest holder who is not present at the time of seizure by personal service, publication, or the mailing of written notice:

(A) If the owner's or interest holder's name and current address are known, by either personal service or mailing a copy of the notice by certified mail or statutory overnight delivery to that address;

(B) If the owner's or interest holder's name and address are required by law to be on record with a government agency to perfect an interest in the property but the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail or statutory overnight delivery, return receipt requested, to any address on the record; or

(C) If the owner's or interest holder's address is not known and is not on record as provided in subparagraph (B) of this paragraph or the owner's or interest holder's interest is not known, by publication in two consecutive issues of a newspaper of general circulation in the county in which the seizure occurs.

(3) Notice of seizure must include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture, and the violation of law alleged.

(j) A district attorney may file, without a filing fee, a lien for forfeiture of property upon the initiation of any civil or criminal proceeding under this article or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the property owned by the named person. The filing shall include the following:

(1) The lien notice must set forth:

(A) The name of the person and, in the discretion of the state, any alias and any corporations, partnerships, trusts, or other entities, including nominees, that are either owned entirely or in part or controlled by the person; and

(B) The description of the property, the criminal or civil proceeding that has been brought under this article, the amount claimed by the state, the name of the court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing;

(2) A lien under this subsection applies to the described property and to one named person and to any aliases, fictitious names, or other names, including names of corporations, partnerships, trusts, or other entities, that are either owned entirely or in part

or controlled by the named person and any interest in real property owned or controlled by the named person. A separate lien for forfeiture of property must be filed for any other person;

(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized property or to the named person or related entities with respect to said property. The lien secures the amount of potential liability for civil judgment and, if applicable, the fair market value of seized property relating to all proceedings under this article enforcing the lien. The forfeiture lien referred to in this subsection must be filed in accordance with the provisions of the laws in this state pertaining to the type of property that is subject to the lien. The state may amend or release, in whole or in part, a lien filed under this subsection at any time by filing, without a filing fee, an amended lien in accordance with this subsection which identifies the lien amended. The state, as soon as practical after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a lien filed in accordance with this subsection;

(4) Upon entry of judgment in favor of the state, the state may proceed to execute on the lien as in the case of any other judgment;

(5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as the owner of record shall furnish, within ten days, to the district attorney or his designee the following information:

(A) The name and address of the person or entity for whom the property is held;

(B) The names and addresses of all beneficiaries for whose benefit legal title to the seized property, or property of the named person or related entity, is held; and

(C) A copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as the owner of record of the property; and

(6) A trustee, constructive or otherwise, who fails to comply with this subsection shall be guilty of a misdemeanor.

(k) Property taken or detained under this Code section is not subject to replevin, conveyance, sequestration, or attachment. The seizing law enforcement agency or the district attorney may authorize the release of the property if the forfeiture or retention is unnecessary or may transfer the action to another agency or district attorney by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other law enforcement agency or district attorney. An action under this Code section may be consolidated with any other action or proceeding under this article relating to the same property on motion by an interest holder and must be so consolidated on motion by the

district attorney in either proceeding or action. The property is deemed to be in the custody of the State of Georgia subject only to the orders and decrees of the superior court having jurisdiction over the forfeiture proceedings.

(l)(1) If property is seized under this article, the district attorney may:

(A) Remove the property to a place designated by the superior court having jurisdiction over the forfeiture proceeding;

(B) Place the property under constructive seizure by posting notice of pending forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of seizure in any appropriate public record relating to the property;

(C) Remove the property to a storage area, within the jurisdiction of the court, for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, the district attorney may authorize its being deposited in an interest-bearing account in a financial institution in this state. Any accrued interest shall follow the principal in any judgment with respect thereto;

(D) Provide for another governmental agency, a receiver appointed by the court pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the property and remove it to an appropriate location within the county where the property was seized; or

(E) Require the sheriff or chief of police of the political subdivision where the property was seized to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) If any property which has been attached or seized pursuant to this Code section is perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the expense of keeping the same is excessive or disproportionate to the value thereof, the court, upon motion of the state, a claimant, or the custodian, may order the property or any portion thereof to be sold upon such terms and conditions as may be prescribed by the court; and the proceeds shall be paid into the registry of the court pending final disposition of the action.

(m) As soon as possible, but not more than 30 days after the seizure of property, the seizing law enforcement agency shall conduct an inventory and estimate the value of the property seized.

(n) If the estimated value of personal property seized is \$25,000.00 or less, the district attorney may elect to proceed under the provisions of this subsection in the following manner:

(1) Notice of the seizure of such property shall be posted in a prominent location in the courthouse of the county in which the property was seized. Such notice shall include a description of the property, the date and place of seizure, the conduct giving rise to

forfeiture, a statement that the owner of such property has 30 days within which a claim must be filed, and the violation of law alleged;

(2) A copy of the notice, which shall include a statement that the owner of such property has 30 days within which a claim must be filed, shall be served upon an owner, interest holder, or person in possession of the property at the time of seizure as provided in subsection (i) of this Code section and shall be published for at least three successive weeks in a newspaper of general circulation in the county where the seizure was made;

(3) The owner or interest holder may file a claim within 30 days after the second publication of the notice of forfeiture by sending the claim to the seizing law enforcement agency and to the district attorney by certified mail or statutory overnight delivery, return receipt requested;

(4) The claim must be signed by the owner or interest holder under penalty of perjury and must set forth:

(A) The caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;

(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of the transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought;

(5) If a claim is filed, the district attorney shall file a complaint for forfeiture as provided in subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim. A person who files a claim shall be joined as a party; and

(6) If no claim is filed within 30 days after the second publication of the notice of forfeiture, all right, title, and interest in the property is forfeited to the state and the district attorney shall dispose of the property as provided in subsection (u) of this Code section.

(o) In rem proceedings.

(1) In actions in rem, the property which is the subject of the action shall be named as

the defendant. The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. Such complaint shall describe the property with reasonable particularity; state that it is located within the county or will be located within the county during the pendency of the action; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) A copy of the complaint and summons shall be served on any person known to be an owner or interest holder and any person who is in possession of the property.

(A) Service of the complaint and summons shall be as provided in subsections (a), (b), (c), and (e) of Code Section 9-11-4.

(B) If real property is the subject of the action or the owner or interest holder is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceeding shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any sale of the property resulting therefrom, but shall not constitute notice to an interest holder unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself to avoid service.

(C) If tangible property which has not been seized is the subject of the action, the court may order the sheriff or another law enforcement officer to take possession of the property. If the character or situation of the property is such that the taking of actual possession is impracticable, the sheriff shall execute process by affixing a copy of the complaint and summons to the property in a conspicuous place and by leaving another copy of the complaint and summons with the person having possession or his agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer is authorized to make a written request with the appropriate governmental agency not to permit the departure of such vessel or aircraft until notified by the sheriff or his deputy that the vessel or aircraft has been released.

(3) An owner of or interest holder in the property may file an answer asserting a claim against the property in the action in rem. Any such answer shall be filed within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, an owner or interest holder shall file an answer within 30 days of the date of final publication. An answer must be verified by the owner or interest holder under penalty of perjury. In addition to complying with the general rules applicable to an answer in civil actions, the answer must set forth:

(A) The caption of the proceedings as set forth in the complaint and the name of the claimant;



(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought.

(4) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(5) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(6) An action in rem may be brought by the state in addition to or in lieu of any other in rem or in personam action brought pursuant to this title.

(p) In personam proceedings.

(1) The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. It shall describe with reasonable particularity the property which is sought to be forfeited; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) Service of the complaint and summons shall be as follows:

(A) Except as otherwise provided in this subsection, service of the complaint and summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section 9-11-4; and

(B) If the defendant is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceedings shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed sufficient notice to any such defendant.

(3) A defendant shall file a verified answer within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, a defendant shall file such answer within 30 days of the date of final publication. In addition to complying with the general rules applicable to an answer in civil actions, the answer must contain all of the elements set forth in paragraph (3) of subsection (o) of this Code section.

(4) Any interest holder or person in possession of the property may join any action brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the "Georgia Civil Practice Act."

(5) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(6) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(7) On a determination of liability of a person for conduct giving rise to forfeiture under this Code section, the court must enter a judgment of forfeiture of the property described in the complaint and must also authorize the district attorney or his agent or any law enforcement officer or peace officer to seize all property ordered to be forfeited which was not previously seized or was not then under seizure. Following the entry of an order declaring the property forfeited, the court, on application of the state, may enter any appropriate order to protect the interest of the state in the property ordered to be forfeited.

(8) Except as provided in this subsection, no person claiming an interest in property subject to forfeiture under this Code section may intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

(q) In conjunction with any civil or criminal action brought pursuant to this article:

(1) The court, on application of the district attorney, may enter any restraining order or injunction; require the execution of satisfactory performance bonds; appoint receivers, conservators, appraisers, accountants, or trustees; or take any action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this article, including issuing a warrant for its seizure and writ of attachment, whether before or after the filing of a complaint for forfeiture;

(2) A temporary restraining order under this Code section may be entered on application of the district attorney, without notice or an opportunity for a hearing, if the district attorney demonstrates that:

(A) There is probable cause to believe that the property with respect to which the order is sought, in the event of final judgment or conviction, would be subject to forfeiture under this title; and

(B) Provision of notice would jeopardize the availability of the property for forfeiture;

(3) Notice of the entry of a restraining order and an opportunity for a hearing must be afforded to persons known to have an interest in the property. The hearing must be held at the earliest possible date consistent with the date set in subsection (b) of Code Section 9-11-65 and is limited to the issues of whether:

(A) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property's being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture; and

(B) The need to preserve the availability of property through the entry of the requested order outweighs the hardship on any owner or interest holder against whom the order is to be entered;

(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under paragraph (2) of this subsection, the court, on an application filed by an owner of or interest holder in the property within 30 days after notice of its seizure or lien or actual knowledge of such seizure or lien, whichever is earlier, and complying with the requirements for an answer to an in rem complaint, and after five days' notice to the district attorney of the judicial circuit where the property was seized or, in the case of a forfeiture lien, to the district attorney filing such lien, may issue an order to show cause to the seizing law enforcement agency for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing must be held within 30 days unless continued for good cause on motion of either party. If the court finds that there is no probable cause for forfeiture of the property, the property must be released pending the outcome of a judicial proceeding which may be filed pursuant to this Code section; and

(5) The court may order property that has been seized for forfeiture to be sold to satisfy a specified interest of any interest holder, on motion of any party, and after notice and a hearing, on the conditions that:

(A) The interest holder has filed a proper claim and:

(i) Is authorized to do business in this state and is under the jurisdiction of a governmental agency of this state or of the United States which regulates financial institutions, securities, insurance, or real estate; or

(ii) Has an interest that the district attorney has stipulated is exempt from forfeiture;

(B) The interest holder must dispose of the property by commercially reasonable public sale and apply the proceeds first to its interest and then to its reasonable expenses

incurred in connection with the sale or disposal; and

(C) The balance of the proceeds, if any, must be returned to the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this Code section.

(r) A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this Code section, regardless of the pendency of an appeal from that conviction; however, evidence of the pendency of an appeal is admissible. For the purposes of this Code section, a conviction results from a verdict or plea of guilty, including a plea of nolo contendere.

(s) In hearings and determinations pursuant to this Code section:

(1) The court may receive and consider, in making any determination of probable cause or reasonable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17, together with inferences therefrom;

(2) The fact that money or a negotiable instrument was found in proximity to contraband or to an instrumentality of conduct giving rise to forfeiture authorizes the trier of the fact to infer that the money or negotiable instrument was the proceeds of conduct giving rise to forfeiture or was used or intended to be used to facilitate such conduct; and

(3) There is a rebuttable presumption that any property of a person is subject to forfeiture under this Code section if the state establishes probable cause to believe that:

(A) The person has engaged in conduct giving rise to forfeiture;

(B) The property was acquired by the person during the period of the conduct giving rise to forfeiture or within a reasonable time after the period; and

(C) There was no likely source for the property other than the conduct giving rise to forfeiture.

(t)(1) All property declared to be forfeited under this Code section vests in this state at the time of commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any property or proceeds transferred later to any person remain subject to forfeiture and thereafter must be ordered to be forfeited unless the transferee claims and establishes in a hearing under this Code section that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under subsection (e) of this Code section.

(2) On entry of judgment for a person claiming an interest in the property that is subject to proceedings to forfeit property under this Code section, the court shall order that the property or interest in property be released or delivered promptly to that person free of

liens and encumbrances, as provided under this article.

(3) The court shall order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture under subsection (e) of this Code section to pay the reasonable costs relating to the disproving of the claim which were incurred by the state, including costs for investigation, prosecution, and attorneys' fees.

(u)(1) Whenever property is forfeited under this article, any property which is required by law to be destroyed or which is harmful to the public shall, when no longer needed for evidentiary purposes, be destroyed or forwarded to the Division of Forensic Sciences of the Georgia Bureau of Investigation or any other agency of state or local government for destruction or for any medical or scientific use not prohibited under the laws of the United States or this state.

(2) When property, other than money or real property, is forfeited under this article, the court may:

(A) Order the property to be sold, with the proceeds of the sale to be distributed as provided in paragraph (4) of this subsection; or

(B) Provide for the in-kind distribution of the property as provided for in paragraph (4) of this subsection.

(2.1) When real property is forfeited, the court may order that:

(A) The real property be turned over to the state;

(B) The appropriate political subdivision take charge of the property and:

(i) Sell the property with such conditions as the court deems proper, and distribute the proceeds in such manner as the court so orders; or

(ii) Hold the property for use by one or more law enforcement agencies;

(C) The real property be turned over to an appropriate political subdivision without restrictions;

(D) The real property be deeded to a land bank authority as provided in Article 4 of Chapter 4 of Title 48; or

(E) The real property be disposed of in such other manner as the court deems proper.

(3) Where property is to be sold pursuant to this subsection, the court may direct that such property be sold by:

(A) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that the court may establish a minimum acceptable price for such property; or

(B) Any commercially feasible means, including, but not limited to, in the case of real property, listing such property with a licensed real estate broker, selected by the district attorney through competitive bids.

(4) All money and property forfeited in the same forfeiture proceeding shall be pooled together for distribution as follows:

(A) A fair market value shall be assigned to all items of property other than money in such pool; and a total value shall be established for the pool by adding together the fair market value of all such property in the pool and the amount of money in the pool;

(B) All costs, including court costs, shall be paid and the remaining pool shall be distributed pro rata to the state and to local governments, according to the role which their law enforcement agencies played in the seizure of the assets; provided, however, that the amount distributed to the state shall not exceed 25 percent of the amount distributed; county governments are authorized upon request of the district attorney to provide for payment of any and all necessary expenses for the operation of the office from the said forfeiture pool up to 10 percent of the amount distributed, in addition to any other expenses paid by the county to the district attorney's office.

(C) An order of distribution provided for in this subsection shall be submitted by the district attorney to the court for approval; and

(D)(i) Property and money distributed to a local government shall be passed through to the local law enforcement agency until the sum equals 33 1/3 percent of the amount of local funds appropriated or otherwise made available to such agency for the fiscal year in which such funds are distributed. Proceeds received may be used for any official law enforcement purpose except for the payment of salaries or rewards to law enforcement personnel, at the discretion of the chief officer of the local law enforcement agency, or may be used to fund victim-witness assistance programs or a state law enforcement museum. Such property shall not be used to supplant any other local, state, or federal funds appropriated for staff or operations.

(ii) The local governing authority shall expend any remaining proceeds for any law enforcement purpose; for the representation of indigents in criminal cases; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; to fund victim-witness assistance programs; or for any combination of the foregoing. If real property is distributed to a local government, the local government may transfer the real property to a land bank authority as provided in Article 4 of Chapter 4 of Title 48.

(iii) Any local law enforcement agency receiving property under this subsection shall submit an annual report to the local governing authority. The report shall be submitted with the agency's budget request and shall itemize the property received during the fiscal year and the utilization made thereof.

(iv) Money distributed to the state pursuant to this subsection shall be paid into the general fund of the state treasury, it being the intent of the General Assembly that the same be used, subject to appropriation from the general fund in the manner provided by law for representation of indigents in criminal cases; for funding of the Crime Victims Emergency Fund; for law enforcement and prosecution agency programs and particularly for funding of advanced drug investigation and prosecution training for law enforcement officers and prosecuting attorneys; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; or for financing the judicial system of the state.

(v) Property distributed in kind to the state pursuant to this subsection may be designated by the Attorney General, with the approval of the court, for use by such agency or officer of the state as may be appropriate or, otherwise, shall be turned over to the Department of Administrative Services for such use or disposition as may be determined by the commissioner of the Department of Administrative Services.

(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings under this article.

(w) For good cause shown, the court may stay civil forfeiture proceedings during the criminal trial resulting from a related indictment or information alleging a violation of this article.

(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up to the value of property found by the court to be subject to forfeiture under the provisions of this Code section if any of the forfeited property:

(A) Cannot be located;

(B) Has been transferred or conveyed to, sold to, or deposited with a third party;

(C) Is beyond the jurisdiction of the court;

(D) Has been substantially diminished in value while not in the actual physical custody of the receiver or governmental agency directed to maintain custody of the property; or

(E) Has been commingled with other property that cannot be divided without difficulty.

(2) In addition to any other remedy provided for by law, a district attorney on behalf of the state may institute an action in any court of this state or of the United States or any of the several states against any person acting with knowledge or any person to whom notice of a lien for forfeiture of property has been provided in accordance with subsection (j) of this Code section; to whom notice of seizure has been provided in accordance with

subsection (i) of this Code section; or to whom notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section has been provided, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section, as the case may be. The state may recover judgment in an amount equal to the value of the lien but not to exceed the fair market value of the property or, if there is no lien, in an amount not to exceed the fair market value of the property, together with reasonable investigative expenses and attorneys' fees. If a civil proceeding is pending, the action must be heard by the court in which the civil proceeding is pending.

(3) A district attorney may file and prosecute in any of the courts of this state or of the United States or of any of the several states such civil actions as may be necessary to enforce any judgment rendered pursuant to this Code section.

(4) No person claiming an interest in property subject to forfeiture under this article may commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this Code section. Except as specifically authorized by this Code section, no person claiming an interest in such property may file any counterclaim or cross-claim to any action brought pursuant to this Code section.

(5) A civil action under this article must be commenced within five years after the last conduct giving rise to forfeiture or to the claim for relief became known or should have become known, excluding any time during which either the property or defendant is out of the state or in confinement or during which criminal proceedings relating to the same conduct are in progress.

(y) Controlled substances included in Schedule I which are contraband and any controlled substance whose owners are unknown are summarily forfeited to the state. The court may include in any judgment of conviction under this article an order forfeiting any controlled substance involved in the offense to the extent of the defendant's interest.

(z) This Code section must be liberally construed to effectuate its remedial purposes.

**HISTORY:** Code 1933, § 79A-828, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1975, p. 919, §§ 1, 2; Ga. L. 1979, p. 879, §§ 1-3; Ga. L. 1981, p. 180, § 3; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2273, § 1; Ga. L. 1982, p. 2325, § 2; Ga. L. 1983, p. 469, § 1; Ga. L. 1986, p. 451, § 1; Ga. L. 1988, p. 958, § 1; Ga. L. 1991, p. 886, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1993, p. 1434, § 1; Ga. L. 2000, p. 1225, § 5; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 362, § 30; Ga. L. 2002, p. 1039, §§ 1A-1C; Ga. L. 2002, p. 1286, § 1; Ga. L. 2003, p. 191, § 7; Ga. L. 2004, p. 488, § 3.

§ 16-13-50. Burden of proof; liability of enforcement officers in lawful performance of duties



(a) It is not necessary for the state to negate any exemption or exception in this article in any complaint, accusation, indictment, or other pleading or in any trial, hearing, or other proceeding under this article. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this article, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption.

(c) No liability is imposed by this article upon any authorized state, county, or municipal officer engaged in the lawful performance of his duties.

**HISTORY:** Code 1933, § 79A-829, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-51. Judicial review of administrative determinations, findings, and conclusions

All final determinations, findings, and conclusions of the State Board of Pharmacy under this article are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the Superior Court of Fulton County. Findings of fact by the State Board of Pharmacy, if supported by substantial evidence, are conclusive.

**HISTORY:** Code 1933, § 79A-830, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-52. Programs and research on prevention of abuse of controlled substances; confidentiality of research; exemption from penalties

(a) The State Board of Pharmacy and the Georgia Drugs and Narcotics Agency shall carry out programs designed to prevent and deter misuse and abuse of controlled substances.

(b) The State Board of Pharmacy and the Georgia Drugs and Narcotics Agency shall encourage research on misuse and abuse of controlled substances. In connection with the research and in furtherance of the enforcement of this article, they may:

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

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

(A) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this article;

(B) Determine patterns of misuse and abuse of controlled substances and the social effects thereof;

(C) Improve methods for preventing, predicting, understanding, and dealing with the

misuse and abuse of controlled substances; and

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

(c) The State Board of Pharmacy, in the public interest, may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not to be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(d) The State Board of Pharmacy may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

**HISTORY:** Code 1933, § 79A-831, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

#### § 16-13-53. Pending proceedings

(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or abated by this article. If the offense which was being prosecuted is similar to one set out in this article, then the penalties under this article apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1, 1974, are not affected by this article.

(c) All administrative proceedings pending under prior laws which were superseded by this article shall be continued and brought to a final determination in accord with the laws and rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not listed within Schedules I through V is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings, administrative proceedings, and investigations occurring after July 1, 1974.

**HISTORY:** Code 1933, § 79A-832, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-54. Orders and rules promulgated prior to July 1, 1974

Any orders and rules promulgated under any law affected by this article and in effect on July 1, 1974, and not in conflict with it shall continue in effect until modified, superseded, or repealed.

**HISTORY:** Code 1933, § 79A-833, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-55. Construction of article

This article shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states which enact it.

**HISTORY:** Code 1933, § 79A-834, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-56. Penalty for violation of article; restitution to the state for cleanup of environmental hazards; other remedies

(a) Unless otherwise specified with respect to a particular offense, any person who violates any provision of this article shall be guilty of a misdemeanor.

(b) In addition to any other penalty imposed by law for a violation of this article, if the sentencing court finds that in committing a violation of this article, the defendant contributed to a release of hazardous waste, a hazardous constituent, or a hazardous substance as such terms are defined by Code Sections 12-8-62 and 12-8-92, the court shall require such defendant to make restitution to the State of Georgia pursuant to subsection (a) of Code Section 12-8-96.1 for the reasonable costs of activities associated with the cleanup of environmental hazards, including legal expenses incurred by the state. Restitution made pursuant to this Code section shall not preclude the State of Georgia from obtaining any other civil or criminal remedy available under any other provision of law. The restitution authorized by this Code section is supplemental and not exclusive.

**HISTORY:** Code 1981, § 16-13-56, enacted by Ga. L. 1985, p. 1219, § 7; Ga. L. 2001, p. 816, § 2.

### ARTICLE 3. DANGEROUS DRUGS

§ 16-13-70. Short title

This article shall be known and may be cited as the "Dangerous Drug Act."

**HISTORY:** Code 1933, § 79A-701, enacted by Ga. L. 1967, p. 296, § 1.

§ 16-13-70.1. Definition of terms

Any term used in this article and not defined in this article but defined in Code Section 16-13-21 shall have the meaning provided for that term in Code Section 16-13-21.

**HISTORY:** Code 1981, § 16-13-70.1, enacted by Ga. L. 2001, p. 816, § 3.

§ 16-13-71. "Dangerous drug" defined

(a) A "dangerous drug" means any drug other than a drug contained in any schedule of Article 2 of this chapter, which, under the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 (1938)), 21 U.S.C. Section 301, et seq., as amended, may be dispensed only upon prescription. In any civil or criminal action or other proceedings, a certification from the Food and Drug Administration of the United States Department of Health and Human Services attesting to the fact that a drug other than a drug contained in any schedule of Article 2 of this chapter involved in the action or proceeding is a dangerous drug that federal law prohibits dispensing of without a prescription pursuant to the Federal Food, Drug, and Cosmetic Act shall be admissible as prima-facie proof that such drug is a "dangerous drug."

(b) In addition to subsection (a) of this Code section, a "dangerous drug" means any other drug or substance declared by the General Assembly to be a dangerous drug; to include any of the following drugs, chemicals, or substances; salts, isomers, esters, ethers, or derivatives of such drugs, chemicals, or substances which have essentially the same pharmacological action; all other salts, isomers, esters, ethers, and compounds of such drugs, chemicals, or substances unless specifically exempted and the following devices, identified as "dangerous drugs":

(.03) Abacavir;

(.035) Abarelix;

(.037) Abatacept;

(.04) Abciximab;

(.045) Acamprostate;

(.05) Acarbose;

(.1) Acebutolol;

(1) Acecarbromal;

(2) Acenocoumarol;

(3) Acetazolamide;

(3.5) Reserved;

(4) Acetohexamide;

(4.1) Aceto-hydroxamic acid;

(5) Acetophenazine;

(6) Acetosulfone;

(7) Acetyl sulfamethoxypyridazine;

(8) Acetyl sulfoxazole;

(9) Acetylcarbromal;

(10) Acetylcholine;

(11) Acetylcysteine;

(12) Acetyldigitoxin;

(12.1) Acitretin;

(13) Acrisorcin;

(13.3) Acrivastine;

(13.5) Acyclovir;

(13.53) Adalimumab;

(13.55) Adapalene;

(13.6) Adenosine;

(14) Adenosine 5-monophosphate;

(15) Adenylic acid;

(16) Adiphenine hydrochloride;

(17) Adrenal cortex extracts;

(17.5) Albendazole;

(18) Albumin, normal human serum;

(18.1) Albuterol;

(19) Albutonium;  
(19.5) Alclometasone dipropionate;  
(19.6) Alendronate;  
(19.65) Alfuzosin;  
(19.7) Alglucerase;  
(19.75) Alglucosidase alfa;  
(19.8) Alitretinoin;  
(20) Alkaverir;  
(21) Alkavervir;  
(21.1) Alkyl nitrites;  
(22) Allopurinol;  
(22.2) Almotriptan;  
(22.5) Alosetron;  
(23) Alpha amylase;  
(23.1) Alprostadil;  
(24) Alseroxylon;  
(24.1) Altenodol;  
(24.6) Altretamine;  
(25) Aluminum nicotinate;  
(26) Alverine;  
(27) Amantadine;  
(28) Ambenonium chloride;  
(29) Ambrosiacaefollens;

(30) Amcinonide;

(30.1) Amdinocillin;

(30.5) Amifostine;

(31) Amikacin;

(31.1) Amiloride;

(32) Aminacrine;

(33) 4-amino-N-methyl-pteroylglutamic acid;

(34) Amino acid preparations for injection or vaginal use;

(35) Aminocaproic acid;

(36) Aminohippurate;

(36.5) Aminolevulinic acid;

(37) Aminophylline;

(38) Aminosalicylate -- See exceptions;

(39) Aminosalicylate calcium -- See exceptions;

(40) Aminosalicylate potassium -- See exceptions;

(41) Aminosalicylate sodium -- See exceptions;

(42) Aminosalicylic acid -- See exceptions;

(42.1) Amiodarone;

(43) Amisometradine;

(44) Amitriptyline;

(44.3) Amlexanox;

(44.5) Amlodipine;

(44.7) Ammonium lactate;

- (45) Amodiaquin;
- (45.5) Amoxapine;
- (46) Amoxicillin;
- (47) Amphotericin B;
- (48) Ampicillin;
- (48.2) Amprenavir;
- (48.6) Amrinone;
- (49) Amyl nitrite;
- (50) Amylolytic enzymes;
- (50.1) Anabolic steroids, if listed in Code Section 16-13-27.1 as being exempt as Schedule III controlled substances;
- (50.3) Anagrelide;
- (50.4) Anakinra;
- (50.5) Anastrozole;
- (51) Androgens, except those androgens listed in paragraph (6) of Code Section 16-13-27;
- (52) Angiotensin amide;
- (52.5) Anidulafungin;
- (53) Anisindione;
- (54) Anisotropine;
- (55) Antazoline;
- (56) Anterior pituitary hormones;
- (57) Anthralin;
- (58) Anti-coagulant acid:



(A) Citrate dextrose;

(59) Antigens:

(A) *Alternaria tenuis*;

(B) Aqua ivy;

(C) Ash mix;

(D) *Aspergillus fumigatus*;

(E) Bacterial, *Staphylococcus aureus*, Type 1;

(F) Bacterial, *Staphylococcus aureus*, Type 3;

(G) Bacterial, Undenatured;

(H) Bee;

(I) Beech;

(J) Bermuda grass;

(K) Birch;

(L) California live oak;

(M) *Candida albicans*;

(N) Careless weed;

(O) Cat epithelia;

(P) Cattle epithelia;

(Q) *Coccidioides immitis*;

(R) Cottonwood fremont;

(S) Dog epithelia;

(T) Elm mix;

(U) English plantain;

(V) Feather mix;

(W) Gram negative bacterial;

(X) *Helminthosporium sativum*;

(Y) Hickory;

(Z) *Hormodendrum hordei*;

(AA) Hornet;

(BB) House dust;

(CC) House dust mix;

(DD) Insects;

(EE) Intradermal or scratching test;

(FF) Johnson grass;

(GG) Kentucky blue grass;

(HH) Kochia;

(II) Lamb quarters;

(JJ) Maple;

(KK) Mesquite;

(LL) Mixed epidermals;

(MM) Mixed grass, ragweeds (spring-fall);

(NN) Mixed grasses (spring);

(OO) Mixed inhalants;

(PP) Mixed molds;

(QQ) Mixed ragweed;

(RR) Mixed ragweed -- mixed weeds (fall);

(SS) Mixed weeds;

(TT) Molds;

(UU) Mountain cedar;

(VV) Mugwort common;

(WW) National weed mix;

(XX) Oak mix;

(YY) Olive;

(ZZ) Orchard grass;

(AAA) Pecan;

(BBB) *Penicillium notatum*;

(CCC) Perennial rye;

(DDD) Poison oak and poison ivy;

(EEE) Pollens;

(FFF) Poplar mix;

(GGG) Prescription;

(HHH) Ragweed mix;

(III) Red top grass;

(JJJ) Respiratory bacterial;

(KKK) Rough pigweed;

(LLL) Russian thistle;

(MMM) Sagebrush common;

(NNN) Scale mix;

(OOO) Short ragweed;

(PPP) Simplified allergy screening set;

(QQQ) Skin bacterial;

(RRR) Southern grass;

(SSS) Staphylococcal;

(TTT) Stinging insect mix;

(UUU) Stinging insects;

(VVV) Sweet vernal;

(WWW) Sycamore;

(XXX) Tall ragweed;

(YYY) Timothy;

(ZZZ) Tree mix;

(AAAA) Trees (early spring);

(BBBB) Walnut;

(CCCC) Wasp;

(DDDD) West ragweed;

(EEEE) West weed mix;

(FFFF) Yellow jacket;

(60) Antihemophilic factor, Human;

(61) Antirabies serum;

(62) Antivenin;

(62.1) Apomorphine;

(62.3) Apraclonidine;

(62.4) Aprepitant;

(62.5) Aprotinin;  
(62.7) Ardeparin;  
(62.75) Arformoterol tartrate;  
(62.8) Argatroban;  
(63) Arginine, L-;  
(63.5) Aripiprazole;  
(64) Arsenic -- Preparation for human use;  
(64.1) Arsenic trioxide;  
(65) Artegraft;  
(66) Ascorbate sodium -- Injection;  
(67) Asparaginase;  
(67.6) Astemizole;  
(67.72) Atazanavir;  
(68.1) Atenolol;  
(68.15) Atomoxetine;  
(68.2) Atorvastatin;  
(68.3) Atovaquone;  
(68.4) Atracurium besylate;  
(68.5) Atropine -- See exceptions;  
(68.6) Auranofin;  
(69) Aurothioglucose;  
(69.5) Azacitidine;  
(70) Azapetine;

(71) Azatadine maleate;

(72) Azathioprine;

(72.3) Azelaic acid;

(72.4) Azelastine;

(72.5) Azithromycin;

(72.7) Azlocillin;

(73) Azo-sulfisoxazole;

(73.5) Aztreonam;

(74) Azuresin;

(75) Bacitracin -- See exceptions;

(76) Baclofen;

(76.5) Balsalazide;

(77) Barium -- See exceptions;

(78) Beclomethasone;

(79) Belladonna;

(80) Belladonna alkaloids;

(81) Belladonna extracts;

(82) Benactyzine;

(82.5) Benazepril;

(83) Bendroflumethiazide;

(83.1) Benoxaprofen;

(83.2) Bentiromide;

(83.5) Bentoquatam -- See exceptions;

- (84) Benzestrol;
- (85) Benzonatate;
- (86) Benzoylpas;
- (87) Benzquinamide;
- (88) Benzthiazide;
- (89) Benztropine;
- (90) Benzylpenicilloyl - polylysine;
- (91) Bephenium hydroxynaphthoate;
- (91.5) Bepridil;
- (91.7) Beractant;
- (92) Beta-carotene -- See exceptions;
- (93) Betadine vaginal gel;
- (94) Betahistine;
- (94.5) Betaine, anhydrous;
- (95) Betamethasone;
- (95.1) Betaxolol;
- (96) Betazole;
- (97) Bethanechol;
- (97.1) Bethanidine sulfate;
- (97.2) Bevacizumab;
- (97.3) Bexarotene;
- (97.5) Bicalutamide;
- (98) Bile extract;

(98.2) Bimatoprost;

(99) Biperiden;

(100) Bisacodyl tannex;

(101) Bishydroxycoumarin;

(101.5) Biskalcitrate;

(102) Bismuth sodium tartrate -- See exceptions;

(102.05) Bisoprolol;

(102.1) Bitolterol mesylate;

(102.5) Bivalirudin;

(103) Blastomycine;

(104) Bleomycin;

(105) Boroglycerin glycerite;

(105.3) Bortezomib;

(105.5) Bosentan;

(105.7) Botulinum toxin (B);

(106) Botulism antitoxin;

(107) Bretylium;

(107.3) Briazolamide;

(107.5) Brimonidine;

(108) Bromelains -- See exceptions;

(108.5) Bromfenac;

(109) Bromisovalum;

(110) Bromocriptine;



(111) Bromodiphenhydramine;

(112) Brompheniramine -- See exceptions;

(113) Brucella antigen;

(114) Brucella protein nucleate;

(115) Buclizine;

(115.3) Budesonide;

(115.5) Bumetanide;

(116) Bupivacaine;

(116.05) Reserved;

(116.1) Bupropion;

(116.5) Buspirone;

(117) Busulfan;

(118) Butacaine;

(119) Butaperazine;

(119.05) Butenafine -- See exceptions;

(119.1) Butoconazole -- See exceptions;

(120) Reserved;

(121) Butyl nitrite;

(122) Butyrophenone;

(122.5) Cabergoline;

(123) Cadmium sulfide -- See exceptions;

(124) Caffeine sodium benzoate;

(124.3) Calcifediol;

(124.7) Calcipotriene;

(125) Calcitonin, Salmon;

(126) Calcitriol;

(127) Calcium disodium edetate -- See exceptions;

(128) Calcium gluconogalactogluconate;

(129) Calcium levulinate;

(129.5) Calfactant;

(130) Calusterone;

(130.5) Candesartan;

(131) Candicidin;

(132) Cantharidin;

(132.5) Capecitabine;

(133) Capreomycin;

(133.1) Captopril;

(134) Capyodiame;

(135) Caramiphen;

(136) Carbachol;

(137) Carbamazepine;

(138) Carbazochrome;

(139) Carbenicillin;

(140) Carbetapentane;

(141) Carbidopa;

(142) Carbinoxamine;

(142.5) Carboplatin;

(143) Reserved;

(144) Carmustine;

(144.1) Carnitine;

(145) Carphenazine;

(145.6) Carteolol;

(145.8) Carvedilol;

(146) Casein hydrolysate;

(146.6) Caspofungin;

(147) Catarrhalis combined vaccine;

(148) Catarrhalis vaccine mixed;

(149) Cefaclor;

(150) Cefadroxil;

(151) Cefamandole;

(151.3) Cefazolin;

(151.4) Cefdinir;

(151.45) Cefditoren;

(151.5) Cefepime;

(151.6) Cefixime;

(151.7) Cefmetazole;

(151.8) Cefonicid;

(152) Cefoperazone;

(152.1) Ceforanide;

(152.2) Cefotaxime;  
(152.3) Cefotetan;  
(152.7) Cefotiam;  
(152.9) Cefoxitin;  
(153.1) Cefpiramide;  
(153.2) Cefpodoxime;  
(153.3) Cefprozil;  
(153.4) Ceftazidime;  
(153.5) Ceftibuten;  
(153.6) Ceftizoxime;  
(153.8) Ceftriaxone;  
(153.9) Cefuroxime;  
(153.95) Celecoxib;  
(154) Cellulose, Oxadized, Regenerated -- See exceptions;  
(155) Cephalexin;  
(156) Cephaloglycin;  
(157) Cephaloridine;  
(158) Cephalothin;  
(159) Cephapirin;  
(159.3) Cephradine;  
(159.6) Ceretec;  
(159.8) Cerivastatin;  
(160.1) Ceruletide;

(160.15) Cetirizine;

(160.16) Cetrorelix;

(160.165) Cetuximab;

(160.17) Cevimeline;

(160.20) Chenodiol;

(161) Chlophedianol;

(162) Chlorambucil;

(163) Chloramphenicol;

(164) Chloranil -- See exceptions;

(165) Chlordantoin;

(166) Chlordiazepoxide in combination with clidinium bromide or water soluble esterified estrogens;

(166.5) Chlorhexidine -- See exceptions;

(167) Chlormadinone;

(168) Chlormerodrin;

(169) Chlormezanone;

(170) Chloroacetic acid -- See exceptions;

(171) Chlorobutanol -- See exceptions;

(172) Chloroform -- See exceptions;

(173) Chloroguanide;

(174) Chloroprocaine;

(175) Chloroquine;

(176) Chlorothiazide;

(177) Chlorotrianisene;  
(178) Chloroxine;  
(179) Chlorphenesin;  
(180) Chlorpheniramine -- See exceptions;  
(181) Chlorphenoxamine;  
(182) Chlorpromazine;  
(183) Chlorpropamide;  
(184) Chlorprothixene;  
(185) Chlorquinaldol;  
(186) Chlortetracycline;  
(187) Chlorthalidone;  
(188) Chlorzoxazone;  
(189) Cholera vaccine;  
(190) Cholestyramine resin;  
(191) Chondroitin;  
(191.5) Chymopapain;  
(192) Chymotrypsin;  
(192.02) Ciclesonide;  
(192.03) Ciclopirox;  
(192.05) Cidofovir;  
(192.1) Cilastatin;  
(192.4) Cilexetil;  
(192.7) Cilostazol;

(193) Cimetidine -- See exceptions;

(193.5) Cinacalcet;

(194) Cinoxacin;

(194.5) Ciprofloxacin;

(194.7) Cisapride;

(194.8) Cisatracurium;

(195) Cisplatin;

(195.2) Citalopram;

(195.3) Cladribine;

(195.5) Clarithromycin;

(195.7) Clavulanate;

(196) Clemastine -- See exceptions;

(197) Clidinium bromide;

(198) Clindamycin;

(198.1) Clobetasol propionate;

(199) Clocortolone pivalate;

(200) Clofibrate;

(201) Clomiphene;

(201.5) Clomipramine;

(202) Clonidine;

(203) Clopidogrel;

(204) Clostridiopeptidase;

(205) Clotrimazole -- See exceptions;

(206) Cloxacillin;

(206.5) Clozapine;

(207) Coal tar solution topical;

(208) Cobra venom;

(209) Colchicine -- See exceptions;

(210) Colestipol;

(211) Colistimethate;

(212) Colistin;

(213) Collagenase;

(213.3) Conivaptan;

(213.5) Corticorelin;

(214) Corticotropin;

(215) Corticotropin, Respository;

(216) Cortisone;

(217) Cosyntropin;

(217.5) Crixivan;

(218) Cromolyn -- See exceptions;

(219) Crotaline antivenin, Polyvalent;

(220) Crotamiton;

(221) Cryptenamine;

(221.5) Cupric chloride -- injectable;

(222) Cyanide antidote;

(223) Cyclacillin;



(224) Cyclandelate;  
(225) Reserved;  
(226) Cyclobenzaprine;  
(227) Cyclomethycaine;  
(228) Cyclopentamine;  
(229) Cyclopentolate;  
(230) Cyclophosphamide;  
(231) Cycloserine;  
(231.5) Cyclosporine;  
(232) Cyclothiazide;  
(233) Cycrimine;  
(234) Cyproheptadine;  
(234.5) Cysteamine;  
(235) Cytarabine;  
(236) Dacarbazine;  
(236.6) Daclizumab;  
(237) Dactinomycin;  
(237.2) Dalfopristin;  
(237.5) Dalteparin;  
(237.7) Danaparoid;  
(238) Danazol;  
(239) Dantrolene;  
(239.5) Dapiprazole;

(240) Dapsone -- See exceptions;

(240.3) Daptomycin;

(240.5) Darbepoetin alfa;

(240.7) Darunavir;

(240.9) Dasatinib;

(241) Daunorubicin;

(242) Deanol;

(243) Decamethonium;

(243.3) Decitabine;

(243.5) Deferasirox;

(244) Deferoxamine;

(244.5) Delavirdine;

(245) Demecarium;

(246) Demeclocycline;

(247) Demethylchlortetracycline;

(248) Deoxyribonuclease, Pancreatic;

(249) Deserpidine;

(249.5) Desflurane;

(250) Desipramine;

(250.5) Desirudin;

(251) Deslanoside;

(251.5) Desloratadine;

(252) Desmopressin;

(252.5) Desogestrel;  
(253) Desonide;  
(254) Desoximetasone;  
(255) Desoxycorticosterone;  
(256) Desoxyribonuclease;  
(257) Dexamethasone;  
(258) Dexbrompheniramine -- See exceptions;  
(259) Dexchlorpheniramine;  
(260) Dexpanthenol;  
(260.5) Dexrazoxane;  
(261) Dextran;  
(262) Reserved;  
(263) Dextriferron;  
(264) Dextroisoephedrine;  
(265) Dextrothyroxine;  
(265.5) Dezocine;  
(266) Diatrizoate;  
(267) Diazoxide;  
(268) Dibucaine;  
(269) Dichloralphenazone;  
(270) Dichlorphenamide;  
(270.5) Diclofenac;  
(271) Dicloxacillin;

(272) Dicyclomine;

(272.5) Didanosine;

(273) Dienestrol;

(274) Diethylcarbamazine;

(275) Diethylstilbestrol;

(276) Reserved;

(277) Diflorasone diacetate;

(277.5) Diflunisal;

(278) Digitalis;

(279) Digitoxin;

(280) Digoxin;

(281) Dihydroergocornine;

(282) Dihydroergocristine;

(283) Dihydroergocryptine;

(284) Dihydroergotamine;

(285) Dihydrostreptomycin;

(286) Dihydrotachysterol;

(287) Diiodohydroxyquin;

(287.5) Diltiazem;

(288) Dimenhydrinate -- Injection or suppositories;

(289) Dimercaprol;

(290) Dimethindene;

(291) Dimethisterone;

(292) Dimethyl sulfoxide -- See exceptions;

(293) Dimethyl tubocurarine;

(293.5) Dimyristoyl;

(294) Dinoprost;

(295) Dinoprostone;

(296) Dioxyline;

(297) Diphemanil;

(298) Diphenadione;

(299) Diphenhydramine -- See exceptions;

(300) Diphenidol;

(301) Diphenylhydantoin;

(302) Diphenylpyraline;

(303) Diphtheria antitoxin;

(304) Diphtheria and tetanus toxoids;

(305) Diphtheria and tetanus toxoids and pertussis vaccine;

(306) Diphtheria and tetanus toxoids, Absorbed;

(307) Diphtheria and tetanus toxoids, Pertussis;

(308) Diphtheria toxoid;

(309) Dipivefrin;

(310) Dipyridamole;

(311) Dipyrone;

(311.3) Dirithromycin;

(311.5) Disibind;

(312) Disodium edetate -- See exceptions;

(313) Disopyramide;

(314) Disulfiram;

(314.5) Divalproex;

(315) Dobutamine;

(315.5) Docetaxel;

(315.7) Docosanol -- See exceptions;

(316) Doderlein bacilli;

(316.2) Dofetilide;

(316.3) Dolasetron;

(316.5) Donepezil;

(317) Dopamine;

(317.3) Dornase Alpha;

(317.4) Dorzolamide;

(317.5) Doxacurium;

(318) Doxapram;

(318.5) Doxazosin mesylate;

(319) Doxepin;

(319.5) Doxercalciferol;

(320) Doxorubicin;

(321) Doxycycline;

(322) Doxylamine;

(323) Doxylamine succinate;

(324) Dromostanolone;

(325) Droperidol;

(325.3) Drospirenone;

(325.4) Drotrecogin alfa;

(325.45) Duloxetine;

(325.5) Dutasteride;

(326) Dyclonine;

(327) Dydrogesterone;

(328) Dyphylline;

(329) Echothiophate;

(329.5) Econazole;

(330) Ectylurea;

(330.5) Edetate -- See exceptions;

(331) Edrophonium;

(331.03) Efavirenz;

(331.05) Eflornithine;

(331.07) Emedastine;

(331.072) Emtricitabine;

(331.1) Enalapril;

(331.6) Enalaprilat;

(332) Enflurane;

(332.2) Enfuvirtide;

(332.5) Enoxacin;

(332.7) Enoxaparin;  
(332.8) Entacapone;  
(332.85) Entecavir;  
(332.9) Epinastine;  
(333) Epinephrine;  
(334) Epinephryl borate;  
(334.3) Epirubicin;  
(334.4) Eplerenone;  
(334.5) Epoprostenol;  
(334.7) Eprosartan;  
(334.8) Eptifibatide;  
(335) Ergocalciferol -- See exceptions;  
(335.5) Ergoloid mesylates;  
(336) Ergonovine;  
(337) Ergotamine;  
(338) Ergosine;  
(339) Ergocristine;  
(340) Ergocryptine;  
(341) Ergocornine;  
(342) Ergotaminine;  
(343) Ergosinine;  
(344) Ergocristinine;  
(345) Ergocryptinine;



(346) Ergocorninine;

(346.1) Erlotinib;

(346.5) Ertapenem;

(347) Erythrityl tetranitrate;

(348) Erythromycin;

(348.722) Escitalopram;

(349) Eserine;

(349.4) Esmolol;

(349.7) Esomeprazole;

(350) Esterified estrogens;

(351) Estradiol;

(352) Estriol;

(353) Estrogens;

(354) Estrogenic substances;

(355) Estrone;

(355.5) Estropipate;

(356) Ethacrynate;

(357) Ethacrynic acid;

(358) Ethambutol;

(359) Ethamivan;

(359.5) Ethanolamine oleate;

(360) Ethaverine;

(361) Ether -- See exceptions;

(361.5) Ethinamate;  
(362) Ethinyl estradiol;  
(363) Ethiodized oil;  
(364) Ethionamide;  
(365) Ethisterone;  
(366) Ethoheptazine;  
(367) Ethopropazine;  
(368) Ethosuximide;  
(369) Ethotoin;  
(370) Ethoxazene -- See exceptions;  
(371) Ethoxyzolamide;  
(372) Ethyl biscoumacetate;  
(373) Ethyl chloride -- See exceptions;  
(374) Ethyl nitrite spirit;  
(375) Reserved;  
(376) Ethylnorepinephrine;  
(377) Ethynodiol diacetate;  
(378) Etidocaine;  
(379) Etidronate;  
(379.05) Etodolac;  
(379.07) Etomidate;  
(379.09) Etonogestrel;  
(379.1) Etoposide;

(380) Eucatropine;

(380.5) Exemestane;

(380.6) Exenatide;

(380.7) Ezetimibe;

(381) Factor IX complex, Human;

(381.1) Famciclovir;

(381.2) Famotidine -- See exceptions;

(381.3) Felbamate;

(381.5) Felodipine;

(381.55) Fenfibrate;

(381.6) Fenofenadine;

(381.7) Fenofibrate;

(381.8) Fenoldopam;

(382) Fenoprofen;

(383) Ferric cacodylate;

(383.15) Ferric Hexacyanoferrate;

(383.3) Ferumoxides;

(383.4) Ferumoxsil;

(383.5) Fexofenadine;

(384) Fibrinogen;

(385) Fibrinogen/antihemophilic factor, Human;

(386) Fibrinolysin, Human;

(386.3) Finasteride;

(386.5) Filgrastin;  
(387) Flavoxate;  
(387.1) Flecainide acetate;  
(388) Florantyrone;  
(388.5) Flosequinan;  
(389) Floxuridine;  
(389.5) Fluconazole;  
(390) Flucytosine;  
(390.5) Fludarabine;  
(390.7) Fludeoxyglucose;  
(391) Fludrocortisone;  
(391.5) Flumazenil;  
(392) Flumethasone;  
(392.1) Flunisolide;  
(393) Fluocinonide;  
(394) Fluocinolone;  
(395) Fluorescein;  
(396) Fluoride -- See exceptions;  
(396.5) Fluorometholone;  
(397) Fluorophosphates;  
(398) Fluorouracil;  
(399) Fluoxetine;  
(399.5) Fluoxymesterone;

(400) Fluphenazine;

(401) Fluprednisolone;

(402) Flurandrenolide;

(402.2) Flurbiprofen;

(402.5) Flutamide;

(402.7) Fluticasone Propionate;

(402.8) Fluvastatin;

(402.9) Fluvoxamine;

(403) Folate sodium;

(404) Folic acid -- See exceptions;

(404.3) Follitropin;

(404.5) Fomivirsen;

(404.7) Fondaparinux;

(405) Foreign protein;

(406) Formaldehyde -- See exceptions;

(406.2) Formoterol;

(406.3) Fosamprenavir;

(406.4) Foscarnet;

(406.5) Fosfomycin;

(406.7) Fosinopril;

(406.9) Fosphenytoin;

(406.95) Frovatriptan;

(407) Furazolidone;

(408) Furosemide;

(408.2) Gabapentin;

(408.25) Gadobenate;

(408.3) Gadodiamide;

(408.4) Gadopentetate dimeglumine;

(408.6) Gadoteridol;

(408.8) Gadoversetamide;

(408.9) Galantamine;

(409) Gallamine triethiodide;

(409.3) Gallium citrate;

(409.5) Gallium nitrate;

(409.8) Galsulfase;

(410) Gamma benzene hexachloride;

(411) Gamma globulin;

(411.5) Ganciclovir;

(411.7) Ganirelix;

(412) Gas gangrene polyvalent antitoxin;

(412.03) Gatifloxacin;

(412.04) Gefitinib;

(412.05) Gemcitabine;

(412.1) Gemfibrozil;

(412.2) Gemifloxacin;

(412.3) Gemtuzumab ozogamicin;

(412.5) Genotropin;

(413) Gentamicin;

(414) Gentian violet vaginal suppositories;

(415) Gitalin;

(415.03) Glatiramer;

(415.05) Glimepiride;

(415.1) Glipizide;

(416) Glucagon;

(417) Gluceptate;

(418) Gluconate magnesium;

(419) Gluconate potassium -- See exceptions;

(420) Glutamate arginine;

(420.1) Glyburide;

(420.5) Glycine -- See exceptions;

(421) Glycobiarsol;

(422) Glycopyrrolate;

(423) Gold sodium thiomalate;

(424) Gold thiosulfate -- See exceptions;

(425) Gomenol Solution;

(425.5) Gonadorelin acetate;

(426) Gonadotropin, Chroinic;

(427) Gonadotropin, Chroinic, Anti-human serum;

(428) Gonadotropin, Serum;

(428.5) Goserelin;  
(429) Gramicidin;  
(430) Gramineae pollens;  
(430.3) Gramosetron;  
(430.5) Granisetron;  
(431) Griseofulvin;  
(431.5) Guanabenz;  
(432) Guanethidine;  
(432.4) Guanadrel;  
(432.7) Guanfacine;  
(432.9) Guanidine;  
(433) Halcinonide;  
(433.5) Halobetasol Propionate;  
(433.7) Halofantrine;  
(434) Haloperidol;  
(435) Haloproglin;  
(436) Halothane;  
(437) Hartman's solution;  
(438) Heparin;  
(439) Hetacillin;  
(440) Hexachlorophene -- See exceptions;  
(441) Hexafluorenum;  
(442) Hexocyclium;



(443) Hexylcaine;

(444) Histamine;

(445) Histoplasmin;

(445.5) Histrelin acetate;

(446) Homatropine;

(446.4) Human secretin;

(446.6) Hyaluronan;

(446.7) Hyaluronic acid;

(447) Hyaluronidase;

(448) Hydralazine;

(449) Hydrocalciferol;

(450) Hydrochlorothiazide;

(451) Hydrocortamate;

(452) Hydrocortisone -- See exceptions;

(453) Hydroflumethiazide;

(454) Hydroquinone;

(455) Hydroxocobalamin -- See exceptions;

(456) Hydroxyamphetamine;

(457) Hydroxychloroquine;

(458) Hydroxyprogesterone;

(459) Hydroxyurea;

(460) Hydroxyzine;

(461) Hyoscyamine;

(462) Hyoscyamus alkaloids;

(463) Hypophamine;

(463.03) Ibandronate;

(464) Ibuprofen -- See exceptions;

(464.05) Ibutilide;

(464.1) Idarubicin;

(464.3) Idoxuridine;

(464.5) Idursulfase;

(464.6) Ifosfamide;

(464.7) Iloprost;

(464.8) Imatinib;

(465) Imiglucerase;

(465.1) Imipenem/cilastatin;

(466) Imipramine;

(466.5) Imiquimod;

(467) Immune hepatitis B globulin, Human;

(468) Immune poliomyelitis globulin, Human;

(469) Immune serum globulin, Human;

(469.1) Indapamide;

(469.5) Indecainide;

(470) Indigotindisulfonate;

(470.05) Indinavir;

(470.1) Indium IN-III oxyquinolone;

(470.3) Indium IN-III pentetreotide;

(471) Indocyanine green;

(472) Indomethacin;

(472.5) Infliximab;

(473) Influenza virus vaccines;

(474) Injections, All substances for human use -- See exceptions;

(474.2) Insulin aspart;

(474.4) Insulin glargine;

(474.45) Insulin glulisine;

(474.5) Interferon;

(475) Intrinsic factor concentrate manufactured for human use;

(475.3) Inulin;

(475.5) Iobenguane;

(476) Iocetamic acid;

(477) Iodamide;

(478) Iodinated I-125 serum albumin;

(479) Iodinated I-131 serum albumin;

(480) Iodinated glycerol-theophylline;

(481) Iodine solution, Strong oral;

(482) Iodipamide;

(482.5) Iodixanol;

(483) Iodized oil;

(484) Iodobenzoic acid -- See exceptions;

(485) Iodobrassid;  
(485.1) Iodohippurate sodium;  
(486) Iodopyracet;  
(487) Iodothiouracil;  
(487.05) Iofetamine;  
(487.08) Iohexol;  
(487.1) Iopamidol;  
(488) Iopanoic acid -- See exceptions;  
(489) Iophendylate;  
(489.1) Iopromide;  
(489.2) Iothalamate;  
(489.3) Iothiouracil;  
(489.5) Iotrolan;  
(489.6) Ioversol;  
(490.1) Ioxaglate;  
(490.5) Ioxilan;  
(491) Ipodate;  
(491.5) Ipratropium;  
(491.6) Irbesartan;  
(491.7) Irinotecan;  
(492) Iron cacodylate;  
(493) Iron dextran injection;  
(494) Iron peptonized;

- (495) Iron sorbitex;
- (496) Isocarboxazid;
- (497) Isoetharine;
- (498) Isoflurane;
- (499) Isoflurophate;
- (500) Isometheptene;
- (501) Isoniazid;
- (502) Isopropamide;
- (503) Isoproterenol;
- (504) Isosorbide dinitrate;
- (504.05) Isosorbide mononitrate;
- (504.1) Isosulfan blue;
- (505) Isothipendyl;
- (505.5) Isotretinoin;
- (506) Isoxsuprine;
- (506.5) Isradipine;
- (506.7) Itraconazole;
- (506.8) Ivermectin;
- (507) Kanamycin;
- (508) Reserved;
- (509) Ketocholanolic acids;
- (509.1) Ketoconazole -- See exceptions;
- (509.15) Ketoprofen -- See exceptions;

(509.17) Ketorolac tromethamine;

(509.18) Ketotifen -- See exceptions;

(509.2) Labetalol;

(510) Lactated ringers solution;

(511) Lactulose;

(511.3) Lamivudine;

(511.5) Lamotrigine;

(512) Lanatoside C;

(512.5) Lansoprazole;

(512.6) Lanthanum;

(512.7) Latanoprost;

(513) Latrodectus mactans;

(513.5) Leflunomide;

(513.7) Lenalidomide;

(513.8) Letrozole;

(514) Leucovorin;

(514.1) Leuprolide;

(514.5) Levalbuterol;

(515) Reserved;

(515.5) Levamisole;

(516) Levarterenol;

(516.05) Levetiracetam;

(516.07) Levobetaxolol;

(516.1) Levobunolol;  
(516.3) Levobupivacaine;  
(516.5) Levocabastine;  
(516.7) Levocarnitine;  
(517) Levodopa;  
(517.2) Levofloxacin;  
(517.3) Levomethadyl;  
(517.4) Levonordefrin;  
(518) Levopropoxyphene;  
(519) Levothyroxine;  
(520) Lidocaine -- See exceptions;  
(521) Lincomycin;  
(522) Lindane -- See exceptions;  
(522.5) Linezolid;  
(523) Linolenic acid;  
(524) Liothyronine;  
(525) Liotrix;  
(525.5) Lisinopril;  
(526) Lithium carbonate -- See exceptions;  
(527) Lithium citrate;  
(528) Liver extract;  
(528.3) Lodoxamide;  
(528.5) Lomefloxacin;

(529) Lomustine;

(529.1) Loperamide -- See exceptions;

(529.5) Lopinavir;

(529.7) Loracarbef;

(529.9) Loratadine -- See exceptions;

(529.95) Losartan;

(529.97) Loteprednol;

(530) Lovastatin;

(530.5) Loxapine;

(530.7) Lubiprostone;

(531) Lugols solution;

(532) Lututrin;

(533) Lymphogranuloma venereum antigen;

(534) Lypressin synthetic;

(535) Mafenide;

(536) Magnesium gluconate -- See exceptions;

(537) Magnesium salicylate;

(538) Mandelic acid -- See exceptions;

(539) Mannitol -- See exceptions;

(540) Mannitol hexanitrate;

(540.1) Maprotiline;

(540.5) Masoprocol;

(541) Measles immune globulin, Human;



(542) Measles virus vaccines;

(543) Mebendazole for human use;

(544) Mecamylamine;

(544.5) Mecasermin;

(545) Mechlorethamine;

(546) Meclizine -- See exceptions;

(546.5) Meclocycline;

(547) Meclofenamate;

(548) Medroxyprogesterone;

(549) Medrysone;

(550) Mefenamic acid;

(550.5) Mefloquine;

(551) Megestrol;

(552) Meglumine;

(552.5) Meloxicam;

(553) Melphalan;

(553.5) Memantine;

(554) Menadiol;

(555) Menadione;

(556) Meningococcal polysaccharide vaccine;

(557) Menotropins;

(558) Mepenzolate;

(559) Mephenesin;

(560) Mephentermine;  
(561) Mephenytoin;  
(562) Meprednisone;  
(563) Mepivacaine;  
(563.5) Mequinol;  
(564) Meralluride;  
(565) Mercaptomerin;  
(566) Mercaptopurine;  
(567) Mercury bichloride -- See exceptions;  
(567.1) Meropenem;  
(567.2) Mersalyl;  
(567.3) Mesalamine;  
(567.5) Mesna;  
(568) Mesoridazine;  
(569) Mestranol;  
(570) Metaproterenol;  
(571) Metaraminol;  
(572) Metaxalone;  
(572.5) Metformin;  
(573) Methacholine;  
(574) Methacycline;  
(575) Methallenestril;  
(576) Reserved;

(577) Reserved;

(578) Methantheline;

(579) Methazolamide;

(580) Methdilazine;

(581) Methenamine hippurate;

(582) Methenamine mandelate;

(583) Methenamine sulfosalicylate;

(584) Methicillin;

(585) Methimazole;

(586) Methiodal;

(587) Methionine;

(588) Methixene;

(589) Methocarbamol;

(590) Methotrexate;

(591) Methotrimeprazine;

(592) Methoxamine;

(593) Methoxsalen;

(594) Methoxyflurane;

(595) Methoxyphenamine;

(596) Methscopolamine;

(597) Methsuximide;

(598) Methyclothiazide;

(599) Methylandrostenediol;

(600) Methylatropine;

(601) Methyldopa;

(602) Methyldopate;

(603) Methylene blue, Oral;

(604) Methylergonovine;

(605) Methylprednisolone;

(606) Reserved;

(607) Methysergide;

(608) Metoclopramide;

(609) Metocurine iodide injection;

(610) Metolazone;

(611) Metoprolol;

(612) Metrizamide;

(612.5) Metrizoate;

(613) Metronidazole;

(614) Metyrapone;

(615) Metyrosine;

(615.01) Mexiletine;

(615.1) Mezlocillin;

(615.6) Mibefradil;

(615.9) Micafungin;

(616) Miconazole -- See exceptions;

(617) Microfibrillar collagen hemostat;

(617.1) Midodrine;  
(617.22) Midubosathol;  
(617.3) Mifepristone;  
(617.4) Miglitol;  
(617.44) Miglustat;  
(617.5) Milrinone;  
(618) Minocycline;  
(619) Minoxidil -- See exceptions;  
(619.3) Mirtazapine;  
(619.5) Misoprostol;  
(620) Mithramycin;  
(621) Mitomycin;  
(622) Mitotane;  
(622.3) Mitoxantrone;  
(622.5) Mivacurium;  
(622.7) Moexipril;  
(623) Molindone;  
(623.5) Mometasone;  
(624) Monobenzene;  
(624.1) Monoctanoin;  
(624.5) Montelukast;  
(624.7) Moricizine;  
(625) Morrhuate;

(625.1) Moxalactam;

(625.3) Moxidectin;

(625.5) Moxifloxacin;

(626) Mumps virus vaccines;

(626.5) Mupirocin;

(627) Mushroom spores which, when mature, contain either psilocybin or psilocin;

(627.5) Mycophenolate;

(628) N-acetyl-L-cysteine;

(629) N. catarrhalis antigen;

(629.5) Nabumetone;

(630) Nadolol;

(630.5) Nafarelin;

(631) Nafcillin;

(631.5) Naftifine;

(632) Nalbuphine;

(633) Reserved;

(634) Nalidixic acid;

(634.5) Nalmefene;

(635) Naloxone;

(635.1) Naltrexone;

(636) Reserved;

(637) Naphazoline -- See exceptions;

(638) Naproxen -- See exceptions;

(638.3) Naratriptan;

(638.4) Natalizumab;

(638.5) Nedocromil;

(638.7) Nefazodone;

(638.75) Nelarabine;

(638.8) Nelfinavir;

(639) Neomycin -- See exceptions;

(640) Neostigmine;

(640.1) Nepafenac;

(640.2) Nesiritide;

(640.3) Netilmicin;

(640.4) Nevirapine;

(640.5) Niacinamide -- See exceptions;

(640.7) Nicardipine;

(640.8) Niclosamide;

(641.1) Nicotine resin complex (polacrilex) -- See exceptions;

(641.15) Nicotine transdermal system -- See exceptions;

(642) Nicotiny alcohol;

(642.1) Nifedipine;

(643) Nifuroximine;

(644) Nikethamide;

(644.4) Nilutamide;

(644.5) Nimodipine;

(644.7) Nisoldipine;  
(644.72) Nitazoxanide;  
(644.8) Nitisinone;  
(644.9) Nitric oxide -- for use in humans;  
(645) Nitrofurantoin;  
(646) Nitrofurazone;  
(647) Nitroglycerin;  
(648) Nitroprusside -- See exceptions;  
(648.3) Nitrous oxide -- See exceptions;  
(648.6) Nizatidine -- See exceptions;  
(649.1) Nomifensine maleate;  
(650) Nonoxynol -- See exceptions;  
(651) Norepinephrine;  
(652) Norethindrone;  
(653) Norethynodrel;  
(653.5) Norfloxacin;  
(654) Norgestrel;  
(655) Normal serum albumin, Human;  
(656) Nortriptyline;  
(657) Nositol;  
(658) Novobiocin;  
(659) Nux vomica;  
(660) Nylidrin;



(661) Nystatin;

(661.5) Octreotide acetate;

(661.7) Ofloxacin;

(661.8) Olanzapine;

(662) Old tuberculin;

(663) Oleandomycin;

(663.1) Olmesartan;

(663.2) Olopatadine;

(663.3) Olsalazine Sodium;

(663.4) Omega-3-acid;

(663.5) Omeprazole -- See exceptions;

(663.7) Ondansetron;

(663.75) Orlistat -- See exceptions;

(664) Orphenadrine;

(665) Orthiodobenzoic acid;

(665.5) Oseltamivir;

(665.7) Ovine hyaluronidase;

(666) Oxacillin;

(666.4) Oxaliplatin;

(666.6) Oxamniquine;

(667) Oxaprozin;

(667.5) Oxcarbazepine;

(668) Oxethazaine;

(668.5) Oxiconazole;

(669) Oxolinic acid;

(669.1) Oxprenolol;

(670) Oxtriphylline;

(671) Oxybutynin;

(672) Oxygen for human use -- See exceptions;

(673) Reserved;

(674) Oxyphenbutazone;

(675) Oxyphencyclimine;

(676) Oxyphenisatin;

(677) Oxyphenonium;

(678) Oxyquinoline;

(679) Oxytetracycline;

(680) Oxytocin;

(680.5) Ozogamicin;

(681) P-nitrosulfathiazole;

(681.3) Paclitaxel;

(681.4) Palifermin;

(681.45) Paliperidone;

(681.5) Palonosetron;

(681.7) Pamidronate;

(682) Pancreatin dornase;

(683) Pancreatic enzyme;

(684) Pancrelipase;

(685) Pancuronium;

(685.5) Panidronate;

(685.6) Panitumumab;

(685.7) Pantoprazole;

(686) Papaverine;

(687) Paramethadione;

(688) Paramethasone;

(689) Paranitrosulfathiazole;

(690) Parathyroid injection;

(691) Pargyline;

(691.5) Paricalcitol;

(692) Paromomycin;

(692.2) Paroxetine;

(692.4) Pegademase bovine;

(692.5) Pegaspargase;

(692.51) Pegfilgrastin;

(692.515) Peginterferon;

(692.52) Pegvisomant;

(692.54) Pemetrexed;

(692.55) Pemirolast;

(692.6) Penbutolol;

(692.8) Penciclovir;

(693) Penicillamine;  
(694) Penicillin;  
(695) Penicillin G;  
(696) Penicillin O;  
(697) Penicillin V;  
(698) Penicillinase;  
(699) Pentaerythritol tetranitrate;  
(700) Pentagastrin;  
(700.1) Pentamidine isethionate;  
(701) Pentapiperide;  
(701.5) Pentetate calcium trisodium;  
(701.7) Pentetate zinc trisodium;  
(702) Penthienate;  
(703) Pentolinium;  
(703.03) Pentosan;  
(703.05) Pentostatin;  
(703.1) Pentoxifylline;  
(703.4) Pentylenetetrazol;  
(703.45) Perflexane;  
(703.5) Perflubron;  
(703.6) Perfluoroalkylpolyether;  
(703.65) Perflutren;  
(703.7) Pergolide;

(704) Perindopril;

(704.1) Permethrin -- See exceptions;

(705) Perphenazine;

(706) Pertussis immune globulin, Human;

(707) Phenacetamide;

(708) Phenaglycodol;

(709) Phenaphthazine;

(710) Phenazopyridine -- See exceptions;

(711) Phenelzine;

(712) Phenethicillin;

(713) Phenformin;

(714) Phenindamine;

(715) Phenindione;

(716) Pheniramine -- See exceptions;

(717) Phenitramin;

(718) Phenothiazine derivatives;

(719) Phenoxybenzamine;

(720) Phenoxymethyl penicillin;

(721) Phenuprocoumon;

(722) Phensuximide;

(723) Phentolamine;

(724) Phenylbutazone;

(725) Phenylmercuric acetate;

(726) Phenylmercuric nitrate;

(726.5) Phenylpropanolamine;

(727) Phenyltoloxamine dihydrogen citrate;

(727.2) Phenytoin;

(728) Phthalylsulfacetamide;

(729) Phthalylsulfathiazole;

(730) Physostigmine;

(731) Phytonadione;

(731.1) Pimozide;

(732) Pilocarpine;

(732.3) Pinacidil;

(732.7) Pindolol;

(732.8) Pioglitazone;

(732.9) Pimecrolimus;

(733) Pipazethate;

(733.5) Pipecuronium;

(734) Pipenzolate;

(735) Piperacetazine;

(735.1) Piperacillin;

(736) Piperazine;

(737) Piperidolate;

(738) Piperocaine;

(739) Pipobraman;

(740) Pipradrol;

(740.05) Pirbuterol;

(740.1) Piroxicam;

(741) Plague vaccine;

(742) Plasma protein fraction;

(742.5) Plicamycin;

(743) Pneumococcal polyvalent vaccine;

(743.3) Podofilox;

(743.5) Podophyllotoxin;

(744) Poison ivy extract;

(745) Poison ivy oak extract;

(746) Poison ivy oak, sumac extract;

(747) Poldine methysulfate;

(748) Poliomyelitis vaccine;

(749) Poliovirus vaccine, Live, Oral, All;

(750) Polyestradiol;

(751) Polymyxin B -- See exceptions;

(751.5) Polytetrafluoroethylene;

(752) Polythiazide;

(752.2) Poractant alfa;

(752.5) Porfimer;

(752.7) Posaconazole;

(753) Posterior pituitary;

(754) Potassium acetate injection;

(755) Potassium acid phosphate -- See exceptions;

(756) Potassium p-aminobenzoate -- See exceptions;

(757) Potassium aminosalicylate -- See exceptions;

(758) Potassium arsenite -- See exceptions;

(759) Potassium bicarbonate -- See exceptions;

(760) Potassium carbonate -- See exceptions;

(761) Potassium chloride -- See exceptions;

(762) Potassium citrate -- See exceptions;

(763) Potassium gluconate -- See exceptions;

(764) Potassium hetacillin;

(765) Potassium iodide -- See exceptions;

(766) Reserved;

(767) Potassium permanganate -- See exceptions;

(768) Povidone -- Iodine -- See exceptions;

(769) Pralidoxime;

(769.2) Pramipexole;

(769.3) Pramlintide;

(769.4) Pravastatin;

(769.7) Praziquantel;

(770) Prazosin;

(770.5) Prednicarbate;

(771) Prednisolone;



(772) Prednisone;

(773) Prilocaine;

(774) Primaquine;

(775) Primidone;

(776) Probenecid;

(777) Probucol;

(778) Procainamide;

(779) Procaine;

(780) Procaine penicillin;

(781) Procaine penicillin G;

(782) Procarbazine;

(783) Prochlorperazine;

(784) Procyclidine;

(785) Progesterone;

(785.5) Proguanil;

(786) Promazine;

(787) Promethazine;

(788) Promethestrol;

(788.5) Propafenone;

(789) Propantheline;

(790) Proparacaine;

(791) Propenpyridamine -- See exceptions;

(792) Propiolactone;

(793) Propiomazine;

(793.5) Propofol;

(794) Propoxycaine;

(795) Propranolol;

(795.5) Propylhexedrine;

(796) Propylparaben;

(797) Propylthiouracil;

(798) Protamine sulfate injection;

(799) Protein hydrolysate injection;

(800) Protein, Foreign injection;

(801) Proteolytic enzyme;

(802) Protirelin;

(803) Protokylol;

(804) Protoveratrine A and B;

(805) Protriptyline;

(805.5) Prussian blue;

(806) Pseudoephedrine -- See exceptions;

(807) Pseudomonas polysaccharide complex;

(808) P-ureidobenzenearsonic acid;

(809) Purified protein derivatives of tuberculin;

(810) Pyrantel;

(811) Pyrazinamide;

(812) Pyrazolon;

(813) Pyridostigmine;

(814) Pyrimethamine;

(815) Pyrrobutamine;

(816) Pyrvinium;

(816.5) Quetiapine;

(817) Quinacrine;

(817.5) Quinapril;

(818) Quinestrol;

(819) Quinethazone;

(820) Quinidine;

(821) Quinine hydrochloride;

(822) Quinine and urea hydrochloride;

(822.3) Quinupristin;

(822.5) Rabeprazole;

(823) Rabies anti-serum;

(824) Rabies immune globulin, Human;

(825) Rabies vaccine;

(826) Radio-iodinated compounds;

(827) Radio-iodine;

(828) Radio-iron;

(829) Radioisotopes;

(830) Radiopaque media;

(831) Ragweed pollen extract;

(831.02) Raloxifene;

(831.04) Ramelteon;

(831.05) Ramipril;

(831.07) Ranibizumab;

(831.1) Ranitidine -- See exceptions;

(831.3) Ranolazine;

(831.5) Rapacuronium;

(831.7) Rasagiline;

(832) Rauwolfia serpentina;

(832.2) Reboparhamil;

(833) Rescinnamine;

(834) Reserpine;

(835) Reserpine alkaloids;

(836) Resorcinol monoacetate -- See exceptions;

(836.5) Retinoic acid, all-trans;

(837) Rhus toxicodendron antigen;

(838) Rh D immune globulin, Human;

(838.5) Ribavirin;

(839) Riboflavin -- See exceptions;

(840) Ricinoleic acid;

(840.5) Rifabutin;

(841) Reserved;

(842) Rifampin;

(842.1) Rifapentine;  
(842.15) Rifaximin;  
(842.2) Riluzole;  
(842.4) Rimantadine;  
(842.7) Rimexolone;  
(843) Ringer's injection;  
(843.2) Risedronate;  
(843.3) Risperidone;  
(843.7) Ritodrine;  
(843.8) Ritonavir;  
(843.82) Rituximab;  
(843.83) Rivastigmine;  
(843.9) Rizatriptan;  
(844) Rocky mountain spotted fever vaccine;  
(844.5) Rocuronium;  
(844.7) Rofecoxib;  
(845) Rolitetracycline;  
(845.3) Ropinirole;  
(845.5) Ropivacaine;  
(845.7) Rosiglitazone;  
(845.8) Rosuvastatin;  
(845.9) Rotavirus vaccine;  
(846) Rotoxamine;

(846.5) RSVIGIV;

(847) Rubella and mumps virus vaccine;

(848) Rubella virus vaccine;

(849) Rutin -- See exceptions;

(849.5) Sacrosidase;

(850) Salicylazosulfapyridine;

(850.5) Salmeterol;

(851) Salmonella typhosa, Killed;

(851.03) Samarium SM 153 lexidronam;

(851.04) Saneromazile;

(851.05) Saquinavir;

(851.1) Saralasin acetate;

(852) Scopolamine;

(852.1) Secretin;

(852.6) Selegiline;

(853) Selenium sulfide -- See exceptions;

(853.5) Selenomethionine;

(854) Senecio cineraria extract ophthalmic solution;

(855) Senega fluid extract;

(855.3) Seractide acetate;

(855.5) Sermorelin Acetate;

(855.6) Sertaconazole;

(855.7) Sertraline;

(855.74) Sevelamer;

(855.8) Sevoflurane;

(855.85) Sildenafil;

(856) Silver nitrate ophthalmic solutions or suspensions;

(857) Silver sulfadiazine cream;

(857.3) Simethicone coated cellulose suspension;

(857.5) Simvastatin;

(858) Sincalide;

(858.3) Sinecatechins;

(858.5) Sirolimus;

(858.7) Sitagliptin;

(859) Sitosterols;

(860) Solutions for injections, All;

(861) Smallpox vaccine;

(862) Sodium acetate injection;

(863) Sodium acetrizoate;

(864) Sodium ascorbate injection;

(865) Sodium biphosphate -- See exceptions;

(866) Sodium cacodylate;

(867) Sodium chloride injection;

(868) Sodium dehydrocholate;

(869) Sodium dextrothyroxine;

(870) Sodium estrone;

(871) Sodium fluorescein -- See exceptions;

(872) Sodium fluoride -- See exceptions;

(873) Sodium iothalamate;

(873.5) Sodium nitroprusside;

(873.7) Sodium phenylbutyrate;

(874) Sodium polystyrene sulfonate;

(875) Sodium propionated vaginal cream;

(876) Sodium sulfacetamide;

(877) Sodium sulfadiazine;

(878) Sodium sulfobromophthalein;

(879) Sodium sulfoxone;

(880) Sodium tetradecyl;

(880.5) Sodium thiosulfate;

(881) Sodium tyropanoate;

(881.05) Solifenacin;

(881.1) Somatrem;

(882) Somatropin;

(882.5) Sorafenib;

(883) Sorbus extract;

(883.5) Sotalol;

(883.8) Sparfloxacin;

(884) Sparteine;

(885) Spectinomycin;



(886) Spirapril;

(887) Spironolactone;

(888) Staphage lysate bacterial antigen;

(889) Staphylococcus and streptococcus vaccine;

(890) Staphylococcus toxoid;

(890.5) Stavudine;

(891) Stibophen;

(892) Stinging insect antigens -- Combined;

(893) Stockes expectorant;

(894) Stramonium;

(895) Streptococcus antigen;

(896) Streptokinase-streptodornase;

(897) Streptomycin;

(898) Strontium -- See exceptions;

(899) Strophanthin-G;

(900) Strychnine -- See exceptions;

(901) Succimer;

(902) Succinylcholine;

(903) Succinylsulfathiazole;

(903.1) Sucralfate;

(903.2) Sulconazole;

(904) Sulfabenzamide vaginal preparations;

(905) Sulfacetamide;

(906) Sulfachlorpyridazine;  
(907) Sulfacytine;  
(908) Sulfadiazine;  
(909) Sulfadimethoxine;  
(909.1) Sulfadoxine;  
(910) Sulfaethidole;  
(911) Sulfaguanidine;  
(912) Sulfamerazine;  
(913) Sulfameter;  
(914) Sulfamethazine;  
(915) Sulfamethizole;  
(916) Sulfamethoxazole;  
(917) Sulfamethoxypyridazine;  
(918) Sulfanilamide;  
(919) Sulfaphenazole;  
(920) Reserved;  
(921) Sulfapyridine;  
(922) Sulfasalazine;  
(922.5) Sulfathiazole;  
(923) Sulfapyrazone;  
(924) Sulfisomidine;  
(925) Sulfisoxazole;  
(926) Sulfur thioglycerol;

(927) Sulindac;  
(927.5) Sumatriptan;  
(927.7) Sunitinib;  
(928) Superinone;  
(928.1) Suprofen;  
(929) Sutilains;  
(930) Syrosingopine;  
(930.5) Tacrine;  
(930.7) Tacrolimus;  
(930.9) Tadalafil;  
(931) Tamoxifen;  
(931.1) Tamsulosin;  
(931.3) Tazarotene;  
(931.35) Tazobacam;  
(931.5) Technetium;  
(931.55) Tegaserod;  
(931.56) Telbivudine;  
(931.57) Telithromycin;  
(931.6) Telmisartan;  
(931.7) Temafloxacin;  
(931.75) Temozolomide;  
(931.8) Teniposide;  
(931.85) Terazosin;

(931.9) Tenofovir;

(931.95) Terbinafine -- See exceptions;

(932) Terbutaline;

(932.05) Terconazole;

(932.1) Terfenadine;

(932.3) Teriparatide;

(933) Terpin hydrate with codeine;

(934) Reserved;

(935) Reserved;

(936) Tetanus and diphtheria toxoids;

(937) Tetanus antitoxin;

(938) Tetanus immune globulin;

(939) Tetanus toxoids;

(940) Tetracaine;

(941) Tetracycline;

(942) Tetraethylammonium chloride;

(943) Tetrahydrozoline -- See exceptions;

(943.5) Thalidomide;

(944) Thallous chloride;

(945) Theobromide;

(945.5) Theobromine;

(946) Theobromine magnesium oleate;

(947) Theophylline -- See exceptions;

(948) Theophylline sodium glycinate;

(949) Thiabendazole;

(950) Thiamylal;

(951) Thiethylperazine;

(952) Thiopropazate;

(953) Thioguanine;

(954) Thioridazine;

(955) Thiosalicylate;

(956) Thiotepa;

(957) Thiothixene;

(958) Thiphenamil;

(959) Thrombin;

(960) Thyroglobulin;

(961) Thyroid;

(962) Thyrotropin;

(963) Thyroxine;

(964) Thyroxine fraction;

(964.5) Tiagabine;

(965) Ticarcillin;

(965.5) Ticlopidine;

(966) Ticrynafen;

(966.3) Tigecycline;

(966.6) Tiludronate;

(967) Timolol;

(967.1) Tinidazole;

(967.2) Tinzaparin;

(967.3) Tioconazole -- See exceptions;

(967.5) Tiopronin;

(967.55) Tiotropium;

(967.57) Tipranavir;

(967.6) Tirofiban;

(967.7) Tizanidine;

(968) Tobramycin;

(968.1) Tocainide;

(969) Tocamphyl;

(970) Tolazamide;

(971) Tolazoline;

(972) Tolbutamide;

(972.5) Tolcapone;

(973) Tolmetin;

(973.05) Tolterodine;

(973.1) Topiramate;

(973.3) Topotecan;

(973.4) Toremifene;

(973.5) Toremide;

(973.7) Tramadol;

(973.8) Trandolapril;

(973.9) Tranexamic acid;

(974) Tranylcypromine;

(974.4) Travoprost;

(974.5) Trazodone;

(974.7) Treprostinil;

(975) Tretinoin;

(976) Triamcinolone;

(977) Triamterene;

(978) Trichlormethiazide;

(979) Trichloroacetic acid -- See exceptions;

(980) Trichloroethylene -- See exceptions;

(981) Trichlobisonium;

(982) Triclofos;

(983) Tridihexethyl chloride;

(983.1) Trientine;

(984) Triethanolamine polypeptides;

(985) Triethylenethiophosphoramidate;

(986) Trifluoperazine;

(987) Triflupromazine;

(988) Trifluridine;

(989) Trihexyphenidyl;

(990) Triiodothyronine;

(990.1) Trilostane;

(991) Trimeprazine;

(992) Trimethadione;

(993) Trimethaphan cansylate;

(994) Trimethobenzamide;

(995) Trimethoprim;

(995.5) Trimetrexate;

(996) Trimipramine;

(997) Triolein;

(998) Trioxsalen;

(999) Tripeleennamine -- See exceptions;

(1000) Triphenyltetrazolium;

(1001) Triple sulfas;

(1002) Triprolidine -- See exceptions;

(1002.5) Triptorelin;

(1003) Trisulfapyrimidines;

(1003.5) Troglitazone;

(1004) Troleandomycin;

(1005) Trolnitrate;

(1006) Tromethamine;

(1007) Tropicamide;

(1007.3) Trospium;

(1007.5) Trovafloxacin;



(1008) Trypsin;

(1009) Trypsin-chymotrypsin;

(1010) Tuaminoheptane;

(1011) Tuberculin, Purified protein derivatives;

(1012) Tuberculin tine test;

(1013) Tuberculin, Old;

(1014) Tubocurarine;

(1015) Tybamate;

(1016) Typhoid and paratyphoid vaccine;

(1017) Typhus vaccine;

(1018) Tyropanoate;

(1019) Undecoylium;

(1019.5) Unoprostone;

(1020) Uracil;

(1021) Urea -- See exceptions;

(1021.3) Urofollitropin;

(1021.5) Ursodiol;

(1021.7) Valacyclovir;

(1021.8) Valdecoxib;

(1022) Valethamate;

(1022.2) Valganciclovir;

(1023) Valproate;

(1024) Valproic acid -- See exceptions;

(1024.3) Valrubicin;  
(1024.5) Valsartan;  
(1025) Vancomycin;  
(1025.5) Vardenafil;  
(1025.7) Varenicline;  
(1026) Vasopressin;  
(1027) VDRL antigen;  
(1027.1) Vecuronium bromide;  
(1027.5) Velnacrine;  
(1027.6) Venlafaxine;  
(1027.7) Verapamil;  
(1028) Veratrum viride;  
(1029) Versenate;  
(1029.5) Verteporfin;  
(1030) Vidarabine;  
(1031) Vinblastine;  
(1032) Vincristine;  
(1032.5) Vinorelbine;  
(1033) Vinyl ethyl -- See exceptions;  
(1034) Viomycin;  
(1035) Vitamin K;  
(1036) Vitamin B12 injection;  
(1037) Vitamine with fluoride;

- (1037.5) Voriconazole;
- (1037.7) Vorinostat;
- (1038) Warfarin;
- (1039) Wargarin;
- (1039.1) Xylocaine;
- (1040) Yellow fever vaccine;
- (1041) Yohimbine;
- (1042) 4-chloro-3, 5-xlenol -- See exceptions;
- (1042.01) Zafirlukast;
- (1042.02) Zalcitabine;
- (1042.03) Zanamivir;
- (1042.05) Zidovudine;
- (1042.4) Zileuton;
- (1042.7) Zinc acetate -- See exceptions;
- (1042.75) Ziprasidone;
- (1042.8) Zoledronic Acid;
- (1042.9) Zolmitriptan;
- (1042.92) Zonisamide;
- (1043) Devices that require a prescription:

(A) Cellulose, Oxadized, Regenerated (surgical absorbable hemostat) -- See exceptions;

(B) Diaphragms for vaginal use;

(C) Hemodialysis solutions;

(D) Hemodialysis kits;

- (E) Lippes loop intrauterine;
- (F) Saf-T-Coil intrauterine device;
- (G) Intrauterine devices, All;
- (H) Absorbable hemostat;
- (I) Gonorrhea test kit.

(c) The following are exceptions to and exemptions from subsection (b) of this Code section:

- (1) Atropine sulfate -- where the oral dose is less than 1/200 gr. per unit;
- (2) Bacitracin cream or ointment for topical use;
- (3) Belladonna or belladonna alkaloids when in combination with other drugs and the dosage unit is less than 0.1 mg. of the alkaloids or its equivalent;
- (3.5) Bantoquatam--when used with a strength of 5 percent or less in topical preparations;
- (4) Beta carotene -- all forms occurring in food products or lotions;
- (5) Bromelain, pancreatic enzymes, trypsin and bile extract -- when labeled properly as digestive aids with appropriate dosage and in compliance with FDA labeling and restrictions;
- (6) Brompheniramine -- where a single dosage unit is 4 mg. or less but with no more than 3 mg. of the dextrorotary optical isomer of racemic brompheniramine per released dose;
- (6.2) Butenafine -- when used with a strength of 1 percent or less as a topical preparation;
- (6.4) Butoconazole -- when used with a strength up to 2 percent in a vaginal preparation;
- (6.7) Chlorhexadine -- when used with a strength up to 4 percent in a topical skin product;
- (7) Chlorpheniramine -- where a single dosage unit is 12 mg. or less;
- (7.1) Cimetidine -- when a single dosage unit is 200 mg. or less;

- (7.3) Clemastine -- where a single dose is 1.34 mg. or less;
- (7.5) Clotrimazole -- when a single vaginal insert is 200 mg. or less or with a strength up to 2 percent in a topical skin, topical vaginal, or vaginal product;
- (7.8) Cromolyn -- when used as cromolyn sodium in a nasal solution of 4 percent or less in strength;
- (7.9) Dexbrompheniramine--when a single dosage unit is 6 mg. or less;
- (8) Diphenhydramine -- up to 12.5 mg. in each 5 cc's when used in cough preparations and up to 50 mg. per single dose when used as a nighttime sleep aid or used as an antihistamine and labeled in compliance with FDA requirements;
- (8.5) Docosanol -- when used in 10 percent topical preparation to treat fever blisters, cold sores, or fever blisters and cold sores.
- (9) Doxylamine succinate -- where a single dosage form is 25 mg. or less and when labeled to be used as a nighttime sedative;
- (9.3) Edetate -- when used in any form other than an oral or parenteral;
- (9.5) Famotidine -- when a single dosage unit is 20 mg. or less;
- (9.7) Fluoride -- when used with a strength up to 1,500 parts per million in an oral care or dentifrice product;
- (9.8) Glycine -- when used with a strength up to 1.5 percent in an irrigation solution, when used in a topical skin product;
- (10) Hydrocortisone topical skin preparations up to 1.0 percent in strength;
- (11) Hydroxocobalamin, riboflavin, niacinamide, ergocalciferol (maximum of 400 I.U. per day), Folic acid (maximum of 0.4 mg. per day), and magnesium gluconate -- when as a source of vitamins and dietary supplement but must bear such labels and adhere to such restrictions of FDA regulations;
- (11.1) Ibuprofen -- where a single dose is 200 mg. or less;
- (11.6) Reserved;
- (12) Insulin -- all injectable products which do not require a prescription drug order and bear a label which indicates "Rx Use Only" or are otherwise listed under subsection (b) of this Code section; and no injectable insulin product may be sold except by a pharmacy issued a permit by the State Board of Pharmacy or by a medical practitioner authorized to

dispense medications;

(12.3) Ketoconazole--when used with a strength of 1 percent or less in topical preparations;

(12.5) Ketoprofen -- when a single dosage unit is 12.5 mg. or less;

(12.7) Ketotifen -- when used with a strength of 0.025 percent or less in an ophthalmic solution;

(13) Lidocaine topical ointment, 25 mg./gm. or less;

(13.5) Loperamide -- where a single dose is either 1 mg. per 5 ml. or 2 mg. per dosage unit;

(13.7) Loratadine -- when used in a single dose of 10 mg. or less, including doses used in combination with other drugs provided for under this subsection;

(14) Meclizine -- 25 mg. or less;

(14.1) Miconazole -- when used as antifungal powder or cream, or both, and containing not more than 4 percent of miconazole, or when used as a vaginal insert and containing not more than 1,200 mg. of miconazole;

(14.2) Minoxidil -- when used with a strength of 5 percent or less in topical preparations;

(14.3) Naphazoline -- when used in an ophthalmic solution in a concentration of 0.027 percent or less in combination with a pheniramine concentration of 0.315 percent or less;

(14.5) Naproxen -- where a single dosage unit is 220 mg. or less;

(15) Neomycin sulfate ointment or cream for topical use;

(15.5) Nicotine resin complex (polacrilex) -- when used as oral chewing gum where a single dose (piece of gum) is 4 mg. or less;

(15.55) Nicotine transdermal system -- when used in a strength of 21 mg. or less per transdermal patch (transdermal delivery system);

(16) Nitrous oxide -- air products suppliers shall not sell medical grade nitrous oxide to other than licensed practitioners or medical suppliers; industrial grade nitrous oxide shall only be sold when mixed with not less than 100 parts per million of sulfur dioxide and used as a fuel additive for combustion engines or when used in industrial laboratory equipment;

- (16.3) Nizatidine -- when a single dosage unit is 75 mg. or less;
- (16.8) Nonoxynol -- when used with a strength up to 12.5 percent or 1 gram per dose in a vaginal product;
- (16.9) Omeprazole -- when a single dosage unit is 20.6 mg. or less;
- (16.95) Orlistat -- when a single dosage unit is 60 mg. or less;
- (17) Oxygen -- compressed oxygen which is not labeled "CAUTION: Federal law prohibits dispensing without prescription" or similar wording;
- (17.3) Permethrin -- when used as a topical preparation in a strength of 1 percent or less;
- (17.5) Phenazopyridine -- where a single dose is 100 mg. or less, as approved by the federal Food and Drug Administration;
- (18) Pheniramine -- when the oral dose is 25 mg. or less, or when used in an ophthalmic solution in a concentration of 0.315 percent or less in combination with a naphazoline concentration of 0.027 percent or less;
- (19) Polymyxin B when in combination with other drugs in an ointment or cream for topical use;
- (20) Any potassium electrolyte when manufactured for use as a dietary supplement, food additive for industrial, scientific, or commercial use, or when added to other drug products when the product is not intended as a potassium supplement but must bear such labels and adhere to such restrictions of FDA regulations;
- (21) Povidone -- Iodine solutions and suspensions;
- (22) Reserved;
- (23) Pseudoephedrine -- when a single dosage unit is 60 mg. or less or when manufactured in an extended release form with a dosage unit of 240 mg. or less;
- (23.5) Ranitidine -- when a single dosage unit is 150 mg. or less;
- (24) Rutin -- where the dosage unit is less than 60 mg.;
- (25) Selenium sulfide suspension 1 percent or less in strength;
- (25.1) Strychnine -- when used in combination with other active ingredients in a rodent killer, and when not bearing a label containing the words "CAUTION: Federal law prohibits dispensing without prescription" or other similar wording;

(25.5) Terbinafine -- when used with a strength of 1 percent or less in a topical antifungal cream;

(26) Tetrahydrozoline for ophthalmic or topical use;

(27) Theophylline preparations alone or in combination with other drugs prepared for and approved for OTC (over the counter) sale by FDA; example -- tedral tablets (plain) or oral suspension;

(27.5) Tioconazole -- when used with a strength of 1 percent or less in topical preparations or when used with a strength of 6.5 percent or less in vaginal preparations;

(28) Tripeleminamine cream or ointment for topical use;

(28.5) Tripolidine -- when a single dose is 5 mg. or less when combined in the same preparation as one or more other drug products for use as an antihistamine or decongestant or an antihistamine and decongestant;

(29) Urea -- except when the manufacturer's label contains the wording "CAUTION: Federal law prohibits dispensing without prescription" or similar wording;

(29.5) Zinc acetate -- when used in topical preparations;

(30) Any drug approved by FDA for animal use and the package does not bear the statement "CAUTION: Federal law prohibits dispensing without prescription" or similar wording; or

(31) Loperamide Oral Liquid (1.00 mg/5.00 ml).

(d) The following list of compounds or preparations may be purchased without a prescription, provided the products are manufactured for industrial, scientific, or commercial sale or use, unless they are intended for human use or contain on the label "CAUTION: Federal law prohibits dispensing without prescription" or similar wording:

(1) Aminosalicylate;

(2) Aminosalicylate calcium;

(3) Aminosalicylate potassium;

(4) Aminosalicylate sodium;

(5) Aminosalicylic acid;

(6) Barium;



- (7) Beta-carotene;
- (8) Bismuth sodium tartrate;
- (9) Cadmium sulfide;
- (10) Calcium disodium edetate;
- (11) Cellulose, Oxadized, Regenerated;
- (12) Chlorabutanol;
- (13) Chloranil;
- (14) Chloroacetic acid;
- (15) Chloroform;
- (16) Colchicine;
- (17) Dapsone;
- (18) Dimethyl sulfoxide;
- (19) Disodium edetate;
- (20) Edetate disodium;
- (21) Ether;
- (22) Ethoxazene;
- (23) Ethyl chloride;
- (24) Fluoride;
- (25) Formaldehyde;
- (26) Gold thiosulfate;
- (27) Hexachlorophene;
- (28) Iodobenzoic acid;
- (29) Iopanoic acid;

- (30) Lindane;
- (31) Lithium carbonate;
- (32) Mandelic acid;
- (33) Mannitol;
- (34) Mercury bichloride;
- (35) Nitroprusside;
- (36) Potassium aminosalicylate;
- (37) Potassium p-aminobenzoate;
- (37.5) Potassium perchlorate;
- (38) Potassium permanganate;
- (39) Resorcinol monoacetate;
- (40) Selenium sulfide;
- (41) Sodium biphosphate;
- (42) Sodium fluorescein;
- (43) Sodium fluoride;
- (44) Strontium;
- (45) Trichloroacetic acid;
- (46) Trichloroethylene;
- (47) Valproic acid;
- (48) Vinyl ether;
- (49) 4-chloro-3, 5-xilenol.

(e) The State Board of Pharmacy may delete drugs from the dangerous drug list set forth in this Code section. In making such deletions the board shall consider, with respect to each drug, the following factors:

- (1) The actual or relative potential for abuse;
- (2) The scientific evidence of its pharmacological effect, if known;
- (3) The state of current scientific knowledge regarding the drug;
- (4) The history and current pattern of abuse, if any;
- (5) The scope, duration, and significance of abuse;
- (6) Reserved;
- (7) The potential of the drug to produce psychic or physiological dependence liability;  
and
- (8) Whether such drug is included under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C. Section 301, et seq., as amended.

**HISTORY:** Code 1933, § 79A-702, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1972, p. 948, § 1; Ga. L. 1976, p. 631, § 1; Ga. L. 1978, p. 1668, § 5; Ga. L. 1979, p. 859, § 3; Ga. L. 1980, p. 1746, § 2; Ga. L. 1981, p. 557, § 2; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 3-8, 20; Ga. L. 1983, p. 3, § 13; Ga. L. 1983, p. 349, §§ 3-6; Ga. L. 1984, p. 22, § 16; Ga. L. 1984, p. 1019, §§ 3-5; Ga. L. 1985, p. 1219, §§ 8, 9; Ga. L. 1986, p. 1555, §§ 6, 7; Ga. L. 1987, p. 261, § 7; Ga. L. 1989, p. 233, §§ 7, 8; Ga. L. 1990, p. 640, §§ 2, 3; Ga. L. 1991, p. 312, § 2; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 1131, §§ 5-7; Ga. L. 1993, p. 590, §§ 4-7; Ga. L. 1994, p. 169, §§ 6, 7; Ga. L. 1994, p. 849, § 1; Ga. L. 1996, p. 356, §§ 3-5; Ga. L. 1997, p. 1311, §§ 6-10; Ga. L. 1998, p. 778, §§ 3-6; Ga. L. 1999, p. 81, § 16; Ga. L. 1999, p. 643, §§ 2-5; Ga. L. 2000, p. 1317, §§ 4-6; Ga. L. 2001, p. 816, §§ 4-6; Ga. L. 2003, p. 349, §§ 8-11; Ga. L. 2004, p. 488, §§ 4-7; Ga. L. 2005, p. 1028, §§ 2, 3/SB 89; Ga. L. 2006, p. 219, §§ 3-5/HB 1054; Ga. L. 2007, p. 47, § 16/SB 103; Ga. L. 2007, p. 605, §§ 3-5/HB 286.

§ 16-13-71.1. "Anabolic steroid" defined

Repealed by Ga. L. 1991, p. 312, § 3, effective April 4, 1991.

§ 16-13-72. Sale, distribution, or possession of dangerous drugs

Except as provided for in this article, it shall be unlawful for any person, firm, corporation, or association to sell, give away, barter, exchange, distribute, or possess in this state any dangerous drug, except under the following conditions:

- (1) A drug manufacturer, wholesaler, distributor, or supplier holding a license or registration issued in accordance with the Federal Food, Drug, and Cosmetic Act and authorizing the holder to possess dangerous drugs may possess dangerous drugs within this state but may not distribute, sell, exchange, give away, or by any other means supply dangerous drugs without a permit issued by the State Board of Pharmacy. Any drug manufacturer, wholesaler, distributor, or supplier holding a permit issued by the State Board of Pharmacy may sell, give away, exchange, or distribute dangerous drugs within

this state, but only to a pharmacy, pharmacist, a practitioner of the healing arts, and educational institutions licensed by the state, or to a drug wholesaler, distributor, or supplier, and only if such distribution is made in the normal course of employment;

(2) A pharmacy may possess dangerous drugs, but the same shall not be sold, given away, bartered, exchanged, or distributed except by a licensed pharmacist in accordance with this article;

(3) A pharmacist may possess dangerous drugs but may sell, give away, barter, exchange, or distribute the same only when he compounds or dispenses the same upon the prescription of a practitioner of the healing arts. No such prescription shall be refilled except upon the authorization of the practitioner who prescribed it;

(4) A practitioner of the healing arts may possess dangerous drugs and may sell, give away, barter, exchange, or distribute the same in accordance with Code Section 16-13-74;

(4.1) A physician in conformity with Code Section 43-34-26.1 may delegate to a nurse or a physician's assistant the authority to possess vaccines and such other drugs as specified by the physician for adverse reactions to those vaccines, and a nurse or physician's assistant may possess such drugs pursuant to that delegation; provided, however, that nothing in this paragraph shall be construed to restrict any authority of nurses or physician's assistants existing under other provisions of law;

(4.2) A registered professional nurse licensed under Article 1 of Chapter 26 of Title 43 who is employed or engaged by a licensed home health agency may possess sterile saline, sterile water, and diluted heparin for use as intravenous maintenance for use in a home health setting, and such nurse may administer such items to patients of the home health agency upon the order of a licensed physician. The State Board of Pharmacy shall be authorized to adopt regulations governing the storage, quantity, use, and administration of such items; provided, however, nothing in this paragraph or in such regulations shall be construed to restrict any authority of nurses existing under other provisions of law;

(5) A manufacturer's sales representative may distribute a dangerous drug as a complimentary sample only upon the written request of a practitioner. The request must be made for each distribution and shall contain the names and addresses of the supplier and the requestor and the name and quantity of the specific dangerous drug requested. The written request shall be preserved by the manufacturer for a period of two years; and

(6) Such person, firm, corporation, or association shall keep a complete and accurate record of all dangerous drugs received, purchased, manufactured, sold, dispensed, or otherwise disposed of and shall maintain such records for at least two years or in conformance with any other state or federal law or rule issued by the Georgia State Board of Pharmacy.

**HISTORY:** Code 1933, § 79A-703, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1972, p. 948, § 2; Ga. L. 1975, p. 690, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1996, p. 356, § 6; Ga. L. 1998, p. 219, § 1; Ga. L. 1999, p. 643, § 5.2; Ga. L. 2003, p. 140, § 16.

§ 16-13-72.1. Revocation of dangerous drug permit; forfeiture

(a) A permit issued by the State Board of Pharmacy under paragraph (1) of Code Section 16-13-72 may be suspended or revoked by the State Board of Pharmacy upon a finding that the drug manufacturer, wholesaler, distributor, or supplier:

(1) Has furnished false or fraudulent material information in any application filed under this article;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance or has been convicted of a felony or misdemeanor under any state or federal law relating to any dangerous drug;

(3) Has violated any provision of this article or the rules and regulations promulgated under this article; or

(4) Has failed to maintain sufficient controls against diversion of dangerous drugs into other than legitimate medical, scientific, or industrial channels.

(b) The State Board of Pharmacy may limit revocation or suspension of a permit to the particular dangerous drug with respect to which grounds for revocation or suspension exist.

(c) Instead of suspending or revoking a permit as authorized by subsection (a) or (b) of this Code section, the State Board of Pharmacy may impose a fine in an amount not to exceed \$1,500.00.

(d) If the State Board of Pharmacy suspends or revokes a permit, all dangerous drugs owned or possessed by the permittee at the time of suspension or the effective date of the revocation order shall be placed under seal. No disposition may be made of drugs under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable drugs and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all dangerous drugs shall be forfeited to the state.

**HISTORY:** Code 1981, § 16-13-72.1, enacted by Ga. L. 1986, p. 421, § 1; Ga. L. 1999, p. 81, § 16.

§ 16-13-73. Labeling prescription containers of dangerous drugs

(a) Whenever a pharmacist dispenses a dangerous drug, he shall, in each case, place upon the container the following information:

(1) Name of the patient;

(2) Name of the physician prescribing the drug;

- (3) The expiration date, if any, of the drug;
- (4) Name and address of the pharmacy from which the drug was dispensed; and
- (5) The date of the prescription.

(b) Any pharmacist who dispenses a dangerous drug and fails to place the label required by subsection (a) of this Code section upon the container of such drug shall be guilty of a misdemeanor.

**HISTORY:** Ga. L. 1939, p. 288, § 3; Code 1933, §§ 79A-705, 79A-9908, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1971, p. 406, § 1; Ga. L. 1989, p. 14, § 16.

§ 16-13-74. Written prescriptions for dangerous drugs; content; signature

(a) All written prescription drug orders for dangerous drugs shall be dated as of, and be signed on, the date when issued and shall bear the name and address of the patient, together with the name and strength of the drug, the quantity to be dispensed, complete directions for administration, the printed name, address, and telephone number of the practitioner, and the number of permitted refills. A prescription drug order for a dangerous drug is not required to bear the DEA permit number of the prescribing practitioner. A prescription drug order for a dangerous drug may be prepared by the practitioner or the practitioner's agent. The practitioner's signature must appear on each prescription prepared by the practitioner or the practitioner's agent and the nature of the practitioner's signature must meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the State Board of Pharmacy, or both such guidelines and regulations. Any practitioner who shall dispense dangerous drugs shall comply with the provisions of Code Section 16-13-73.

(b) Any practitioner of the healing arts who fails to comply with subsection (a) of this Code section shall be guilty of a misdemeanor.

**HISTORY:** Ga. L. 1939, p. 288, § 4; Code 1933, §§ 79A-706, 79A-9909, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1982, p. 2403, §§ 9, 21; Ga. L. 2003, p. 349, § 12.

§ 16-13-75. Drugs to be kept in original container

Possession and control of controlled substances or dangerous drugs by anyone other than the individuals specified in Code Section 16-13-35 or 16-13-72 shall be legal only if such drugs are in the original container in which they were dispensed by the pharmacist or the practitioner of the healing arts and are labeled according to Code Section 26-3-8.

**HISTORY:** Ga. L. 1939, p. 288, § 5; Code 1933, § 79A-707, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1996, p. 356, § 7.

§ 16-13-76. Use of fictitious name or false address when obtaining drugs

No person shall obtain or attempt to obtain any dangerous drug by use of a fictitious name or by the giving of a false address.

**HISTORY:** Ga. L. 1939, p. 288, § 5; Code 1933, § 79A-708, enacted by Ga. L. 1967, p. 296, § 1.

§ 16-13-77. Applicability of article to practitioner of the healing arts

Nothing in this article shall be construed to prohibit the administration of dangerous drugs by or under the direction of a practitioner of the healing arts.

**HISTORY:** Code 1933, § 79A-704, enacted by Ga. L. 1967, p. 296, § 1.

§ 16-13-78. Obtaining or attempting to obtain dangerous drugs by fraud, forgery, or concealment of material fact

(a) No person shall obtain or attempt to obtain any dangerous drug or attempt to procure the administration of any such drug by:

- (1) Fraud, deceit, misrepresentation, or subterfuge;
- (2) The forgery or alteration of any prescription or of any written order;
- (3) The concealment of a material fact; or
- (4) The use of a false name or the giving of a false address.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

(c) Nothing in this Code section shall apply to drug manufacturers or their agents or employees when such manufacturers or their agents or employees are authorized to engage in and are actually engaged in investigative activities directed toward the safeguarding of the manufacturer's trademark.

**HISTORY:** Code 1933, § 79A-9910, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1970, p. 461, § 1.

§ 16-13-78.1. Prescribing or ordering dangerous drugs

(a) No person shall prescribe or order the dispensing of a dangerous drug, except a registered practitioner who is:

- (1) Licensed or otherwise authorized by this state to prescribe dangerous drugs;
- (2) Acting in the usual course of his professional practice; and
- (3) Prescribing or ordering such dangerous drug for a legitimate medical purpose.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

**HISTORY:** Code 1981, § 16-13-78.1, enacted by Ga. L. 1985, p. 1219, § 10.

§ 16-13-78.2. Possession, manufacture, delivery, distribution, or sale of counterfeit substances

Except as authorized by this article, it is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, sell, or possess with intent to distribute a counterfeit substance. Any person who violates this Code section shall be guilty of a misdemeanor.

**HISTORY:** Code 1981, § 16-13-78.2, enacted by Ga. L. 1985, p. 1219, § 11.

§ 16-13-79. Violations

(a) Except as provided in subsections (b), (c), and (d) of this Code section, any person who violates this article shall be guilty of a misdemeanor.

(b) Any person who distributes or possesses with the intent to distribute nitrous oxide for any use other than for a medical treatment prescribed by the order of a licensed medical practitioner, except as provided for by paragraph (16) of subsection (c) of Code Section 16-13-71, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one year nor more than three years or by a fine not to exceed \$5,000.00 or both.

(c) Any person who distributes or possesses with the intent to distribute to any person under 18 years of age nitrous oxide for any use other than for a medical treatment prescribed by the order of a licensed medical practitioner, except as provided for by paragraph (16) of subsection (c) of Code Section 16-13-71, shall be guilty of a felony and upon conviction thereof shall be punished for not less than two years nor more than six years or by a fine not to exceed \$10,000.00 or both.

**HISTORY:** Code 1933, § 79A-9907, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1989, p. 238, § 2; Ga. L. 1991, p. 312, § 4; Ga. L. 1996, p. 356, § 8; Ga. L. 1998, p. 778, § 7.

#### ARTICLE 4. SALE, POSSESSION, TRANSFER, OR INHALATION OF MODEL GLUE

§ 16-13-90. "Model glue" defined

As used in this article, the term "model glue" means any glue, cement, solvent, or chemical substance containing one or more of the following chemicals: acetone, amyl chloride (iso- and tertiary), benzene, carbon disulfide, carbon tetrachloride, chloroform, ether, ethyl acetate, ethyl alcohol, ethylene dichloride, isopropyl acetate, isopropyl



alcohol, isopropyl ether, methyl acetate, methyl alcohol, propylene dichloride, propylene oxide, trichlorethylene, amyl acetate, amyl alcohol, butyl acetate, butyl alcohol, butyl ether, diethylcarbonate, diethylene oxide (dioxane), dipropyl ketone, ethyl butyrate, ethylene glycol monoethyl ether (cellosolve), ethylene glycol monomethyl ether acetate (methyl cellosolve acetate), isobutyl alcohol, methyl amyl acetate, methyl amyl alcohol, methyl isobutyl ketone, or toluene.

**HISTORY:** Ga. L. 1968, p. 1194, § 2; Ga. L. 1983, p. 3, § 13.

§ 16-13-91. Intentional inhalation of model glue; application of article to anesthesia

No person shall, for the purpose of causing a condition of intoxication, stupefaction, euphoria, excitement, exhilaration, or dulling of the senses or nervous system, intentionally smell or inhale the fumes from any model glue, provided that this Code section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

**HISTORY:** Ga. L. 1968, p. 1194, § 1

§ 16-13-92. Possession, sale, or transfer of model glue

No person shall intentionally possess, buy, sell, transfer possession, or receive possession of any model glue for the purpose of violating or aiding another person to violate this article.

**HISTORY:** Ga. L. 1968, p. 1194, § 3.

§ 16-13-93. Sale or transfer of model glue to minors

No person shall sell or transfer possession of any model glue to another person under 18 years of age, nor shall any person under 18 years of age possess or buy any model glue unless the purchase is for model building or other lawful use and the person under 18 years of age has in his possession and exhibits to the seller or transferor the written consent of his parent or legal guardian to make such purchase or take possession of the model glue, provided any minor who shall transfer possession of model glue to another minor for model building or other lawful purpose shall not be held criminally liable for failing to require exhibition of the written consent of the transferee-minor's parents or for failing to keep same available for inspection by law enforcement officials.

**HISTORY:** Ga. L. 1968, p. 1194, § 4.

§ 16-13-94. Maintenance of records of sales to minors

The person making a sale or transfer of possession of model glue to a person under 18 years of age must require the purchaser to exhibit the written consent of his parent or guardian and the name and address of the consenting parent or guardian. All data required by this Code section shall be kept available by the seller for inspection by law enforcement officials for a period of six months.

**HISTORY:** Ga. L. 1968, p. 1194, § 5.

§ 16-13-95. Effect of article on laws or ordinances of counties and municipalities

No provisions in this article shall be construed to repeal or limit laws or ordinances of the governing authority of any county or municipality regulating, restricting, or prohibiting the sale of model glue to any person under the age of 18, nor shall this article restrict the governing authority of any county or municipality from enacting ordinances or regulations governing the regulation of model glue not inconsistent with this article.

**HISTORY:** Ga. L. 1968, p. 1194, § 7.

§ 16-13-96. Penalty for violation of article; separate offenses

Any person who violates this article shall be guilty of a misdemeanor. Each violation of this article shall be deemed a separate and distinct offense.

**HISTORY:** Ga. L. 1968, p. 1194, § 6.

**ARTICLE 5. SANCTIONS AGAINST LICENSED PERSONS FOR OFFENSES INVOLVING CONTROLLED SUBSTANCES OR MARIJUANA**

§ 16-13-110. Definitions

(a) As used in this article, the term:

(1) "Controlled substance" means any drug, substance, or immediate precursor included in the definition of the term "controlled substance" in paragraph (4) of Code Section 16-13-21.

(2) "Convicted" or "conviction" refers to a final conviction in a court of competent jurisdiction, or the acceptance of a plea of guilty or nolo contendere or affording of first offender treatment by a court of competent jurisdiction.

(3) "Licensed individual" means any individual to whom any department, agency, board, bureau, or other entity of state government has issued any license, permit, registration, certification, or other authorization to conduct a licensed occupation.

(4) "Licensed occupation" means any occupation, profession, business, trade, or other commercial activity which requires for its lawful conduct the issuance to an individual of any license, permit, registration, certification, or other authorization by any department, agency, board, bureau, or other entity of state government.

(5) "Licensing authority" means any department, agency, board, bureau, or other entity of state government which issues to individuals any license, permit, registration, certification, or other authorization to conduct a licensed occupation.

(6) "Marijuana" means any substance included in the definition of the term "marijuana" in paragraph (16) of Code Section 16-13-21.

(b) Without limiting the generality of the provisions of subsection (a) of this Code section, the practice of law shall constitute a licensed occupation for purposes of this article and the Supreme Court of Georgia shall be the licensing authority for the practice of law.

**HISTORY:** Code 1981, § 16-13-110, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-111. Notification of conviction of licensed individual to licensing authority; reinstatement of license; imposition of more stringent sanctions

(a) Any licensed individual who is convicted under the laws of this state, the United States, or any other state of any criminal offense involving the manufacture, distribution, trafficking, sale, or possession of a controlled substance or marijuana shall notify the appropriate licensing authority of the conviction within ten days following the conviction.

(b) Upon being notified of a conviction of a licensed individual, the appropriate licensing authority shall suspend or revoke the license, permit, registration, certification, or other authorization to conduct a licensed occupation of such individual as follows:

(1) Upon the first conviction, the licensed individual shall have his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation suspended for a period of not less than three months; provided, however, that in the case of a first conviction for a misdemeanor the licensing authority shall be authorized to impose a lesser sanction or no sanction upon the licensed individual; and

(2) Upon the second or subsequent conviction, the licensed individual shall have his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation revoked.

(c) The failure of a licensed individual to notify the appropriate licensing authority of a conviction as required in subsection (a) of this Code section shall be considered grounds for revocation of his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation.

(d) A licensed individual sanctioned under subsection (b) or (c) of this Code section may be entitled to reinstatement of his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation upon successful completion of a drug abuse treatment and education program approved by the licensing authority.

(e) The suspension and revocation sanctions prescribed in this Code section are intended as minimum sanctions, and nothing in this Code section shall be construed to prohibit any licensing authority from establishing and implementing additional or more stringent sanctions for criminal offenses and other conduct involving the unlawful manufacture,

distribution, trafficking, sale, or possession of a controlled substance or marijuana.

**HISTORY:** Code 1981, § 16-13-111, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-112. Applicability of administrative procedures

Administrative procedures for the implementation of this article for each licensed occupation shall be governed by the appropriate provisions applicable to each licensing authority.

**HISTORY:** Code 1981, § 16-13-112, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-113. Article as supplement to power of licensing authority

The provisions of this article shall be supplemental to and shall not operate to prohibit any licensing authority from acting pursuant to those provisions of law which may now or hereafter authorize other sanctions and actions for that particular licensing authority.

**HISTORY:** Code 1981, § 16-13-113, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-114. Period of applicability of article

This article shall apply only with respect to criminal offenses committed on or after July 1, 1990; provided, however, that nothing in this Code section shall prevent any licensing authority from implementing sanctions additional to or other than those provided for in this article with respect to offenses committed prior to July 1, 1990.

**HISTORY:** Code 1981, § 16-13-114, enacted by Ga. L. 1990, p. 2009, § 1.

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House Bill 388

By: Representatives Alexander of the 66<sup>th</sup>, Mitchell of the 88<sup>th</sup>, Frye of the 122<sup>nd</sup>, Roberts of the 52<sup>nd</sup>, McClain of the 109<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to  
2 controlled substances, so as to provide that possession of certain quantities of marijuana  
3 constitute a misdemeanor; to change provisions relating to punishment; to amend Title 15,  
4 Title 16, Chapter 7 of Title 17, and Article 1 of Chapter 32 of Title 36 of the Official Code  
5 of Georgia Annotated, relating to courts, crimes and offenses, pretrial proceedings, and  
6 general provisions regarding municipal courts, respectively, so as to provide for conforming  
7 cross-references; to provide for related matters; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 PART I  
11 SECTION 1-1.

12 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled  
13 substances, is amended by revising subsection (b) of Code Section 16-13-2, relating to  
14 conditional discharge for possession of controlled substances as first offense and certain  
15 nonviolent property crimes, as follows:

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**SECTION 1-2.**

Said chapter is further amended by revising subsection (j) of Code Section 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of controlled substances or marijuana, as follows:

"(j)(1) It shall be unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute more than one ounce of marijuana.

(2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 ~~or in Code Section 16-13-2~~, any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years."

## SECTION 2-1.

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- (1) The trial of criminal cases below the grade of felony;
- (2) The trial of civil actions without regard to the amount in controversy, except those actions in which exclusive jurisdiction is vested in the superior courts;
- (3) The hearing of applications for and the issuance of arrest and search warrants;
- (4) The holding of courts of inquiry;
- (5) The punishment of contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding 20 days, or both; and
- (6) Review of decisions of other courts as may be provided by law.
- ~~(b) Each state court shall have jurisdiction, within the territorial limits of the county or counties for which it was created and concurrent with other courts having such jurisdiction, over possession of one ounce or less of marijuana, in accordance with Code Sections 16-13-2 and 16-13-30.~~
- (c) Each judge of the state court shall have the authority to perform any judicial act which he or she is lawfully entitled to perform, regardless of where such judge is located when such judicial act is performed."

## SECTION 2-2.

Said title is further amended by revising subsection (a) of Code Section 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol offenses, as follows:

"(a) Subject to the provisions of subsection (c) of this Code section, in addition to any other jurisdiction vested in the probate courts, probate courts which have jurisdiction over misdemeanor traffic offenses in accordance with Code Section 40-13-21 shall have the right and power to conduct trials, receive pleas of guilty, and impose sentence upon defendants for the following offenses:

- ~~(1) Possession of one ounce or less of marijuana, in accordance with Code Sections 16-13-2 and 16-13-30; and~~





89 of Code Section 3-3-23 pursuant to Code Section 15-9-30.6, the following offenses may  
90 be tried upon a summons or citation without an accusation:

91 (1) ~~Reserved Possession of one ounce or less of marijuana, in accordance with Code~~  
92 ~~Sections 16-13-2 and 16-13-30; and~~

93 (2) Any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which is  
94 punishable as a misdemeanor, but not violations punishable as high and aggravated  
95 misdemeanors."

96 **SECTION 2-6.**

97 Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to  
98 general provisions regarding municipal courts, is amended by repealing Code  
99 Section 36-32-6, relating to municipal court jurisdiction in marijuana possession cases, in its  
100 entirety and designating said Code section as reserved.

101 **PART III**

102 **SECTION 3-1.**

103 All laws and parts of laws in conflict with this Act are repealed.

TITLE 16. CRIMES AND OFFENSES  
CHAPTER 13. CONTROLLED SUBSTANCES  
ARTICLE 1. GENERAL PROVISIONS

§ 16-13-1. Drug related objects

(a) As used in this Code section, the term:

(1) "Controlled substance" shall have the same meaning as defined in Article 2 of this chapter, relating to controlled substances. For the purposes of this Code section, the term "controlled substance" shall include marijuana as defined by paragraph (16) of Code Section 16-13-21.

(2) "Dangerous drug" shall have the same meaning as defined in Article 3 of this chapter, relating to dangerous drugs.

(3) "Drug related object" means any machine, instrument, tool, equipment, contrivance, or device which an average person would reasonably conclude is intended to be used for one or more of the following purposes:

(A) To introduce into the human body any dangerous drug or controlled substance under circumstances in violation of the laws of this state;

(B) To enhance the effect on the human body of any dangerous drug or controlled substance under circumstances in violation of the laws of this state;

(C) To conceal any quantity of any dangerous drug or controlled substance under circumstances in violation of the laws of this state; or

(D) To test the strength, effectiveness, or purity of any dangerous drug or controlled substance under circumstances in violation of the laws of this state.

(4) "Knowingly" means having general knowledge that a machine, instrument, tool, item of equipment, contrivance, or device is a drug related object or having reasonable grounds to believe that any such object is or may, to an average person, appear to be a drug related object. If any such object has printed thereon or is accompanied by instructions explaining the purpose and use of such object and if following such instructions would cause a person to commit an act involving the use or possession of a dangerous drug or controlled substance in violation of the laws of this state, then such instructions shall constitute prima-facie evidence of knowledge that the object in question is a drug related object.

(5) "Minor" means any unmarried person under the age of 18 years.

(b) Except as otherwise provided by subsection (d) of this Code section, it shall be unlawful for any person knowingly to sell, deliver, distribute, display for sale, or provide to a minor or knowingly possess with intent to sell, deliver, distribute, display for sale, or provide to a minor any drug related object.

(c) It shall be unlawful for any minor falsely to represent to any person that such minor is 18 years of age or older with the intent to purchase or otherwise obtain any drug related object.

(d) No person shall be guilty of violating subsection (b) of this Code section if:

(1) The person had reasonable cause to believe that the minor involved was 18 years of age or older because the minor exhibited to such person a driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was 18 years of age or older;

(2) The person made an honest mistake in believing that the minor was 18 years of age or over after making a reasonable bona fide attempt to ascertain the true age of the minor;

(3) The person was the parent or guardian of the minor; or

(4) The person was acting in his capacity as an employee or official of any governmental agency, governmental institution, public school or other public educational institution, any bona fide private school, educational institution, health care facility, or institution; or the person was acting in his capacity as a registered pharmacist or veterinarian or under the direction of a registered pharmacist or veterinarian to sell such object for a legitimate medical purpose.

(e) Any person who violates subsection (b) of this Code section shall be guilty of a misdemeanor for the first offense. For the second or any subsequent offense, a person violating subsection (b) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years or by a fine of not less than \$1,000.00 nor more than \$5,000.00, or both. Any person violating subsection (c) of this Code section shall be guilty of a misdemeanor.

**HISTORY:** Code 1933, § 26-9913, enacted by Ga. L. 1978, p. 2199, § 1; Ga. L. 1985, p. 149, § 16; Ga. L. 1999, p. 81, § 16.

§ 16-13-2. Conditional discharge for possession of controlled substances as first offense and certain nonviolent property crimes; dismissal of charges; restitution to victims

(a) Whenever any person who has not previously been convicted of any offense under Article 2 or Article 3 of this chapter or of any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a narcotic drug, marijuana, or

stimulant, depressant, or hallucinogenic drug, the court may without entering a judgment of guilt and with the consent of such person defer further proceedings and place him on probation upon such reasonable terms and conditions as the court may require, preferably terms which require the person to undergo a comprehensive rehabilitation program, including, if necessary, medical treatment, not to exceed three years, designed to acquaint him with the ill effects of drug abuse and to provide him with knowledge of the gains and benefits which can be achieved by being a good member of society. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed accordingly. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this Code section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Code section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Code section may occur only once with respect to any person.

(b) Notwithstanding any law to the contrary, any person who is charged with possession of marijuana, which possession is of one ounce or less, shall be guilty of a misdemeanor and punished by imprisonment for a period not to exceed 12 months or a fine not to exceed \$1,000.00, or both, or public works not to exceed 12 months.

(c) Persons charged with an offense enumerated in subsection (a) of this Code section and persons charged for the first time with nonviolent property crimes which, in the judgment of the court exercising jurisdiction over such offenses, were related to the accused's addiction to a controlled substance or alcohol who are eligible for any court approved drug treatment program may, in the discretion of the court and with the consent of the accused, be sentenced in accordance with subsection (a) of this Code section. The probated sentence imposed may be for a period of up to five years. No discharge and dismissal without court adjudication of guilt shall be entered under this subsection until the accused has made full restitution to all victims of the charged offenses. Discharge and dismissal under this Code section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Code section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Code section may not be used to disqualify a person in any application for employment or appointment to office in either the public or private sector.

**HISTORY:** Code 1933, § 79A-9917, enacted by Ga. L. 1971, p. 271, § 1; Ga. L. 1973, p. 688, § 1; Ga. L. 1974, p. 221, § 3; Ga. L. 1976, p. 1083, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1997, p. 1377, § 2; Ga. L. 2004, p. 488, § 1.

#### § 16-13-3. Penalty for abandonment of dangerous drugs, poisons, or controlled substances

Any person who shall abandon, in a public place, any dangerous drug, poison, or controlled substance as defined by Article 2 or Article 3 of this chapter shall be guilty of a misdemeanor.

**HISTORY:** Code 1933, § 79A-9918, enacted by Ga. L. 1977, p. 625, § 9.

§ 16-13-4. Approval by Food and Drug Administration as prerequisite to sale of controlled substances and dangerous drugs

(a) No controlled substance or dangerous drug shall be sold for dispensing unless the controlled substance, as defined in Code Section 16-13-21, or the dangerous drug, as defined in Code Section 16-13-71:

(1) Is approved by the Food and Drug Administration for resale;

(2) Has a new approved drug application number (known as an NDA number) unless excepted by the Food and Drug Administration; or

(3) Has an approved abbreviated new drug application number (known as an ANDA number) unless excepted by the Food and Drug Administration.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of not less than one year nor more than five years.

**HISTORY:** Ga. L. 1981, p. 557, § 6; Ga. L. 1985, p. 1219, § 1; Ga. L. 1989, p. 14, § 16.

## ARTICLE 2. REGULATION OF CONTROLLED SUBSTANCES

§ 16-13-20. Short title

This article shall be known and may be cited as the "Georgia Controlled Substances Act."

**HISTORY:** Code 1933, § 79A-801, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-21. Definitions

As used in this article, the term:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or by any other means, to the body of a patient or research subject by:

(A) A practitioner or, in his presence, by his authorized agent; or

(B) The patient or research subject at the direction and in the presence of the practitioner.

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

(3) "Bureau" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(4) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of 21 C.F.R. Part 1308.

(5) "Conveyance" means any object, including aircraft, vehicle, or vessel, but not including a person, which may be used to carry or transport a substance or object.

(6) "Counterfeit substance" means:

(A) A controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the controlled substance;

(B) A controlled substance or noncontrolled substance, which is held out to be a controlled substance or marijuana, whether in a container or not which does not bear a label which accurately or truthfully identifies the substance contained therein; or

(C) Any substance, whether in a container or not, which bears a label falsely identifying the contents as a controlled substance.

(6.1) "Dangerous drug" means any drug, other than a controlled substance, which cannot be dispensed except upon the issuance of a prescription drug order by a practitioner authorized under this chapter.

(6.2) "DEA" means the United States Drug Enforcement Administration.

(7) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(8) "Dependent," "dependency," "physical dependency," "psychological dependency," or "psychic dependency" means and includes the state of dependence by an individual toward or upon a substance, arising from the use of that substance, being characterized by behavioral and other responses which include the loss of self-control with respect to that substance, or a strong compulsion to use that substance on a continuous basis in order to experience some psychic effect resulting from the use of that substance by that

individual, or to avoid any discomfort occurring when the individual does not use that substance.

(9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery, or the delivery of a controlled substance by a practitioner, acting in the normal course of his professional practice and in accordance with this article, or to a relative or representative of the person for whom the controlled substance is prescribed.

(10) "Dispenser" means a practitioner who dispenses.

(11) "Distribute" means to deliver a controlled substance, other than by administering or dispensing it.

(12) "Distributor" means a person who distributes.

(12.05) "FDA" means the United States Food and Drug Administration.

(12.1) "Imitation controlled substance" means:

(A) A product specifically designed or manufactured to resemble the physical appearance of a controlled substance, such that a reasonable person of ordinary knowledge would not be able to distinguish the imitation from the controlled substance by outward appearances; or

(B) A product, not a controlled substance, which, by representations made and by dosage unit appearance, including color, shape, size, or markings, would lead a reasonable person to believe that, if ingested, the product would have a stimulant or depressant effect similar to or the same as that of one or more of the controlled substances included in Schedules I through V of Code Sections 16-13-25 through 16-13-29.

(13) "Immediate precursor" means a substance which the State Board of Pharmacy has found to be and by rule identifies as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(14) "Isomers" means stereoisomers (optical isomers), geometrical isomers, and structural isomers (chain and positional isomers, but shall not include functional isomers).

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical

synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance:

(A) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(B) By a practitioner or by his authorized agent under his supervision for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(16) "Marijuana" means all parts of the plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include samples as described in subparagraph (P) of paragraph (3) of Code Section 16-13-25 and shall not include the completely defoliated mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination.

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

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (A) of this paragraph, but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or preparation of coca leaves, and any salt, compound, stereoisomers of cocaine, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(18) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Code Section 16-13-22, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(19) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.



(20) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or any other legal entity.

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

(22) "Potential for abuse" means and includes a substantial potential for a substance to be used by an individual to the extent of creating hazards to the health of the user or the safety of the public, or the substantial potential of a substance to cause an individual using that substance to become dependent upon that substance.

(23) "Practitioner" means:

(A) A physician, dentist, pharmacist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise authorized under the laws of this state to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state;

(B) A pharmacy, hospital, or other institution licensed, registered, or otherwise authorized by law to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state;

(C) An advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-26.3. For purposes of this chapter and Code Section 43-34-26.3, an advanced practice registered nurse is authorized to register with the federal Drug Enforcement Administration and appropriate state authorities; or

(D) A physician's assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section 43-34-103, a physician's assistant is authorized to register with the federal Drug Enforcement Administration and appropriate state authorities.

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

(25) "Registered" or "register" means registration as required by this article.

(26) "Registrant" means a person who is registered under this article.

(27) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, or any area subject to the legal authority of the United States.

(28) "Ultimate user" means a person who lawfully possesses a controlled substance for

his own use, for the use of a member of his household, or for administering to an animal owned by him or by a member of his household or an agent or representative of the person.

(29) "Noncontrolled substance" means any drug or other substance other than a controlled substance as defined by paragraph (4) of this Code section.

**HISTORY:** Code 1933, § 79A-802, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 2237, § 1; Ga. L. 1979, p. 859, § 4; Ga. L. 1980, p. 1746, § 3; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 1264, §§ 1, 3; Ga. L. 1982, p. 2370, §§ 1, 2; Ga. L. 1982, p. 2403, §§ 10, 15; Ga. L. 1984, p. 22, § 16; Ga. L. 1985, p. 149, § 16; Ga. L. 1986, p. 10, § 16; Ga. L. 1986, p. 1555, §§ 1, 2; Ga. L. 1988, p. 1065, § 1; Ga. L. 1999, p. 643, § 5.1; Ga. L. 2003, p. 349, § 1; Ga. L. 2006, p. 125, § 2/SB 480.

#### § 16-13-22. Administration of article; standards and schedules

(a) The State Board of Pharmacy shall administer this article and shall add substances to or reschedule all substances enumerated in the schedules in Code Sections 16-13-25 through 16-13-29 pursuant to the procedures of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." In making a determination or identification regarding a substance, the State Board of Pharmacy shall consider the following factors:

- (1) The actual or relative potential for abuse;
- (2) The scientific evidence of its pharmacological effect, if known;
- (3) The state of current scientific knowledge regarding the substance;
- (4) The history and current pattern of abuse;
- (5) The scope, duration, and significance of abuse;
- (6) The risk to the public health;
- (7) The potential of the substance to produce psychic or physiological dependence liability;
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article; and
- (9) The designation, deletion, or rescheduling of a substance under federal law controlling controlled substances.

(b) After considering the factors enumerated in subsection (a) of this Code section, the State Board of Pharmacy shall make findings with respect thereto and cause the publication of such findings as a rule, in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," controlling the substance if it finds the substance has a potential for abuse.

(c) If the State Board of Pharmacy identifies a substance as an immediate precursor, substances which are precursors of the controlled substance shall not be subject to control solely because they are precursors of the controlled substance.

(d) Authority to control under this Code section does not extend to distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Title 3 or 48.

**HISTORY:** Code 1933, § 79A-803, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

#### § 16-13-23. Nomenclature for controlled substances

The controlled substances listed in the schedules in Code Sections 16-13-25 through 16-13-29 are included by whatever official, common, usual, chemical, or trade name designated.

**HISTORY:** Code 1933, § 79A-804, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-24. Establishment of schedules of controlled substances

(a) There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. The schedules shall consist of the substances listed in Code Sections 16-13-25 through 16-13-29. The schedules so established shall be updated and republished by the State Board of Pharmacy on an annual basis.

(b) Except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to the drug or other substance. The findings for each of the schedules are as follows:

##### (1) Schedule I:

(A) The drug or other substance has a high potential for abuse;

(B) The drug or other substance has no currently accepted medical use in treatment in the United States; and

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

##### (2) Schedule II:

(A) The drug or other substance has a high potential for abuse;

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; and

(C) Abuse of the drug or other substance may lead to severe psychological or physical dependence.

(3) Schedule III:

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in Schedules I and II;

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

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

(4) Schedule IV:

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

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

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

(5) Schedule V:

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

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

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

**HISTORY:** Code 1933, § 79A-805, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-25. Schedule I

The controlled substances listed in this Code section are included in Schedule I:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, pursuant to this article, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (A) Acetylmethadol;
- (B) Allylprodine;
- (C) Reserved;
- (D) Alphameprodine;
- (E) Alphamethadol;
- (F) Benzethidine;
- (G) Betacetylmethadol;
- (H) Betameprodine;
- (I) Betamethadol;
- (J) Betaprodine;
- (K) Clonitazene;
- (L) Dextromoramide;
- (M) Dextromorphan;
- (N) Diampromide;
- (O) Diethylthiambutene;
- (P) Dimenoxadol;
- (Q) Dimetheptanol;
- (R) Dimethylthiambutene;
- (S) Dioxaphetyl butyrate;
- (T) Dipipanone;
- (U) Ethylmethylthiambutene;
- (V) Etonitazene;
- (W) Etoxidene;

(X) Furethidine;  
(Y) Hydroxypethidine;  
(Z) Ketobemidone;  
(AA) Levomoramide;  
(BB) Levophenacymorphan;  
(CC) Morpheridine;  
(DD) Noracymethadol;  
(EE) Norlevorphanol;  
(FF) Normethadone;  
(GG) Norpipanone;  
(HH) Phenadoxone;  
(II) Phenampromide;  
(JJ) Phenomorphan;  
(KK) Phenoperidine;  
(LL) Piritramide;  
(MM) Proheptazine;  
(NN) Properidine;  
(OO) Propiram;  
(PP) Racemoramide;  
(QQ) Trimeperidine;

(2) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

- (B) Acetyldihydrocodeine;
- (C) Benzylmorphine;
- (D) Codeine methylbromide;
- (E) Codeine-N-Oxide;
- (F) Cyprenorphine;
- (G) Desomorphine;
- (H) Dihydromorphine;
- (I) Etorphine;
- (J) Heroin;
- (K) Hydromorphenol;
- (L) Methyldesorphine;
- (M) Methyldihydromorphine;
- (N) Morphine methylbromide;
- (O) Morphine methylsulfonate;
- (P) Morphine-N-Oxide;
- (Q) Myrophine;
- (R) Nicocodeine;
- (S) Nicomorphine;
- (T) Normorphine;
- (U) Pholcodine;
- (V) Thebacon;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers (whether optical, position, or geometrics), and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical

designation:

- (A) 3, 4-methylenedioxyamphetamine;
- (B) 5-methoxy-3, 4-methylenedioxyamphetamine;
- (C) 3, 4, 5-trimethoxyamphetamine;
- (D) Bufotenine;
- (E) Diethyltryptamine;
- (F) Dimethyltryptamine;
- (G) 4-methyl-2, 5-dimethoxyamphetamine;
- (H) Ibogaine;
- (I) Lysergic acid diethylamide;
- (J) Mescaline;
- (K) Peyote;
- (L) N-ethyl-3-piperidyl benzilate;
- (M) N-methyl-3-piperidyl benzilate;
- (N) Psilocybin;
- (O) Psilocyn (Psilocin);
- (P) Tetrahydrocannabinols which shall include, but are not limited to:

(i) All synthetic or naturally produced samples containing more than 15 percent by weight of tetrahydrocannabinols; and

(ii) All synthetic or naturally produced tetrahydrocannabinol samples which do not contain plant material exhibiting the external morphological features of the plant cannabis;

- (Q) 2, 5-dimethoxyamphetamine;
- (R) 4-bromo-2, 5-dimethoxyamphetamine;
- (S) 4-methoxyamphetamine;



(T) Cyanoethylamphetamine;

(U) (1-phenylcyclohexyl) ethylamine;

(V) 1-(1-phenylcyclohexyl) pyrrolidine;

(W) Phencyclidine;

(X) 1-piperidinocyclohexanecarbonitrile;

(Y) 1-phenyl-2-propanone (phenylacetone);

(Z) 3, 4-Methylenedioxymethamphetamine (MDMA);

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

(BB) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine;

(CC) 3-methylfentanyl;

(DD) N-ethyl-3, 4-methylenedioxyamphetamine;

(EE) Para-fluorofentanyl;

(FF) 2,5-Dimethoxy-4-Ethylamphetamine;

(GG) Cathinone;

(HH) MPPP (1-Methyl-4-Phenyl-4-Propionoxypiperidine);

(II) PEPAP (1-(2-phenethyl)-4 phenyl-4-acetoxypiperide);

(JJ) Alpha-Methylthiofentanyl;

(KK) Acetyl-Alpha-Methylfentanyl;

(LL) 3-Methylthiofentanyl;

(MM) Beta-Hydroxyfentanyl;

(NN) Thiofentanyl;

(OO) 3,4-Methylenedioxy-N-Ethylamphetamine;

(PP) 4-Methylaminorex;

(QQ) N-Hydroxy-3,4-Methylenedioxyamphetamine;

(RR) Beta-Hydroxy-3-Methylfentanyl;

(SS) Reserved;

(TT) N, N-Dimethylamphetamine;

(UU) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine;

(VV) 4-Bromo-2,5-Dimethoxyphenethylamine (DMPE);

(WW) Alpha-Ethyltryptamine;

(XX) Methcathinone;

(YY) Aminorex;

(4) Any material, compound, mixture, or preparation which contains any of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Fenethylamine;

(B) N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzyl-fentanyl);

(C) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl);

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances, their salts, isomers (whether optical, position, or geometrical), and salts of isomers, unless specifically excepted, whenever the existence of these substances, their salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Gamma hydroxybutyric acid (gamma hydroxy butyrate); provided, however, that this does not include any amount naturally and normally occurring in the human body; and

(B) Sodium oxybate, when the FDA approved form of this drug is not:

(i) In a container labeled in compliance with subsection (a) or (b) of Code Section 26-3-8; and

(ii) In the possession of:

(I) A registrant permitted to dispense the drug;

(II) Any person other than to whom the drug was prescribed; or

(III) Any person who attempts to or does unlawfully possess, sell, distribute, or give this drug to any other person;

(6) Notwithstanding the fact that Schedule I substances have no currently accepted medical use, the General Assembly recognizes certain of these substances which are currently accepted for certain limited medical uses in treatment in the United States but have a high potential for abuse. Accordingly, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of methaqualone, including its salts, isomers, optical isomers, salts of their isomers, and salts of these optical isomers, is included in Schedule I;

(7) 2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);

(8) 1-(3-Trifluoromethylphenyl) Piperazine (TFMPP);

(9) N-Benzylpiperazine (BZP);

(10) 5-Methoxy-N,N-Diisopropyltryptamine (5-MeO-DIPT);

(11) Alpha-Methyltryptamine (AMT).

**HISTORY:** Code 1933, § 79A-806, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 6; Ga. L. 1979, p. 859, § 5; Ga. L. 1980, p. 1746, § 4; Ga. L. 1981, p. 557, § 3; Ga. L. 1982, p. 2403, §§ 11, 16; Ga. L. 1984, p. 22, § 16; Ga. L. 1984, p. 1019, § 1; Ga. L. 1985, p. 1219, § 2; Ga. L. 1986, p. 1555, § 3; Ga. L. 1987, p. 261, § 1; Ga. L. 1989, p. 233, § 1; Ga. L. 1990, p. 8, § 16; Ga. L. 1990, p. 640, § 1; Ga. L. 1992, p. 1131, § 1; Ga. L. 1994, p. 169, §§ 1-3, 3.1; Ga. L. 1996, p. 356, § 1; Ga. L. 2001, p. 816, § 1; Ga. L. 2002, p. 415, § 16; Ga. L. 2003, p. 349, § 2; Ga. L. 2005, p. 1028, § 1/SB 89; Ga. L. 2006, p. 219, § 1/HB 1054.

## § 16-13-26. Schedule II

The controlled substances listed in this Code section are included in Schedule II:

(1) Any of the following substances, or salts thereof, except those narcotic drugs specifically exempted or listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone hydrochloride, but including the following:

- (i) Raw opium;
- (ii) Opium extracts;
- (iii) Opium fluid extracts;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Hydrocodone;
- (x) Hydromorphone;
- (xi) Metopon;
- (xii) Morphine;
- (xiii) Oxycodone;
- (xiv) Oxymorphone;
- (xv) Thebaine;

(B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (A) of this paragraph, except that these substances shall not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Cocaine, coca leaves, any salt, compound, derivative, stereoisomers of cocaine, or preparation of coca leaves, and any salt, compound, derivative, stereoisomers of cocaine, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (A) Alfentanil;
- (A.1) Alphaprodine;
- (B) Anileridine;
- (C) Bezitramide;
- (D) Dihydrocodeine;
- (E) Diphenoxylate;
- (F) Fentanyl;
- (G) Isomethadone;
- (G.5) Levo-alphacetylmethadol (some other names: levomethadyl acetate, LAAM);
- (H) Levomethorphan;
- (I) Levorphanol;
- (J) Methazocine;
- (K) Methadone;
- (L) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-di-phenyl butane;
- (M) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (N) Pethidine (meperidine);
- (O) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpi-peridine;
- (P) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4- carboxylate;
- (Q) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4- carboxylic acid;
- (R) Phenazocine;
- (S) Piminodine;

(T) Racemethorphan;

(U) Racemorphan;

(U.1) Remifentanil;

(V) Sufentanil;

(3) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a stimulant effect on the central nervous system:

(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(B) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(C) Phenmetrazine and its salts;

(D) Methylphenidate;

(E) Carfentanil;

(F) Nabilone;

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any of the following substances included as having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Amobarbital;

(A.5) Glutethimide;

(B) Secobarbital;

(C) Pentobarbital.

**HISTORY:** Code 1933, § 79A-807, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1977, p. 625, § 7; Ga. L. 1978, p. 1668, § 7; Ga. L. 1979, p. 859, §§ 6, 7; Ga. L. 1980, p. 1746, § 5; Ga. L. 1982, p. 2403, §§ 12, 17, 17.1; Ga. L. 1985, p. 1219, § 3; Ga. L. 1987, p. 261, §§ 2-4; Ga. L. 1988, p. 420, § 1; Ga. L. 1989, p. 233, § 2; Ga. L. 1992, p. 1131, § 2; Ga. L. 1994, p. 169, § 4; Ga. L. 1997, p. 1311, § 1; Ga. L. 2000, p. 1317, § 1; Ga. L. 2007, p. 605, § 1/HB 286.

§ 16-13-27. Schedule III

The controlled substances listed in this Code section are included in Schedule III:

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, included as having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit forms containing any stimulant substances which are listed as excepted compounds by the State Board of Pharmacy pursuant to this article, and any other drug of quantitative composition so excepted or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine;

(E) Phendimetrazine;

(2) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salts thereof and one or more active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the State Board of Pharmacy for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

(D) Chlorhexadol;

(E) Reserved;

(F) Lysergic acid;

(G) Lysergic acid amide;

(H) Methypylon;

(I) Sulfondiethylmethane;

(J) Sulfonethylmethane;

(K) Sulfonmethane;

(L) Tiletamine/Zolozepam (Telazol);

(3) Nalorphine;

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs, or any salts thereof:

(A) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

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

(C) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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



(H) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) The State Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (1) and (2) of this Code section from the application of all or any part of this article if the compound, mixture, or preparation contains one or more active, medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system;

(6) Any anabolic steroid or any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration:

- (A) Boldenone;
- (B) Chlorotestosterone;
- (C) Clostebol;
- (D) Dehydrochlormethyltestosterone;
- (E) Dihydrotestosterone;
- (F) Drostanolone;
- (G) Ethylestrenol;
- (H) Fluoxymesterone;
- (I) Formebolone;
- (J) Mesterolone;
- (K) Methandienone;
- (L) Methandranone;
- (M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone;

(AA) Trenbolone;

(7) Ketamine;

(8) Dronabinol (synthetic) in sesame oil and encapsulated in a U.S. Food and Drug Administration approved drug product also known as Marinol;

(9) Sodium oxybate, when the FDA approved form of this drug is in a container labeled in compliance with subsection (a) or (b) of Code Section 26-3-8, in the possession of a registrant permitted to dispense the drug, or in the possession of a person to whom it has been lawfully prescribed;

(10) Buprenorphine.

**HISTORY:** Code 1933, § 79A-808, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 8; Ga. L. 1980, p. 1746, § 6; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 13, 18; Ga. L. 1989, p. 233, § 3; Ga. L. 1991, p. 312, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 1131, §§ 3, 4; Ga. L. 1996, p. 356, § 2; Ga. L. 1997, p. 1311, § 2; Ga. L. 1998, p. 778, § 1; Ga. L. 2000, p. 1317, § 2; Ga. L. 2003, p. 349, § 3.

§ 16-13-27. Schedule III

The controlled substances listed in this Code section are included in Schedule III:

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, included as having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit forms containing any stimulant substances which are listed as excepted compounds by the State Board of Pharmacy pursuant to this article, and any other drug of quantitative composition so excepted or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine;

(E) Phendimetrazine;

(2) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salts thereof and one or more active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the State Board of Pharmacy for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

(D) Chlorhexadol;

(E) Reserved;

(F) Lysergic acid;

(G) Lysergic acid amide;

(H) Methypylon;

(I) Sulfondiethylmethane;

(J) Sulfonethylmethane;

(K) Sulfonmethane;

(L) Tiletamine/Zolozepam (Telazol);

(3) Nalorphine;

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs, or any salts thereof:

(A) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

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

(C) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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

(H) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or

per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) The State Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (1) and (2) of this Code section from the application of all or any part of this article if the compound, mixture, or preparation contains one or more active, medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system;

(6) Any anabolic steroid or any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration:

- (A) Boldenone;
- (B) Chlorotestosterone;
- (C) Clostebol;
- (D) Dehydrochlormethyltestosterone;
- (E) Dihydrotestosterone;
- (F) Drostanolone;
- (G) Ethylestrenol;
- (H) Fluoxymesterone;
- (I) Formebolone;
- (J) Mesterolone;
- (K) Methandienone;
- (L) Methandranone;
- (M) Methandriol;
- (N) Methandrostenolone;

- (O) Methenolone;
- (P) Methyltestosterone;
- (Q) Mibolerone;
- (R) Nandrolone;
- (S) Norethandrolone;
- (T) Oxandrolone;
- (U) Oxymesterone;
- (V) Oxymetholone;
- (W) Stanolone;
- (X) Stanozolol;
- (Y) Testolactone;
- (Z) Testosterone;
- (AA) Trenbolone;

(7) Ketamine;

(8) Dronabinol (synthetic) in sesame oil and encapsulated in a U.S. Food and Drug Administration approved drug product also known as Marinol;

(9) Sodium oxybate, when the FDA approved form of this drug is in a container labeled in compliance with subsection (a) or (b) of Code Section 26-3-8, in the possession of a registrant permitted to dispense the drug, or in the possession of a person to whom it has been lawfully prescribed;

(10) Buprenorphine.

**HISTORY:** Code 1933, § 79A-808, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 8; Ga. L. 1980, p. 1746, § 6; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 13, 18; Ga. L. 1989, p. 233, § 3; Ga. L. 1991, p. 312, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 1131, §§ 3, 4; Ga. L. 1996, p. 356, § 2; Ga. L. 1997, p. 1311, § 2; Ga. L. 1998, p. 778, § 1; Ga. L. 2000, p. 1317, § 2; Ga. L. 2003, p. 349, § 3.

#### § 16-13-28. Schedule IV

(a) The controlled substances listed in this Code section are included in Schedule IV. Unless specifically excepted or unless listed in another schedule, any material,

compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specified chemical designation, included as having a stimulant or depressant effect on the central nervous system or a hallucinogenic effect:

(1) Alprazolam;

(2) Barbital;

(2.1) Bromazepam;

(2.15) Butorphanol;

(2.2) Camazepam;

(2.25) Carisoprodol;

(2.3) Cathine;

(3) Chloral betaine;

(4) Chloral hydrate;

(5) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clidinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens);

(5.1) Clobazam;

(6) Clonazepam;

(7) Clorazepate;

(7.1) Clotiazepam;

(7.2) Cloxazolam;

(7.3) Delorazepam;

(8) Desmethyldiazepam;

(8.5) Dexfenfluramine;

(9) Reserved;

- (10) Diazepam;
- (11) Diethylpropion;
- (11.05) Difenoxin;
- (11.1) Estazolam;
- (12) Ethchlorvynol;
- (13) Ethinamate;
- (13.1) Ethyl loflazepate;
- (13.2) Fencamfamin;
- (14) Fenfluramine;
- (14.1) Flunitrazepam;
- (14.2) Fenproporex;
- (15) Flurazepam;
- (16) Halazepam;
- (16.1) Haloxazolam;
- (16.2) Ketazolam;
- (16.3) Lometazepam;
- (16.4) Loprazolam;
- (17) Lorazepam;
- (18) Mazindol;
- (19) Mebutamate;
- (19.1) Medazepam;
- (19.2) Mefenorex;
- (20) Meprobamate;



- (21) Methohexital;
- (22) Methylphenobarbital;
  - (22.1) Midazolam;
  - (22.15) Modafinil;
  - (22.2) Nimetazepam;
  - (22.3) Nitrazepam;
  - (22.4) Nordiazepam;
- (23) Oxazepam;
  - (23.1) Oxazolam;
- (24) Paraldehyde;
- (25) Pemoline;
- (26) Pentazocine;
- (27) Petrichloral;
- (28) Phenobarbital;
- (29) Phentermine;
  - (29.1) Pipradrol;
- (30) Prazepam;
  - (30.05) Propoxyphene (including all salts and optical isomers);
  - (30.1) Quazepam;
  - (30.2) Sibutramine;
  - (30.3) SPA (-)-1-dimethylamino-1, 2-diphenylethane;
- (31) Temazepam;
- (32) Triazolam;

(32.5) Zaleplon;

(33) Zolpidem;

(34) Zopiclone.

(b) The State Board of Pharmacy may except by rule any compound, mixture, or preparation containing any depressant, stimulant, or hallucinogenic substance listed in subsection (a) of this Code section from the application of all or any part of this article if the compound, mixture, or preparation contains one or more active, medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant or stimulant effect on the central nervous system.

**HISTORY:** Code 1933, § 79A-809, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1977, p. 1287, § 1; Ga. L. 1979, p. 859, § 8; Ga. L. 1980, p. 1746, § 7; Ga. L. 1981, p. 557, § 4; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 14, 19; Ga. L. 1984, p. 22, § 16; Ga. L. 1985, p. 1219, § 4; Ga. L. 1986, p. 10, § 16; Ga. L. 1986, p. 1555, § 4; Ga. L. 1987, p. 261, § 5; Ga. L. 1989, p. 233, § 4; Ga. L. 1990, p. 8, § 16; Ga. L. 1993, p. 590, § 2; Ga. L. 1994, p. 169, § 5; Ga. L. 1996, p. 1023, § 1; Ga. L. 1997, p. 1311, § 3; Ga. L. 1998, p. 778, § 2; Ga. L. 1999, p. 643, § 1; Ga. L. 2000, p. 1317, § 3; Ga. L. 2003, p. 349, § 4; Ga. L. 2006, p. 219, § 2/HB 1054; Ga. L. 2007, p. 47, § 16/SB 103.

#### § 16-13-29. Schedule V

The controlled substances listed in this Code section are included in Schedule V:

(1) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or salts thereof, which also contains one or more nonnarcotic, active, medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(B) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(C) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(D) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(2) Reserved;

(3) Pregabalin; or

(4) Pyrovalerone.

**HISTORY:** Code 1933, § 79A-810, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 9; Ga. L. 1979, p. 859, § 9; Ga. L. 1980, p. 1746, § 8; Ga. L. 1981, p. 557, § 5; Ga. L. 1984, p. 1019, § 2; Ga. L. 1986, p. 1555, § 5; Ga. L. 1989, p. 233, § 5; Ga. L. 1993, p. 590, § 3; Ga. L. 2003, p. 349, § 5; Ga. L. 2007, p. 605, § 2/HB 286.

§ 16-13-29.1. Nonnarcotic substances excluded from schedules of controlled substances

The following nonnarcotic substances which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, are excluded from all schedules of controlled substances under this article:

Trade name or designation (Dosage form)	Composition/Potency	Manufacturer or distributor
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Amodrine (Tablet)	Phenobarbital/8.00 mg; Aminophylline/100.00 mg; Racephedrine/25.00 mg	Searle, G.D. & Co.
Amodrine E C (Enteric- coated tablet)	Phenobarbital/8.00 mg; Aminophylline/100.00 mg; Racephedrine/25.00 mg	Searle, G.D. & Co.
Anodyne (Ointment)	Chloral hydrate/0.69 g/30 g	Zemmer Co.
Anti-Asthma (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 25.00 mg	Ormont Drug & Chem.
Anti-asthmatic (Tablet)	Phenobarbital/8.10 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Zenith Labs., Inc.
Asma-Ese (Tablet)	Phenobarbital/8.10 mg; Theophylline/129.60 mg; Ephedrine hydrochloride/ 24.30 mg	Parmed Pharm.
Asma-Lief (Tablet)	Phenobarbital/8.10 mg; Ephedrine hydrochloride/ 24.30 mg; Theophylline/ 129.60 mg	Columbia Medical Co.
Asma-Lief Pediatric	Phenobarbital/4.00 mg/05 ml; Ephedrine hydrochloride/	Columbia Medical Co.

(Suspension)	12.00 mg/05 ml; Theophylline/65.00 mg/05 ml	
Asma Tuss (Syrup)	Phenobarbital/4.00 mg/05 ml; Glyceryl guaiacolate/50.00 mg/05 ml; Chlorpheniramine maleate/1.00 mg/05 ml; Ephedrine sulfate/12.00 mg/05 ml; Theophylline/ 15.00 mg/05 ml	Halsey Drug Co.
Azma-Aid (Tablet)	Phenobarbital/8.00 mg; Theophylline/129.60 mg Ephedrine hydrochloride/ 24.30 mg	Rondex Labs.
Azmadrine (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	U.S. Ethicals.
Benzedrex Inhaler (Inhaler)	Propylhexedrine	Smith Kline Consumer Products.
Bet-U-Lol (Liquid)	Chloral hydrate/0.54 g/30 ml; Methyl salicylate/ 30.10 g/30 ml; Menthol/ 0.69 g/30 ml	Huxley Pharm.
Bronkoxir (Elixir)	Phenobarbital/4.00 mg/05 ml; Theophylline/15.00 mg/05 ml; Ephedrine sulfate/12.00 mg/05 ml; Glyceryl guaiacolate/50.00 mg/05 ml	Breon Labs.
Bronkotabs (Tablet)	Phenobarbital/8.00 mg; Theophylline/100.00 mg; Glyceryl guaiacolate/ 100.00 mg; Ephedrine sulfate/24.00 mg	Breon Labs.
Bronkotabs- Hafs (Tablet)	Phenobarbital/4.00 mg; Glyceryl guaiacolate/ 50.00 mg; Theophylline/ 50.00 mg; Ephedrine sulfate/12.00 mg	Breon Labs.
Ceepea (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Geneva Drugs.
Chlorasal (Ointment)	Chloral hydrate/648.00 mg/30 g; Menthol/	Wisconsin Pharmaceutical.

	972.00 mg/30 g; Methyl salicylate/ 4.277 g/30 g	
Choate's Leg Freeze (Liquid)	Chloral hydrate/7.40 g/30 ml; Ether/10.3 ml/30 ml; Menthol/6.3 g/30 ml; Camphor/8.7 g/30 ml	Bickmore, Inc.
Chloro- salicylate (Ointment)	Chloral hydrate/648.00 mg/30 g; Methyl salicylate/6.66 g/30 g; Menthol/1.13 g/30 g	Kremers- Urban Co.
Menthalgescic (Ointment)	Chloral hydrate/0.45 g/30 g; Menthol/0.45 g/30 g; Methyl salicylate/3.60 g/30 g; Camphor/0.45 g/30 g	Blue Line Chem Co.
Neoasma (Tablet)	Phenobarbital/10.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Tarmac Products.
P.E.C.T. (Tablet)	Phenobarbital/8.10 mg; Chlorpheniramine maleate/ 2.00 mg; Ephedrine sulfate/24.30 mg; Theophylline/129.60 mg	Halsom Drug Co.
Primatene (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Whitehall Labs.
Rynal (Spray)	d1-methamphetamine hydrochloride/0.11 g/50 ml; Antipyrine/ 0.14 g/50 ml; Pyriamine maleate/0.005 g/50 ml; Hyamine 2389/0.01 g/50 ml	Blaine Co.
S-K Asthma (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.30 mg; Theophylline/ 129.60 mg	S-K Research Labs.
Tedral (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Warner- Chilcott.
Tedral Anti H (Tablet)	Phenobarbital/8.00 mg; Chlorpheniramine maleate/ 2.00 mg; Theophylline/	Warner- Chilcott.

	130.00 mg; Ephedrine hydrochloride/24.00 mg	
Tedral Antiasthmatic (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Parke-Davis & Co.
Tedral Elixir (Elixir)	Phenobarbital/2.00 mg/05 ml; Ephedrine hydro- chloride/6.00 mg/05 ml; Theophylline/32.50 mg/ 05 ml	Warner- Chilcott.
Tedral Pediatric (Suspension)	Phenobarbital/4.00 mg/05 ml; Ephedrine hydro- chloride/12.00 mg/05 ml; Theophylline/65.00 mg/05 ml	Warner- Chilcott.
Teephen (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Robinson Labs.
Teephen Pediatric (Suspension)	Phenobarbital/4.00 mg/05 ml; Ephedrine hydro- chloride/12.00 mg/05 ml; Theophylline anhydrous/ 65.00 mg/05 ml	Robinson Labs.
TEP (Tablet)	Phenobarbital/8.00 mg; Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Towne, Paulsen & Co., Inc.
T.E.P. Compound (Tablet)	Phenobarbital/8.10 mg; Theophylline/129.60 mg; Ephedrine hydrochloride/ 24.30 mg	Stanlabs, Inc.
Thedrizem (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 25.00 mg; Theophylline/ 100.00 mg	Zemmer Co.
Theobal (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Halsey Drug Co.
Val-Tep (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	Vale Chemical Co.
Verequad	Phenobarbital/4.00 mg/05 ml;	Knoll

(Suspension)	Ephedrine hydrochloride/ 12.00 mg/05 ml; Theophylline calcium salicylate/65.00 mg/05 ml; Glyceryl guaiacolate/ 50.00 mg/05 ml	Pharm.
Verequad (Tablet)	Phenobarbital/8.00 mg; Ephedrine hydrochloride/ 24.00 mg; Glyceryl guaiacolate/100.00 mg; Theophylline calcium salicylate/130.00 mg	Knoll Pharm.
Vicks Inhaler (Inhaler)	1-Desoxyephedrine/113.00 mg Co.	Vick Chemical

**HISTORY:** Code 1981, § 16-13-29.1, enacted by Ga. L. 1983, p. 349, § 1; Ga. L. 1989, p. 233, § 6; Ga. L. 1990, p. 8, § 16.

§ 16-13-29.2. Authority for exemption of over-the-counter Schedule V controlled substances

The Georgia State Board of Pharmacy shall have the authority to exempt and control the sale of Schedule V controlled substances by rule which shall allow the sale of such substances without the need for issuance of a prescription from a medical practitioner and shall require such substances to be sold only in a pharmacy when such substances are sold without a prescription. Such substances shall be known as Exempt Over-the-Counter (OTC) Schedule V Controlled Substances.

**HISTORY:** Code 1981, § 16-13-29.2, enacted by Ga. L. 2003, p. 349, § 6.

§ 16-13-30. Purchase, possession, manufacture, distribution, or sale of controlled substances or marijuana; penalties

(a) Except as authorized by this article, it is unlawful for any person to purchase, possess, or have under his control any controlled substance.

(b) Except as authorized by this article, it is unlawful for any person to manufacture, deliver, distribute, dispense, administer, sell, or possess with intent to distribute any controlled substance.

(c) Except as otherwise provided, any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule I or a narcotic drug in Schedule II shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two years nor more than 15 years. Upon conviction of a second or subsequent offense, he shall be imprisoned for not less than five years nor more than 30 years.

(d) Except as otherwise provided, any person who violates subsection (b) of this Code section with respect to a controlled substance in Schedule I or Schedule II shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 30 years. Upon conviction of a second or subsequent offense, he or she shall be imprisoned for not less than ten years nor more than 40 years or life imprisonment. The provisions of subsection (a) of Code Section 17-10-7 shall not apply to a sentence imposed for a second such offense; provided, however, that the remaining provisions of Code Section 17-10-7 shall apply for any subsequent offense.

(e) Any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule II, other than a narcotic drug, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two years nor more than 15 years. Upon conviction of a second or subsequent offense, he shall be punished by imprisonment for not less than five years nor more than 30 years.

(f) Reserved.

(g) Any person who violates subsection (a) of this Code section with respect to a controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than five years. Upon conviction of a second or subsequent offense, he shall be imprisoned for not less than one year nor more than ten years.

(h) Any person who violates subsection (b) of this Code section with respect to a controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(i) Except as authorized by this article, it is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute a counterfeit substance. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(j)(1) It is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute marijuana.

(2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 or in Code Section 16-13-2, any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(k) It shall be unlawful for any person to hire, solicit, engage, or use an individual under the age of 17 years, in any manner, for the purpose of manufacturing, distributing, or dispensing, on behalf of the solicitor, any controlled substance, counterfeit substance, or



marijuana unless the manufacturing, distribution, or dispensing is otherwise allowed by law. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 20 years or by a fine not to exceed \$20,000.00, or both.

(1)(1) Any person who violates subsection (a) of this Code section with respect to flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two years nor more than 15 years. Upon conviction of a second or subsequent offense, such person shall be punished by imprisonment for not less than five years nor more than 30 years.

(2) Any person who violates subsection (b) of this Code section with respect to flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five years nor more than 30 years. Upon conviction of a second or subsequent offense, such person shall be punished by imprisonment for not less than ten years nor more than 40 years or life imprisonment. The provisions of subsection (a) of Code Section 17-10-7 shall not apply to a sentence imposed for a second such offense, but that subsection and the remaining provisions of Code Section 17-10-7 shall apply for any subsequent offense.

**HISTORY:** Code 1933, § 79A-811, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1975, p. 1112, § 1; Ga. L. 1979, p. 1258, § 1; Ga. L. 1980, p. 432, § 1; Ga. L. 1985, p. 149, § 16; Ga. L. 1990, p. 992, § 1; Ga. L. 1992, p. 2041, § 1; Ga. L. 1996, p. 1023, §§ 1.1, 2; Ga. L. 1997, p. 1311, § 4.

§ 16-13-30.1. Unlawful manufacture, delivery, distribution, possession, or sale of noncontrolled substances

(a)(1) It is unlawful for any person knowingly to manufacture, deliver, distribute, dispense, possess with the intent to distribute, or sell a noncontrolled substance upon either:

(A) The express or implied representation that the substance is a narcotic or nonnarcotic controlled substance;

(B) The express or implied representation that the substance is of such nature or appearance that the recipient of said delivery will be able to distribute said substance as a controlled substance; or

(C) The express or implied representation that the substance has essentially the same pharmacological action or effect as a controlled substance.

(2) The definitions of the terms "deliver," "delivery," "distribute," "dispense," and "manufacture" provided in Code Section 16-13-21 shall not be applicable to this Code section; but such terms as used in this Code section shall have the meanings ascribed to them in the ordinary course of business.

(b) An implied representation may be shown by proof of any two of the following:

(1) The manufacture, delivery, distribution, dispensing, or sale included an exchange or a demand for money or other valuable property as consideration for delivery of the substance and the amount of such consideration was substantially in excess of the reasonable value of the noncontrolled substance;

(2) The physical appearance of the finished product containing the substance is substantially identical to a specific controlled substance;

(3) The finished product bears an imprint, identifying mark, number, or device which is substantially identical to the trademark, identifying mark, imprint, number, or device of a manufacturer licensed by the Food and Drug Administration of the United States Department of Health and Human Services.

(c) In any prosecution for unlawful manufacture, delivery, distribution, possession with intent to distribute, dispensing, or sale of a noncontrolled substance, it is no defense that the accused believed the noncontrolled substance to be actually a controlled substance.

(d) The provisions of this Code section shall not prohibit a duly licensed business establishment, acting in the usual course of business, from selling or for a practitioner, acting in the usual course of his professional practice, from dispensing a drug preparation manufactured by a manufacturer licensed by the Food and Drug Administration of the United States Department of Health and Human Services for over-the-counter sale which does not bear a label stating "Federal law prohibits dispensing without a prescription" or similar language meaning that the drug preparation requires a prescription.

(e) The unlawful manufacture, delivery, distribution, dispensing, possession with the intention to distribute, or sale of a noncontrolled substance in violation of this Code section is a felony and, upon conviction thereof, such person shall be punished by imprisonment for not less than one year nor more than ten years or by a fine not to exceed \$25,000.00, or both.

(f) All property which would be subject to forfeiture under the provisions of subsection (d) of Code Section 16-13-49 for a violation of this article which is used, or intended for use, to facilitate, or is derived from, a violation of this Code section and any noncontrolled substance which is manufactured, distributed, dispensed, possessed with the intent to distribute, or sold in violation of this Code section are declared to be contraband and there shall be no property interest therein. Any property or noncontrolled substance which is subject to the provisions of this subsection shall be forfeited in accordance with the procedures of Code Section 16-13-49.

**HISTORY:** Code 1981, § 16-13-30.1, enacted by Ga. L. 1982, p. 2370, § 3; Ga. L. 1991, p. 886, § 2.

§ 16-13-30.2. Unlawful manufacture, distribution, or possession with intent to distribute of imitation controlled substances

(a) Any person who knowingly manufactures, distributes, or possesses with intent to

distribute an imitation controlled substance as defined in paragraph (12.1) of Code Section 16-13-21 is guilty of a misdemeanor of a high and aggravated nature.

(b) The provisions of this Code section are cumulative and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party.

(c) No civil or criminal liability shall be imposed by virtue of this Code section on any person registered under this article who manufactures, distributes, or possesses an imitation controlled substance for use by a practitioner, as defined in paragraph (23) of Code Section 16-13-21, in the course of lawful professional practice or research.

(d) All materials which are manufactured, distributed, or possessed in violation of this Code section are declared to be contraband and shall be forfeited according to the procedure described in Code Section 16-13-49.

**HISTORY:** Code 1981, § 16-13-30.2, enacted by Ga. L. 1988, p. 1065, § 2.

§ 16-13-30.3. Possession of substances containing ephedrine, pseudoephedrine, and phenylpropanolamine; restrictions on sales of products containing pseudoephedrine

(a) As used in this Code section, the term:

(1) "Ephedrine," "pseudoephedrine," or "phenylpropanolamine" means any drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, alone or in a mixture.

(2) "Personal use" means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine in quantities at or below that specified in subsection (b) of this Code section, and includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(3) "Retail distributor" means a grocery store, general merchandise store, drugstore, convenience store, or other related entity, the activities of which involve the distribution of ephedrine, pseudoephedrine, or phenylpropanolamine products.

(b)(1) It is unlawful for any person, other than a person or entity described in paragraph (28), (29), or (33) of Code Section 26-4-5 or a retail distributor, to knowingly possess any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine in an amount which exceeds 300 pills, tablets, gelcaps, capsules, or other individual units or more than 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances, whichever is smaller.

(2) It shall be unlawful for any person to possess any amount of a substance set forth in this Code section with the intent to manufacture amphetamine or methamphetamine.

(3) Any person who violates the provisions of this Code section shall be guilty of a

felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ten years.

(b.1)(1) Products whose sole active ingredient is pseudoephedrine may be offered for retail sale only if sold in blister packaging. Such products may not be offered for retail sale by self-service but only from behind a counter or other barrier so that such products are not directly accessible by the public but only by a retail store employee or agent.

(2) No person shall deliver in any single over the counter sale more than three packages of any product containing pseudoephedrine as the sole active ingredient or in combination with other active ingredients or any number of packages that contain a combined total of more than nine grams of pseudoephedrine or its base, salts, optical isomers, or salts of its optical isomers.

(3) It shall be unlawful for a retail distributor to purchase any product containing pseudoephedrine from any person or entity other than a manufacturer or a wholesale distributor licensed by the Georgia State Board of Pharmacy.

(4) This subsection shall not apply to:

(A) Pediatric products labeled pursuant to federal regulation as primarily intended for administration to children under 12 years of age according to label instructions; and

(B) Products that the Georgia State Board of Pharmacy, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors.

(5) This subsection shall preempt all local ordinances or regulations governing the retail sale of over the counter products containing pseudoephedrine by a retail business except such local ordinances or regulations that existed on or before December 31, 2004. Effective January 1, 2006, this subsection shall preempt all local ordinances.

(6)(A) Except as otherwise provided herein, it shall be unlawful for any person knowingly to violate any prohibition contained in paragraph (1), (2), or (3) of this subsection.

(B) Any person convicted of a violation of paragraph (1) or (2) of this subsection shall be guilty of a misdemeanor which, upon the first conviction, shall be punished by a fine of not more than \$500.00 and, upon the second or subsequent conviction, shall be punished by not more than six months' imprisonment or a fine of not more than \$1,000.00, or both.

(C) Any person convicted of a violation of paragraph (3) of this subsection shall, upon the first conviction, be guilty of a misdemeanor and, upon the second or subsequent conviction, be guilty of a misdemeanor of a high and aggravated nature.

(D) It shall be a defense to a prosecution of a retail business or owner or operator

thereof for violation of paragraph (1) or (2) of this subsection that, at the time of the alleged violation, all of the employees of the retail business had completed training under Georgia Meth Watch, the retail business was in compliance with Georgia Meth Watch, and the defendant did not knowingly, willfully, or intentionally violate paragraph (1) or (2) of this subsection. For purposes of this subsection only, the term "Georgia Meth Watch" shall mean that program entitled "Georgia Meth Watch" or similar program which has been promulgated, approved, and distributed by the Georgia Council on Substance Abuse.

(7) Except as otherwise provided in this subsection, the Georgia State Board of Pharmacy may adopt reasonable rules and regulations to effectuate the provisions of this subsection. The board is further authorized to charge reasonable fees to defray expenses incurred in maintaining any records or forms necessitated by this subsection or otherwise administering any other provisions of this subsection.

(c) This Code section shall not apply to:

(1) Pediatric products primarily intended for administration to children under 12 years of age, according to label instructions, either:

(A) In solid dosage form whose recommended dosage, according to label instructions, does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per individual dosage unit; or

(B) In liquid form whose recommended dosage, according to label instructions, does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce; or

(3) Products that the Georgia State Board of Pharmacy, upon application of a manufacturer, exempts by rule from this Code section because the product has been formulated in such a way as to prevent effectively the conversion of the active ingredient into methamphetamine or its salts or precursors.

(d) Except as authorized by this article, it is unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute any substance containing any amounts of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers which have been altered from their original condition so as to be powdered, liquefied, or crushed. This subsection shall not apply to any of the substances identified within this subsection which are possessed or altered for a legitimate medical purpose. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than

one year nor more than ten years.

**HISTORY:** Code 1981, § 16-13-30.3, enacted by Ga. L. 2003, p. 177, § 3; Ga. L. 2005, p. 194, § 1/HB 216; Ga. L. 2006, p. 72, § 16/SB 465; Ga. L. 2007, p. 47, § 16/SB 103.

§ 16-13-30.4. Licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine; reporting and record-keeping requirements; grounds for denial, suspension, or revocation of licenses; rules and regulations; exceptions; forfeiture; violations

(a) As used in this Code section and unless otherwise specified, the term "board" or "board of pharmacy" shall mean the Georgia State Board of Pharmacy.

(b)(1) A wholesale distributor who sells, transfers, purchases for resale, or otherwise furnishes any product containing pseudoephedrine must first obtain a license from the board of pharmacy; provided, however, that a wholesale distributor that has a valid license as a wholesale distributor under Code Section 26-4-113 shall not be required to obtain an additional license under this Code section.

(2) Wholesale distributors licensed under Code Section 26-4-113 shall be subject to the provisions of this Code section in the same manner as wholesale distributors licensed under this Code section.

(3) Every wholesale distributor licensed as provided in this Code section shall:

(A) Submit reports, upon verbal or written request from the Georgia Drugs and Narcotics Agency, the Georgia Bureau of Investigation, or the sheriff of a county or the police chief of a municipality located in this state, to account for all transactions with persons or firms located within this state; such reportable transactions shall include all sales, distribution, or transactions dealing with products containing pseudoephedrine; and

(B) Within seven days, notify the Georgia Drugs and Narcotics Agency of any purchases of products containing pseudoephedrine from the wholesale distributor which the wholesaler judges to be excessive.

(4) Whenever any firm or person located in this state receives, purchases, or otherwise gains access to products containing pseudoephedrine from any wholesale distributor, whether located in or outside this state, such firm or person shall maintain a copy of such wholesale distributor's license issued by the Georgia State Board of Pharmacy. Such firm or person shall maintain copies of all invoices, receipts, and other records regarding such products containing pseudoephedrine for a minimum of three years from the date of receipt, purchase, or access. Failure to maintain records to verify the presence of any and all products containing pseudoephedrine being held by a firm or person shall subject such products containing pseudoephedrine to being embargoed or seized by proper law enforcement authorities until such time as proof can be shown that such products containing pseudoephedrine were obtained from a Georgia licensed wholesale distributor.

(5) Agents of the Georgia Drugs and Narcotics Agency, agents of the Georgia Bureau

of Investigation, and the sheriff of a county or the police chief of a county or municipality in this state in which a firm or person that receives, purchases, or otherwise gains access to products containing pseudoephedrine is located may request to review the receiving records for such products. Failure to provide such records within five business days following such request to account for the presence of such products shall result in the embargo or seizure of such products.

(c) A license or permit obtained pursuant to this Code section shall be denied, suspended, or revoked by the board of pharmacy upon finding that the licensee or permit holder has:

(1) Furnished false or fraudulent material information in any application filed under this Code section;

(2) Been convicted of a crime under any state or federal law relating to any controlled substance;

(3) Had his or her federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;

(4) Violated the provisions of Chapter 4 of Title 26; or

(5) Failed to maintain effective controls against the diversion of products containing pseudoephedrine to unauthorized persons or entities.

(d) The board of pharmacy may adopt reasonable rules and regulations to effectuate the provisions of this Code section. The board is further authorized to charge reasonable fees to defray expenses incurred in issuing any licenses or permits, maintaining any records or forms required by this Code section, and the administration of the provisions of this Code section.

(e) Notwithstanding any other provision of this Code section to the contrary, no person shall be required to obtain a license or permit for the sale, receipt, transfer, or possession of a product containing pseudoephedrine when:

(1) Such lawful distribution takes place in the usual course of business between agents or employees of a single regulated person or entity; or

(2) A product containing pseudoephedrine is delivered to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman.

(f) All products containing pseudoephedrine that have been or that are intended to be sold, transferred, purchased for resale, possessed, or otherwise transferred in violation of a provision of this Code section shall be subject to forfeiture to the state and no property right shall exist in them.

(g)(1) Any person who sells, transfers, receives, or possesses a product containing pseudoephedrine violates this Code section if the person:

(A) Knowingly fails to comply with the reporting requirements of this Code section;

(B) Knowingly makes a false statement in a report or record required by this Code section or the rules adopted thereunder; or

(C) Is required by this Code section to have a license or permit and knowingly or deliberately fails to obtain such a license or permit.

(2) It shall be illegal for a person to possess, sell, transfer, or otherwise furnish a product containing pseudoephedrine if such person possesses, sells, transfers, or furnishes the substance with the knowledge or intent that the substance will be used in the unlawful manufacture of a controlled substance.

(3)(A) A person who violates paragraph (2) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 15 years or by a fine not to exceed \$100,000.00, or both.

(B) A person who violates any provision of this Code Section other than paragraph (2) of this subsection shall be guilty of a misdemeanor on the first offense and a misdemeanor of a high and aggravated nature on the second and subsequent offenses.

**HISTORY:** Code 1981, § 16-13-30.4, enacted by Ga. L. 2005, p. 194, § 2/HB 216; Ga. L. 2007, p. 47, § 16/SB 103.

§ 16-13-30.5. Possession of substances with intent to use or convey such substances for the manufacture of Schedule I or Schedule II controlled substances

(a) It shall be illegal for a person to possess, whether acquired through theft or other means, any substance with the intent to:

(1) Use such substance in the manufacture of a Schedule I or Schedule II controlled substance; or

(2) Knowingly convey such substance to another for use in the manufacture of a Schedule I or Schedule II controlled substance.

(b) In determining whether a particular substance is possessed with the intent required to violate subsection (a) of this Code section, the court or other authority making such a determination may, in addition to all other logically relevant factors, consider the following:

(1) Statements by the owner or anyone in control of the substance concerning its use;

(2) Prior convictions, if any, of the owner or of anyone in control of the substance for



violation of any state or federal law relating to the sale or manufacture of controlled substances;

(3) Instructions or descriptive materials of any kind accompanying the substance or found in the owner's or controlling person's possession concerning, explaining, or depicting its use;

(4) The manner in which the substance is displayed or offered for sale;

(5) The quantity and location of the substance considered in relation to the existence and scope of legitimate uses for the substance in the community; and

(6) Expert testimony concerning the substance's use.

(c) This Code section shall not apply where possession was by a person authorized by law to dispense, prescribe, manufacture, or possess the substance in question.

(d) A person who violates this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 15 years or by a fine not to exceed \$100,000.00, or both.

**HISTORY:** Code 1981, § 16-13-30.5, enacted by Ga. L. 2005, p. 194, § 3/HB 216; Ga. L. 2006, p. 72, § 16/SB 465.

§ 16-13-31. Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine; penalties

(a)(1) Any person who knowingly sells, manufactures, delivers, or brings into this state or who is knowingly in possession of 28 grams or more of cocaine or of any mixture with a purity of 10 percent or more of cocaine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in cocaine and, upon conviction thereof, shall be punished as follows:

(A) If the quantity of the cocaine or the mixture involved is 28 grams or more, but less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(B) If the quantity of the cocaine or the mixture involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(C) If the quantity of the cocaine or the mixture involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(2) Any person who knowingly sells, manufactures, delivers, or brings into this state or who is knowingly in possession of any mixture with a purity of less than 10 percent of

cocaine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in cocaine if the total weight of the mixture multiplied by the percentage of cocaine contained in the mixture exceeds any of the quantities of cocaine specified in paragraph (1) of this subsection. Upon conviction thereof, such person shall be punished as provided in paragraph (1) of this subsection depending upon the quantity of cocaine such person is charged with knowingly selling, manufacturing, delivering, or bringing into this state or knowingly possessing.

(b) Any person who knowingly sells, manufactures, delivers, brings into this state, or has possession of 4 grams or more of any morphine or opium or any salt, isomer, or salt of an isomer thereof, including heroin, as described in Schedules I and II, or 4 grams or more of any mixture containing any such substance in violation of this article commits the felony offense of trafficking in illegal drugs and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of such substances involved is 4 grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$50,000.00;

(2) If the quantity of such substances involved is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$100,000.00; and

(3) If the quantity of such substances involved is 28 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$500,000.00.

(c) Any person who knowingly sells, manufactures, grows, delivers, brings into this state, or has possession of a quantity of marijuana exceeding 10 pounds commits the offense of trafficking in marijuana and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of marijuana involved is in excess of 10 pounds, but less than 2,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$100,000.00;

(2) If the quantity of marijuana involved is 2,000 pounds or more, but less than 10,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of seven years and shall pay a fine of \$250,000.00; and

(3) If the quantity of marijuana involved is 10,000 pounds or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$1 million.

(d) Any person who knowingly sells, manufactures, delivers, or brings into this state 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in paragraph (6) of Code Section 16-13-25, in violation of this article commits the felony

offense of trafficking in methaqualone and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of the methaqualone or the mixture involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$50,000.00; and

(2) If the quantity of the methaqualone or the mixture involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$250,000.00.

(e) Any person who knowingly sells, delivers, or brings into this state or has possession of 28 grams or more of methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Schedule II, in violation of this article commits the felony offense of trafficking in methamphetamine or amphetamine and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 28 grams or more, but less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(2) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(3) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(f) Any person who knowingly manufactures methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Schedule II, in violation of this article commits the felony offense of trafficking methamphetamine or amphetamine and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

(2) If the quantity of methamphetamine, amphetamine, or a mixture containing either substance involved is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$300,000.00; and

(3) If the quantity of methamphetamine, amphetamine, or a mixture containing either

substance involved is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

(g)(1) Except as provided in paragraph (2) of this subsection and notwithstanding Code Section 16-13-2, with respect to any person who is found to have violated this Code section, adjudication of guilt or imposition of sentence shall not be suspended, probated, deferred, or withheld prior to serving the mandatory minimum term of imprisonment prescribed by this Code section.

(2) The district attorney may move the sentencing court to impose a reduced or suspended sentence upon any person who is convicted of a violation of this Code section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may impose a reduced or suspended sentence if he finds that the defendant has rendered such substantial assistance.

(h) Any person who violates any provision of this Code section in regard to trafficking in cocaine, illegal drugs, marijuana, or methamphetamine shall be punished by imprisonment for not less than five years nor more than 30 years and by a fine not to exceed \$1 million.

**HISTORY:** Ga. L. 1980, p. 432, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2215, § 1; Ga. L. 1983, p. 620, § 1; Ga. L. 1985, p. 149, § 16; Ga. L. 1985, p. 552, § 1; Ga. L. 1986, p. 10, § 16; Ga. L. 1986, p. 397, § 1; Ga. L. 1988, p. 420, § 2; Ga. L. 1989, p. 1594, § 1; Ga. L. 1992, p. 2106, § 1; Ga. L. 1994, p. 169, § 5.1; Ga. L. 1997, p. 1311, § 5; Ga. L. 2003, p. 177, § 4; Ga. L. 2003, p. 257, § 1.

#### § 16-13-32. Transactions in drug related objects; forfeitures and penalties

(a) As used in this Code section, the term:

(1) "Drug related object" means any instrument, device, or object which is designed or marketed as useful primarily for one or more of the following purposes:

(A) To inject, ingest, inhale, or otherwise introduce marijuana or a controlled substance into the human body;

(B) To enhance the effect of marijuana or a controlled substance on the human body;

(C) To test the strength, effectiveness, or purity of marijuana or a controlled substance;

(D) To process or prepare marijuana or a controlled substance for introduction into the human body;

(E) To conceal any quantity of marijuana or a controlled substance; or

(F) To contain or hold marijuana or a controlled substance while it is being

introduced into the human body.

(2) "Knowing" means either actual or constructive knowledge of the drug related nature of the object; and a person or corporation has constructive knowledge of the drug related nature of the object if he or it has knowledge of facts which would put a reasonable and prudent person on notice of the drug related nature of the object.

(b) It shall be unlawful for any person or corporation, knowing the drug related nature of the object, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug related object. It shall also be unlawful for any person or corporation, knowing the drug related nature of the object, to display for sale, or possess with the intent to distribute any drug related object. Unless stated within the body of the advertisement or notice that the object that is advertised or about which information is disseminated is not available for distribution of any sort in this state, it shall be unlawful for any person or corporation, knowing the drug related nature of the object, to distribute or disseminate in any manner to any person any advertisement of any kind or notice of any kind which gives information, directly or indirectly, on where, how, from whom, or by what means any drug related object may be obtained or made.

(c) It shall be unlawful for any person or corporation, other than a licensed pharmacist, a pharmacy intern or pharmacy extern as defined in Code Section 26-4-5, or a practitioner licensed to dispense dangerous drugs, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person a hypodermic syringe or needle designed or marketed primarily for human use. It shall be an affirmative defense that the hypodermic syringe or needle was marketed for a legitimate medical purpose.

(d) For a first offense, any person or corporation which violates any provision of this Code section shall be guilty of a misdemeanor. For a second offense, the defendant shall be guilty of a misdemeanor of a high and aggravated nature. For a third or subsequent offense, the defendant shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years and shall be fined not more than \$5,000.00.

(e) All instruments, devices, and objects which are distributed or possessed in violation of this Code section are declared to be contraband.

(f) After conviction and after all direct appeals from the conviction have been exhausted, any instruments, devices, or objects which are the subject of prosecution under this Code section may be destroyed by the state or any county or municipality thereof without court order.

(g) Any instruments, devices, or objects which are seized after July 1, 1980, on condemnation as being distributed or possessed in violation of this Code section and which are not made the subject of prosecution under this Code section may be destroyed by the state or any county or municipality thereof if within 90 days after such seizures are made, the district attorney or the solicitor-general of any court that has jurisdiction to try

misdemeanors in the county where the seizure occurred shall institute condemnation proceedings in the court by petition, a copy of which shall be served upon the owner of the seized items, if known; and if the owner is unknown, notice of such proceedings shall be published once a week for two weeks in the newspaper in which the sheriff's advertisements are published. The petition shall allege that the seized items were distributed or possessed in violation of this Code section; and, if no defense is filed within 30 days from the filing of the petition, judgment by default shall be entered by the court at chambers, and the court shall order the seized items to be destroyed; otherwise, the case shall proceed as other civil cases in the court. Should the state prove, by a preponderance of the evidence, that the seized items were distributed or possessed in violation of this Code section, the court shall order the seized items to be destroyed.

**HISTORY:** Code 1933, § 79A-811.1, enacted by Ga. L. 1978, p. 2237, § 1; Ga. L. 1980, p. 1288, § 1; Ga. L. 1996, p. 748, § 13; Ga. L. 2004, p. 488, § 2.

#### § 16-13-33. Attempt or conspiracy to commit offense under this article

Any person who attempts or conspires to commit any offense defined in this article shall be, upon conviction thereof, punished by imprisonment not exceeding the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

**HISTORY:** Code 1933, § 79A-812, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-34. Promulgation of rules relating to registration and control of controlled substances; registration fees

The State Board of Pharmacy may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

**HISTORY:** Code 1933, § 79A-813, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

#### § 16-13-35. General registration requirements

(a) Every person who manufactures, distributes, or dispenses any controlled substances within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state must obtain annually a registration issued by the State Board of Pharmacy in accordance with its rules.

(b) Persons registered by the State Board of Pharmacy under this article to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with this article.

(c) The following persons need not register and may lawfully possess controlled substances under this article:

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

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

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance; and

(4) Officers and employees of this state, or of a political subdivision of this state, or of the United States while acting in the course of their official duties.

(d) The State Board of Pharmacy may waive by rule the requirements for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The State Board of Pharmacy, the director of the Georgia Drugs and Narcotics Agency, or other drug agents designated by the State Board of Pharmacy for this purpose may inspect the establishment of a registrant or applicant for registration in accordance with the State Board of Pharmacy rules and the provisions of this article.

(g) The following persons are registered under this article and are exempt from the registration fee and registration application requirements of this article:

(1) Persons licensed by the State Board of Pharmacy as a pharmacist or a pharmacy under Chapter 4 of Title 26;

(2) Persons licensed as a physician, dentist, or veterinarian under the laws of the state to use, mix, prepare, dispense, prescribe, and administer drugs in connection with medical treatment to the extent provided by the laws of this state; and

(3) An employee, agent, or representative of any person described in paragraph (1) or (2) of this subsection acting in the usual course of his employment or occupation and not on his own account, provided that suspension or revocation of licensure as set forth in paragraphs (1) and (2) of this subsection shall nullify the exemption as set forth in this subsection.

**HISTORY:** Code 1933, § 79A-814, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-36. Factors considered in determining whether to register manufacturer or distributor

(a) The State Board of Pharmacy shall register an applicant to manufacture or distribute controlled substances included in Code Sections 16-13-25 through 16-13-29 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the State Board of Pharmacy shall consider the following factors:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of the applicant under any federal or state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against illegal diversion of controlled substances;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this article;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law;

(7) Suspension or revocation of the applicant's registration or license to manufacture, distribute, or dispense controlled substances, drugs, or narcotics in this state or any other state of the United States; and

(8) Any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this Code section does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered under state law to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The State Board of Pharmacy need not require separate registration under this Code section for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the State Board of Pharmacy satisfactory evidence of that federal registration. Any



practitioner conducting research with Schedule I controlled substances must obtain a separate registration with the State Board of Pharmacy.

(d) Compliance by manufacturers and distributors with the provisions of federal law respecting registration (excluding fees) entitles them to be registered under this article.

**HISTORY:** Code 1933, § 79A-815, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1977, p. 625, § 8; Ga. L. 1982, p. 3, § 16.

§ 16-13-37. Grounds for suspending or revoking registration; disposition of controlled substances; notification to bureau

(a) A registration under Code Section 16-13-36 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the State Board of Pharmacy upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this article;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance;

(3) Has had his federal registration to manufacture, distribute, or dispense controlled substances suspended or revoked;

(4) Has violated any provision of this article or the rules and regulations promulgated under this article; or

(5) Has failed to maintain sufficient controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

(b) The State Board of Pharmacy may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the State Board of Pharmacy suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order shall be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances shall be forfeited to the state.

(d) The State Board of Pharmacy shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

**HISTORY:** Code 1933, § 79A-816, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1992, p. 6, § 16.

§ 16-13-38. Procedure for denying, suspending, revoking, or limiting registration; automatic suspension

(a) Before denying, suspending, revoking, or limiting registration, or refusing a renewal of registration, the State Board of Pharmacy shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, limited, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the State Board of Pharmacy at a time and place not less than 30 days after the date of service of the order; but in the case of a denial of renewal of registration the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal or registration shall not abate the existing registration, which shall remain in effect pending the outcome of the administrative hearing.

(b) The State Board of Pharmacy shall suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Code Section 16-13-37 or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the State Board of Pharmacy or dissolved by a court of competent jurisdiction.

**HISTORY:** Code 1933, § 79A-817, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-39. Manufacturers, distributors, and dispensers to maintain records of controlled substances

Persons registered to manufacture, distribute, or dispense controlled substances under this article shall keep a complete and accurate record of all controlled substances on hand, received, manufactured, sold, dispensed, or otherwise disposed of and shall maintain such records and inventories in conformance with the record-keeping and inventory requirements of federal law and with any rules issued by the State Board of Pharmacy.

**HISTORY:** Code 1933, § 79A-810, enacted by Ga. L. 1967, p. 296, § 1; Code 1933, § 79A-818, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-40. Distribution of Schedule I and II substances

Controlled substances in Schedules I and II shall be distributed by a registrant to

another registrant only pursuant to an order form. Compliance with federal law respecting order forms shall be deemed compliance with this Code section.

**HISTORY:** Code 1933, § 79A-819, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-41. Prescriptions

(a) Except when dispensed directly by a registered practitioner, other than a pharmacy or pharmacist, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a registered practitioner.

(b) When a practitioner writes a prescription drug order to cause the dispensing of a Schedule II substance, he or she shall include the name and address of the person for whom it is prescribed, the kind and quantity of such Schedule II controlled substance, the directions for taking, the signature, and the name, address, telephone number, and DEA registration number of the prescribing practitioner. Such prescription shall be signed and dated by the practitioner on the date when issued, and the nature of such signature shall be defined in regulations promulgated by the State Board of Pharmacy. Prescription drug orders for Schedule II controlled substances may be transmitted via facsimile machine or other electronic means only in accordance with regulations promulgated by the State Board of Pharmacy in accordance with Code Section 26-4-80 or 26-4-80.1, or in accordance with DEA regulations at 21 C.F.R. 1306.

(c) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed upon oral prescription of a registered practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Code Section 16-13-39. No prescription for a Schedule II substance may be refilled.

(d)(1) Except when dispensed directly by a practitioner, other than a pharmacy or pharmacist, to an ultimate user, a controlled substance included in Schedule III, IV, or V, which is a prescription drug as determined under any law of this state or the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301, 52 Stat. 1040 (1938), shall not be dispensed without a written or oral prescription of a registered practitioner. The prescription shall not be filled or refilled more than six months after the date on which such prescription was issued or be refilled more than five times.

(2) When a practitioner writes a prescription drug order to cause the dispensing of a Schedule III, IV, or V controlled substance, he or she shall include the name and address of the person for whom it is prescribed, the kind and quantity of such controlled substance, the directions for taking, the signature, and the name, address, telephone number, and DEA registration number of the practitioner. Such prescription shall be signed and dated by the practitioner on the date when issued or may be issued orally, and the nature of the signature of the prescriber shall meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the State Board of Pharmacy, or both such guidelines and regulations.

(e) A controlled substance included in Schedule V shall not be distributed or dispensed

other than for a legitimate medical purpose.

(f) No person shall prescribe or order the dispensing of a controlled substance, except a registered practitioner who is:

- (1) Licensed or otherwise authorized by this state to prescribe controlled substances;
- (2) Acting in the usual course of his professional practice; and
- (3) Prescribing or ordering such controlled substances for a legitimate medical purpose.

(g) No person shall fill or dispense a prescription for a controlled substance except a person who is licensed by this state as a pharmacist or a pharmacy intern acting under the immediate and direct personal supervision of a licensed pharmacist in a pharmacy licensed by the State Board of Pharmacy, provided that this subsection shall not prohibit a registered physician, dentist, veterinarian, or podiatrist authorized by this state to dispense controlled substances as provided in this article if such registered person complies with all record-keeping, labeling, packaging, and storage requirements regarding such controlled substances and imposed upon pharmacists and pharmacies in this chapter and in Chapter 4 of Title 26 and complies with the requirements of Code Section 26-4-130.

(h) It shall be unlawful for any practitioner to issue any prescription document signed in blank. The issuance of such document signed in blank shall be prima-facie evidence of a conspiracy to violate this article. The possession of a prescription document signed in blank by a person other than the person whose signature appears thereon shall be prima-facie evidence of a conspiracy between the possessor and the signer to violate the provisions of this article.

**HISTORY:** Code 1933, § 79A-820, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1979, p. 859, § 10; Ga. L. 1982, p. 3, § 16; Ga. L. 1983, p. 349, § 2; Ga. L. 1985, p. 149, § 16; Ga. L. 1985, p. 1219, § 5; Ga. L. 1986, p. 1031, § 1; Ga. L. 1999, p. 81, § 16; Ga. L. 2003, p. 349, § 7; Ga. L. 2007, p. 47, § 16/SB 103.

§ 16-13-42. Unauthorized distribution and dispensation; refusal or failure to keep records; refusal to permit inspection; unlawfully maintaining structure or place; penalty

(a) It is unlawful for any person:

- (1) Who is subject to the requirements of Code Section 16-13-35 to distribute or dispense a controlled substance in violation of Code Section 16-13-41;
- (2) Who is a registrant to manufacture a controlled substance not authorized by his registration or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;
- (3) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this article;

(4) To refuse an entry into any premises for any inspection authorized by this article; or

(5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this article for the purpose of using these substances, or which is used for keeping or selling them in violation of this article.

(b) Any person who violates this Code section is guilty of a felony and, upon conviction thereof, may be imprisoned for not more than five years, fined not more than \$25,000.00, or both.

**HISTORY:** Code 1933, § 79A-821, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 10.

#### § 16-13-43. Unauthorized distribution; penalties

(a) It is unlawful for any person:

(1) Who is a registrant to distribute a controlled substance classified in Schedule I or II, except pursuant to an order form as required by Code Section 16-13-40;

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

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

(4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document or record required to be kept or filed under this article;

(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; or

(6) To withhold information from a practitioner that such person has obtained a controlled substance of a similar therapeutic use in a concurrent time period from another practitioner.

(b) Any person who violates this Code section is guilty of a felony and, upon conviction thereof, may be imprisoned for not more than eight years or fined not more than \$50,000.00, or both.

**HISTORY:** Code 1933, § 79A-819, enacted by Ga. L. 1967, p. 296, § 1; Code 1933, § 79A-822, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1978, p. 1668, § 11; Ga. L. 1985, p. 1219, § 6; Ga. L. 1987, p. 261, § 6.

§ 16-13-44. Penalties under other laws

Any penalty imposed for violation of this article is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

**HISTORY:** Code 1933, § 79A-823, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-45. Powers of enforcement personnel

Any officer or employee of the State Board of Pharmacy designated by the director of the Georgia Drugs and Narcotics Agency may:

- (1) Carry firearms in the performance of his official duties;
- (2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;
- (3) Make arrests without warrant for any offense under this article committed in his presence or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this article which may constitute a felony;
- (4) Make seizures of property pursuant to this article; or
- (5) Perform other law enforcement duties as the State Board of Pharmacy or the director of the Georgia Drugs and Narcotics Agency designates.

**HISTORY:** Code 1933, § 79A-824, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-46. Administrative inspections and warrants

(a) Issuance and execution of inspection warrants shall be as follows:

(1) A judge of the superior, state, city, or magistrate court, or any municipal officer clothed by law with the powers of a magistrate, upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting inspections authorized by this article, or rules promulgated under this article, and seizures of property appropriate to the inspections. For the purpose of the issuance of inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this article, or rules promulgated under this article, sufficient to justify inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of a designated officer, drug agent, or employee of the State Board of Pharmacy having knowledge of the facts alleged, sworn to before the judicial officer and establishing the grounds for issuing the warrant. If the judicial officer is satisfied that grounds for the application exist or that there is probable

cause to believe they exist, he shall issue a warrant identifying the area, premises, building, registrant, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(B) Be directed to persons authorized by Code Section 16-13-45 to execute it;

(C) Command the persons to whom it is directed to inspect the area, premises, building, registrant, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(D) Identify the item or types of property to be seized, if any; and

(E) Designate the judicial officer to whom it shall be returned;

(3) A warrant issued pursuant to this Code section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be provided upon request to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. A copy of the inventory shall be delivered upon request to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judicial officer who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the superior court for the county in which the inspection was made.

(b) The State Board of Pharmacy, the director of the Georgia Drugs and Narcotics Agency or drug agents may make inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this Code section only, "controlled premises" means:

(A) Places where persons registered or exempted from registration requirements under this article are required to keep records; and

(B) Places, including factories, warehouses, establishments, and conveyances, in which persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance;

(2) When authorized by an inspection warrant issued pursuant to subsection (a) of this Code section, an officer or employee designated by the State Board of Pharmacy or the

director of the Georgia Drugs and Narcotics Agency, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an inspection;

(3) When authorized by an inspection warrant, an officer or employee designated by the State Board of Pharmacy or the director of the Georgia Drugs and Narcotics Agency may:

(A) Inspect and copy records required by this article to be kept;

(B) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein, and, except as provided in paragraph (5) of subsection (b) of this Code section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this article; and

(C) Inventory any stock of any controlled substance therein and obtain samples thereof;

(4) This Code section does not prevent the inspection without a warrant of books and records pursuant to an administrative inspection in accordance with subsection (c) of this Code section, nor does it prevent entries and inspections, including seizures of property, without a warrant:

(A) If the owner, operator, or agent in charge of the controlled premises consents;

(B) In situations presenting imminent danger to health or safety;

(C) In situations involving inspection of conveyance if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(D) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(E) In all other situations in which a warrant is not constitutionally required;

(5) An inspection authorized by this Code section shall not extend to financial data, sales data other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

(c) The State Board of Pharmacy, its members, or duly authorized agents or drug agents shall have the power to inspect, without a warrant, in a lawful manner at all reasonable hours, any pharmacy or other place licensed by the State Board of Pharmacy pursuant to Chapter 4 of Title 26 for the purpose:

(1) Of determining if any of the provisions of this article or any rule or regulation



promulgated under its authority is being violated;

(2) Of securing samples or specimens of any drug or medical supplies, after first paying or offering to pay for such samples or specimens; and

(3) Of securing other such evidence as may be needed for an administrative proceedings action, as provided by this article.

**HISTORY:** Code 1933, § 79A-825, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1983, p. 884, § 3-16; Ga. L. 1992, p. 6, § 16; Ga. L. 1999, p. 81, § 16.

#### § 16-13-47. Injunctions

(a) The superior courts of this state may exercise jurisdiction to restrain or enjoin violations of this article.

(b) The defendant may demand a trial by jury for an alleged violation of an injunction or restraining order under this Code section.

**HISTORY:** Code 1933, § 79A-826, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-48. Cooperative arrangements with federal and other state agencies

(a) The State Board of Pharmacy shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:

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

(2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records, other than medical treatment records, of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes; and

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

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this article, including results of inspections conducted by it, may be relied and acted upon by the State Board of Pharmacy or drug agents in the exercise of its or their regulatory functions under this article.

**HISTORY:** Code 1933, § 79A-827, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-48.1. Funds or property transferred to state or local agencies under federal drug laws

Money or property seized or forfeited pursuant to federal law regarding controlled substances, marijuana, or dangerous drugs, which money, property, or proceeds therefrom are authorized by that federal law to be transferred to a cooperating law enforcement agency of this state or any political subdivision thereof, shall be utilized by the law enforcement agency or political subdivision to which the money, property, or proceeds are so transferred as provided by such federal law and regulations thereunder. Unless otherwise required by federal law or regulation, such funds shall be received and utilized as provided by Georgia law.

**HISTORY:** Code 1981, § 16-13-48.1, enacted by Ga. L. 1987, p. 840, § 1.

§ 16-13-49. Forfeitures

(a) As used in this Code section, the term:

(1) "Controlled substance" shall have the same meaning as provided in paragraph (4) of Code Section 16-13-21 and shall also include marijuana as such term is defined in paragraph (16) of Code Section 16-13-21, notwithstanding any other provisions of this article.

(2) "Costs" means, but is not limited to:

(A) All expenses associated with the seizure, towing, storage, maintenance, custody, preservation, operation, or sale of the property; and

(B) Satisfaction of any security interest or lien not subject to forfeiture under this Code section.

(3) "Court costs" means, but is not limited to:

(A) All court costs, including the costs of advertisement, transcripts, and court reporter fees; and

(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed by the court pursuant to this Code section.

(4) "Enterprise" means any person, sole proprietorship, partnership, corporation, trust, association, or other legal entity created under the laws of this state, of the United States or any of the several states of the United States, or of any foreign nation or a group of individuals associated in fact although not a legal entity and includes illicit as well as licit enterprises and governmental as well as other entities.

(5) "Governmental agency" means any department, office, council, commission, committee, authority, board, bureau, or division of the executive, judicial, or legislative branch of a state, the United States, or any political subdivision thereof.

(6) "Interest holder" means a secured party within the meaning of Code Section 11-9-102 or the beneficiary of a perfected encumbrance pertaining to an interest in property.

(7) "Owner" means a person, other than an interest holder, who has an interest in property and is in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value.

(8) "Proceeds" means property derived directly or indirectly from, maintained by, or realized through an act or omission and includes any benefit, interest, or property of any kind without reduction for expenses incurred for acquisition, maintenance, or any other purpose.

(9) "Property" means anything of value and includes any interest in anything of value, including real property and any fixtures thereon, and tangible and intangible personal property, including but not limited to currency, instruments, securities, or any other kind of privilege, interest, claim, or right.

(10) "United States" includes its territories, possessions, and dominions and the District of Columbia.

(b)(1) An action filed pursuant to this Code section shall be filed in the name of the State of Georgia and may be brought:

(A) In the case of an in rem action, by the district attorney for the judicial circuit where the property is located;

(B) In the case of an in personam action, by the district attorney for the judicial circuit in which the defendant resides; or

(C) By the district attorney having jurisdiction over any offense which arose out of the same conduct which made the property subject to forfeiture.

Such district attorney may bring an action pursuant to this Code section in any superior court of this state.

(2) If more than one district attorney has jurisdiction to file an action pursuant to this Code section, the district attorney having primary jurisdiction over a violation of this article shall, in the event of a conflict, have priority over any other district attorney.

(3) Any action brought pursuant to this Code section may be compromised or settled in the same manner as other civil actions.

(c) An action for forfeiture brought pursuant to this Code section shall be tried:

(1) If the action is in rem against real property, in the county where the property is located, except where a single tract is divided by a county line, in which case the superior court of either county shall have jurisdiction;

(2) If the action is in rem against tangible or intangible personal property, in any county where the property is located or will be during the pendency of the action; or

(3) If the action is in personam, as provided by law.

(d) The following are declared to be contraband and no person shall have a property right in them:

(1) All controlled substances, raw materials, or controlled substance analogs that have been manufactured, distributed, dispensed, possessed, or acquired in violation of this article;

(2) All property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or any proceeds derived or realized therefrom;

(3) All property located in this state which was, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom;

(4) All weapons possessed, used, or available for use in any manner to facilitate a violation of this article or any of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year;

(5) Any interest, security, claim, or property or contractual right of any kind affording a source of influence over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of in violation of this article or any of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom; and

(6) All moneys, negotiable instruments, securities, or other things of value which are found in close proximity to any controlled substance or marijuana or other property which is subject to forfeiture under this subsection.

(e)(1) A property interest shall not be subject to forfeiture under this Code section if the owner of such interest or interest holder establishes that the owner or interest holder:

(A) Is not legally accountable for the conduct giving rise to its forfeiture, did not consent to it, and did not know and could not reasonably have known of the conduct or

that it was likely to occur;

(B) Had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in an arm's length commercial transaction;

(C) With respect to conveyances for transportation only, did not hold the property jointly, in common, or in community with a person whose conduct gave rise to its forfeiture;

(D) Does not hold the property for the benefit of or as nominee for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value without knowingly taking part in an illegal transaction; and

(E) Acquired the interest:

(i) Before the completion of the conduct giving rise to its forfeiture, and the person whose conduct gave rise to its forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or

(ii) After the completion of the conduct giving rise to its forfeiture:

(I) As a bona fide purchaser for value without knowingly taking part in an illegal transaction;

(II) Before the filing of a lien on it and before the effective date of a notice of pending forfeiture relating to it and without notice of its seizure for forfeiture under this article; and

(III) At the time the interest was acquired, was reasonably without cause to believe that the property was subject to forfeiture or likely to become subject to forfeiture under this article.

(2) A property interest shall not be subject to forfeiture under this Code section for a violation involving only one gram or less of a mixture containing cocaine or four ounces or less of marijuana unless said property was used to facilitate a transaction in or a purchase of or sale of a controlled substance or marijuana.

(f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable for the conduct which would otherwise subject the vehicle to forfeiture, consented to the conduct, or knew or reasonably should have known of the conduct or that it was likely to occur. Upon learning of the address or phone number of the company which owns any rented or leased vehicle which is present at the scene of an arrest or other action taken pursuant to this Code section, the duly authorized authorities shall

immediately contact the company to inform it that the vehicle is available for the company to take possession.

(g)(1) Property which is subject to forfeiture under this Code section may be seized by the director of the Georgia Drugs and Narcotics Agency or any duly authorized agent or drug agent of this state or by any law enforcement officer of this state or of any political subdivision thereof who has power to make arrests or execute process or a search warrant issued by any court having jurisdiction over the property. A search warrant authorizing seizure of property which is subject to forfeiture pursuant to this Code section may be issued on an affidavit demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of this state, any other state, or the United States. The court may order that the property be seized on such terms and conditions as are reasonable.

(2) Property which is subject to forfeiture under this Code section may be seized without process if there is probable cause to believe that the property is subject to forfeiture under this article or the seizure is incident to an arrest or search pursuant to a search warrant or to an inspection under an inspection warrant.

(3) The court's jurisdiction over forfeiture proceedings is not affected by a seizure in violation of the Constitution of Georgia or the United States Constitution made with process or in a good faith belief of probable cause.

(h)(1) When property is seized pursuant to this article, the sheriff, drug agent, or law enforcement officer seizing the same shall report the fact of seizure, in writing, within 20 days thereof to the district attorney of the judicial circuit having jurisdiction in the county where the seizure was made.

(2) Within 60 days from the date of seizure, a complaint for forfeiture shall be initiated as provided for in subsection (n), (o), or (p) of this Code section.

(3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2) of this subsection, the property must be released on the request of an owner or interest holder, pending further proceedings pursuant to this Code section, unless the property is being held as evidence.

(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure to any person who was present at the time of seizure who may assert an interest in the property.

(2) When property is seized pursuant to this article, the district attorney or the sheriff, drug agent, or law enforcement officer seizing the same shall give notice of the seizure to any owner or interest holder who is not present at the time of seizure by personal service, publication, or the mailing of written notice:

(A) If the owner's or interest holder's name and current address are known, by either personal service or mailing a copy of the notice by certified mail or statutory overnight delivery to that address;

(B) If the owner's or interest holder's name and address are required by law to be on record with a government agency to perfect an interest in the property but the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail or statutory overnight delivery, return receipt requested, to any address on the record; or

(C) If the owner's or interest holder's address is not known and is not on record as provided in subparagraph (B) of this paragraph or the owner's or interest holder's interest is not known, by publication in two consecutive issues of a newspaper of general circulation in the county in which the seizure occurs.

(3) Notice of seizure must include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture, and the violation of law alleged.

(j) A district attorney may file, without a filing fee, a lien for forfeiture of property upon the initiation of any civil or criminal proceeding under this article or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the property owned by the named person. The filing shall include the following:

(1) The lien notice must set forth:

(A) The name of the person and, in the discretion of the state, any alias and any corporations, partnerships, trusts, or other entities, including nominees, that are either owned entirely or in part or controlled by the person; and

(B) The description of the property, the criminal or civil proceeding that has been brought under this article, the amount claimed by the state, the name of the court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing;

(2) A lien under this subsection applies to the described property and to one named person and to any aliases, fictitious names, or other names, including names of corporations, partnerships, trusts, or other entities, that are either owned entirely or in part or controlled by the named person and any interest in real property owned or controlled by the named person. A separate lien for forfeiture of property must be filed for any other person;

(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized property or to the named person or related entities with respect to said property. The lien secures the amount of potential liability for civil judgment and, if applicable, the fair market value of seized property relating to all proceedings under this article enforcing the lien. The forfeiture lien referred to in this subsection must be filed in accordance with the provisions of the laws in this state pertaining to the type of property that is subject to the lien. The state may amend or release, in whole or in part, a lien filed under this subsection at any time by filing, without a filing fee, an amended lien in accordance with this

subsection which identifies the lien amended. The state, as soon as practical after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a lien filed in accordance with this subsection;

(4) Upon entry of judgment in favor of the state, the state may proceed to execute on the lien as in the case of any other judgment;

(5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as the owner of record shall furnish, within ten days, to the district attorney or his designee the following information:

(A) The name and address of the person or entity for whom the property is held;

(B) The names and addresses of all beneficiaries for whose benefit legal title to the seized property, or property of the named person or related entity, is held; and

(C) A copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as the owner of record of the property; and

(6) A trustee, constructive or otherwise, who fails to comply with this subsection shall be guilty of a misdemeanor.

(k) Property taken or detained under this Code section is not subject to replevin, conveyance, sequestration, or attachment. The seizing law enforcement agency or the district attorney may authorize the release of the property if the forfeiture or retention is unnecessary or may transfer the action to another agency or district attorney by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other law enforcement agency or district attorney. An action under this Code section may be consolidated with any other action or proceeding under this article relating to the same property on motion by an interest holder and must be so consolidated on motion by the district attorney in either proceeding or action. The property is deemed to be in the custody of the State of Georgia subject only to the orders and decrees of the superior court having jurisdiction over the forfeiture proceedings.

(l)(1) If property is seized under this article, the district attorney may:

(A) Remove the property to a place designated by the superior court having jurisdiction over the forfeiture proceeding;

(B) Place the property under constructive seizure by posting notice of pending forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of seizure in any appropriate public record relating to the property;



(C) Remove the property to a storage area, within the jurisdiction of the court, for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, the district attorney may authorize its being deposited in an interest-bearing account in a financial institution in this state. Any accrued interest shall follow the principal in any judgment with respect thereto;

(D) Provide for another governmental agency, a receiver appointed by the court pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the property and remove it to an appropriate location within the county where the property was seized; or

(E) Require the sheriff or chief of police of the political subdivision where the property was seized to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) If any property which has been attached or seized pursuant to this Code section is perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the expense of keeping the same is excessive or disproportionate to the value thereof, the court, upon motion of the state, a claimant, or the custodian, may order the property or any portion thereof to be sold upon such terms and conditions as may be prescribed by the court; and the proceeds shall be paid into the registry of the court pending final disposition of the action.

(m) As soon as possible, but not more than 30 days after the seizure of property, the seizing law enforcement agency shall conduct an inventory and estimate the value of the property seized.

(n) If the estimated value of personal property seized is \$25,000.00 or less, the district attorney may elect to proceed under the provisions of this subsection in the following manner:

(1) Notice of the seizure of such property shall be posted in a prominent location in the courthouse of the county in which the property was seized. Such notice shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture, a statement that the owner of such property has 30 days within which a claim must be filed, and the violation of law alleged;

(2) A copy of the notice, which shall include a statement that the owner of such property has 30 days within which a claim must be filed, shall be served upon an owner, interest holder, or person in possession of the property at the time of seizure as provided in subsection (i) of this Code section and shall be published for at least three successive weeks in a newspaper of general circulation in the county where the seizure was made;

(3) The owner or interest holder may file a claim within 30 days after the second publication of the notice of forfeiture by sending the claim to the seizing law enforcement agency and to the district attorney by certified mail or statutory overnight delivery, return

receipt requested;

(4) The claim must be signed by the owner or interest holder under penalty of perjury and must set forth:

(A) The caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;

(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of the transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought;

(5) If a claim is filed, the district attorney shall file a complaint for forfeiture as provided in subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim. A person who files a claim shall be joined as a party; and

(6) If no claim is filed within 30 days after the second publication of the notice of forfeiture, all right, title, and interest in the property is forfeited to the state and the district attorney shall dispose of the property as provided in subsection (u) of this Code section.

(o) In rem proceedings.

(1) In actions in rem, the property which is the subject of the action shall be named as the defendant. The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. Such complaint shall describe the property with reasonable particularity; state that it is located within the county or will be located within the county during the pendency of the action; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) A copy of the complaint and summons shall be served on any person known to be an owner or interest holder and any person who is in possession of the property.

(A) Service of the complaint and summons shall be as provided in subsections (a), (b), (c), and (e) of Code Section 9-11-4.

(B) If real property is the subject of the action or the owner or interest holder is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceeding shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any sale of the property resulting therefrom, but shall not constitute notice to an interest holder unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself to avoid service.

(C) If tangible property which has not been seized is the subject of the action, the court may order the sheriff or another law enforcement officer to take possession of the property. If the character or situation of the property is such that the taking of actual possession is impracticable, the sheriff shall execute process by affixing a copy of the complaint and summons to the property in a conspicuous place and by leaving another copy of the complaint and summons with the person having possession or his agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer is authorized to make a written request with the appropriate governmental agency not to permit the departure of such vessel or aircraft until notified by the sheriff or his deputy that the vessel or aircraft has been released.

(3) An owner of or interest holder in the property may file an answer asserting a claim against the property in the action in rem. Any such answer shall be filed within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, an owner or interest holder shall file an answer within 30 days of the date of final publication. An answer must be verified by the owner or interest holder under penalty of perjury. In addition to complying with the general rules applicable to an answer in civil actions, the answer must set forth:

(A) The caption of the proceedings as set forth in the complaint and the name of the claimant;

(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought.

(4) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(5) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(6) An action in rem may be brought by the state in addition to or in lieu of any other in rem or in personam action brought pursuant to this title.

(p) In personam proceedings.

(1) The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. It shall describe with reasonable particularity the property which is sought to be forfeited; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) Service of the complaint and summons shall be as follows:

(A) Except as otherwise provided in this subsection, service of the complaint and summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section 9-11-4; and

(B) If the defendant is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceedings shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed sufficient notice to any such defendant.

(3) A defendant shall file a verified answer within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, a defendant shall file such answer within 30 days of the date of final publication. In addition to complying with the general rules applicable to an answer in civil actions, the answer must contain all of the elements set forth in paragraph (3) of subsection (o) of this Code section.

(4) Any interest holder or person in possession of the property may join any action brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the "Georgia Civil Practice Act."

(5) If at the expiration of the period set forth in paragraph (3) of this subsection no

answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(6) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(7) On a determination of liability of a person for conduct giving rise to forfeiture under this Code section, the court must enter a judgment of forfeiture of the property described in the complaint and must also authorize the district attorney or his agent or any law enforcement officer or peace officer to seize all property ordered to be forfeited which was not previously seized or was not then under seizure. Following the entry of an order declaring the property forfeited, the court, on application of the state, may enter any appropriate order to protect the interest of the state in the property ordered to be forfeited.

(8) Except as provided in this subsection, no person claiming an interest in property subject to forfeiture under this Code section may intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

(q) In conjunction with any civil or criminal action brought pursuant to this article:

(1) The court, on application of the district attorney, may enter any restraining order or injunction; require the execution of satisfactory performance bonds; appoint receivers, conservators, appraisers, accountants, or trustees; or take any action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this article, including issuing a warrant for its seizure and writ of attachment, whether before or after the filing of a complaint for forfeiture;

(2) A temporary restraining order under this Code section may be entered on application of the district attorney, without notice or an opportunity for a hearing, if the district attorney demonstrates that:

(A) There is probable cause to believe that the property with respect to which the order is sought, in the event of final judgment or conviction, would be subject to forfeiture under this title; and

(B) Provision of notice would jeopardize the availability of the property for forfeiture;

(3) Notice of the entry of a restraining order and an opportunity for a hearing must be afforded to persons known to have an interest in the property. The hearing must be held at the earliest possible date consistent with the date set in subsection (b) of Code Section 9-11-65 and is limited to the issues of whether:

(A) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property's being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture; and

(B) The need to preserve the availability of property through the entry of the requested order outweighs the hardship on any owner or interest holder against whom the order is to be entered;

(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under paragraph (2) of this subsection, the court, on an application filed by an owner of or interest holder in the property within 30 days after notice of its seizure or lien or actual knowledge of such seizure or lien, whichever is earlier, and complying with the requirements for an answer to an in rem complaint, and after five days' notice to the district attorney of the judicial circuit where the property was seized or, in the case of a forfeiture lien, to the district attorney filing such lien, may issue an order to show cause to the seizing law enforcement agency for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing must be held within 30 days unless continued for good cause on motion of either party. If the court finds that there is no probable cause for forfeiture of the property, the property must be released pending the outcome of a judicial proceeding which may be filed pursuant to this Code section; and

(5) The court may order property that has been seized for forfeiture to be sold to satisfy a specified interest of any interest holder, on motion of any party, and after notice and a hearing, on the conditions that:

(A) The interest holder has filed a proper claim and:

(i) Is authorized to do business in this state and is under the jurisdiction of a governmental agency of this state or of the United States which regulates financial institutions, securities, insurance, or real estate; or

(ii) Has an interest that the district attorney has stipulated is exempt from forfeiture;

(B) The interest holder must dispose of the property by commercially reasonable public sale and apply the proceeds first to its interest and then to its reasonable expenses incurred in connection with the sale or disposal; and

(C) The balance of the proceeds, if any, must be returned to the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this Code section.

(r) A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this Code section, regardless of the pendency of an appeal from that conviction; however, evidence of the pendency of an appeal is admissible. For the purposes of this Code section, a conviction results from a verdict or plea of guilty, including a plea of nolo contendere.

(s) In hearings and determinations pursuant to this Code section:

(1) The court may receive and consider, in making any determination of probable cause or reasonable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17, together with inferences therefrom;

(2) The fact that money or a negotiable instrument was found in proximity to contraband or to an instrumentality of conduct giving rise to forfeiture authorizes the trier of the fact to infer that the money or negotiable instrument was the proceeds of conduct giving rise to forfeiture or was used or intended to be used to facilitate such conduct; and

(3) There is a rebuttable presumption that any property of a person is subject to forfeiture under this Code section if the state establishes probable cause to believe that:

(A) The person has engaged in conduct giving rise to forfeiture;

(B) The property was acquired by the person during the period of the conduct giving rise to forfeiture or within a reasonable time after the period; and

(C) There was no likely source for the property other than the conduct giving rise to forfeiture.

(t)(1) All property declared to be forfeited under this Code section vests in this state at the time of commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any property or proceeds transferred later to any person remain subject to forfeiture and thereafter must be ordered to be forfeited unless the transferee claims and establishes in a hearing under this Code section that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under subsection (e) of this Code section.

(2) On entry of judgment for a person claiming an interest in the property that is subject to proceedings to forfeit property under this Code section, the court shall order that the property or interest in property be released or delivered promptly to that person free of liens and encumbrances, as provided under this article.

(3) The court shall order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture under subsection (e) of this Code section to pay the reasonable costs relating to the disproving of the claim which were incurred by the state, including costs for investigation, prosecution, and attorneys' fees.

(u)(1) Whenever property is forfeited under this article, any property which is required by law to be destroyed or which is harmful to the public shall, when no longer needed for evidentiary purposes, be destroyed or forwarded to the Division of Forensic Sciences of the Georgia Bureau of Investigation or any other agency of state or local government for destruction or for any medical or scientific use not prohibited under the laws of the United States or this state.

(2) When property, other than money or real property, is forfeited under this article, the court may:

(A) Order the property to be sold, with the proceeds of the sale to be distributed as provided in paragraph (4) of this subsection; or

(B) Provide for the in-kind distribution of the property as provided for in paragraph (4) of this subsection.

(2.1) When real property is forfeited, the court may order that:

(A) The real property be turned over to the state;

(B) The appropriate political subdivision take charge of the property and:

(i) Sell the property with such conditions as the court deems proper, and distribute the proceeds in such manner as the court so orders; or

(ii) Hold the property for use by one or more law enforcement agencies;

(C) The real property be turned over to an appropriate political subdivision without restrictions;

(D) The real property be deeded to a land bank authority as provided in Article 4 of Chapter 4 of Title 48; or

(E) The real property be disposed of in such other manner as the court deems proper.

(3) Where property is to be sold pursuant to this subsection, the court may direct that such property be sold by:

(A) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that the court may establish a minimum acceptable price for such property; or

(B) Any commercially feasible means, including, but not limited to, in the case of real property, listing such property with a licensed real estate broker, selected by the district attorney through competitive bids.

(4) All money and property forfeited in the same forfeiture proceeding shall be pooled together for distribution as follows:

(A) A fair market value shall be assigned to all items of property other than money in such pool; and a total value shall be established for the pool by adding together the fair market value of all such property in the pool and the amount of money in the pool;



(B) All costs, including court costs, shall be paid and the remaining pool shall be distributed pro rata to the state and to local governments, according to the role which their law enforcement agencies played in the seizure of the assets; provided, however, that the amount distributed to the state shall not exceed 25 percent of the amount distributed; county governments are authorized upon request of the district attorney to provide for payment of any and all necessary expenses for the operation of the office from the said forfeiture pool up to 10 percent of the amount distributed, in addition to any other expenses paid by the county to the district attorney's office.

(C) An order of distribution provided for in this subsection shall be submitted by the district attorney to the court for approval; and

(D)(i) Property and money distributed to a local government shall be passed through to the local law enforcement agency until the sum equals 33 1/3 percent of the amount of local funds appropriated or otherwise made available to such agency for the fiscal year in which such funds are distributed. Proceeds received may be used for any official law enforcement purpose except for the payment of salaries or rewards to law enforcement personnel, at the discretion of the chief officer of the local law enforcement agency, or may be used to fund victim-witness assistance programs or a state law enforcement museum. Such property shall not be used to supplant any other local, state, or federal funds appropriated for staff or operations.

(ii) The local governing authority shall expend any remaining proceeds for any law enforcement purpose; for the representation of indigents in criminal cases; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; to fund victim-witness assistance programs; or for any combination of the foregoing. If real property is distributed to a local government, the local government may transfer the real property to a land bank authority as provided in Article 4 of Chapter 4 of Title 48.

(iii) Any local law enforcement agency receiving property under this subsection shall submit an annual report to the local governing authority. The report shall be submitted with the agency's budget request and shall itemize the property received during the fiscal year and the utilization made thereof.

(iv) Money distributed to the state pursuant to this subsection shall be paid into the general fund of the state treasury, it being the intent of the General Assembly that the same be used, subject to appropriation from the general fund in the manner provided by law for representation of indigents in criminal cases; for funding of the Crime Victims Emergency Fund; for law enforcement and prosecution agency programs and particularly for funding of advanced drug investigation and prosecution training for law enforcement officers and prosecuting attorneys; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; or for financing the judicial system of the state.

(v) Property distributed in kind to the state pursuant to this subsection may be designated by the Attorney General, with the approval of the court, for use by such agency or officer of the state as may be appropriate or, otherwise, shall be turned over to the Department of Administrative Services for such use or disposition as may be determined by the commissioner of the Department of Administrative Services.

(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings under this article.

(w) For good cause shown, the court may stay civil forfeiture proceedings during the criminal trial resulting from a related indictment or information alleging a violation of this article.

(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up to the value of property found by the court to be subject to forfeiture under the provisions of this Code section if any of the forfeited property:

(A) Cannot be located;

(B) Has been transferred or conveyed to, sold to, or deposited with a third party;

(C) Is beyond the jurisdiction of the court;

(D) Has been substantially diminished in value while not in the actual physical custody of the receiver or governmental agency directed to maintain custody of the property; or

(E) Has been commingled with other property that cannot be divided without difficulty.

(2) In addition to any other remedy provided for by law, a district attorney on behalf of the state may institute an action in any court of this state or of the United States or any of the several states against any person acting with knowledge or any person to whom notice of a lien for forfeiture of property has been provided in accordance with subsection (j) of this Code section; to whom notice of seizure has been provided in accordance with subsection (i) of this Code section; or to whom notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section has been provided, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section, as the case may be. The state may recover judgment in an amount equal to the value of the lien but not to exceed the fair market value of the property or, if there is no lien, in an amount not to exceed the fair market value of the property, together with reasonable investigative expenses and attorneys' fees. If a civil proceeding is pending, the action must be heard by the court in which the civil proceeding is pending.

(3) A district attorney may file and prosecute in any of the courts of this state or of the United States or of any of the several states such civil actions as may be necessary to enforce any judgment rendered pursuant to this Code section.

(4) No person claiming an interest in property subject to forfeiture under this article may commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this Code section. Except as specifically authorized by this Code section, no person claiming an interest in such property may file any counterclaim or cross-claim to any action brought pursuant to this Code section.

(5) A civil action under this article must be commenced within five years after the last conduct giving rise to forfeiture or to the claim for relief became known or should have become known, excluding any time during which either the property or defendant is out of the state or in confinement or during which criminal proceedings relating to the same conduct are in progress.

(y) Controlled substances included in Schedule I which are contraband and any controlled substance whose owners are unknown are summarily forfeited to the state. The court may include in any judgment of conviction under this article an order forfeiting any controlled substance involved in the offense to the extent of the defendant's interest.

(z) This Code section must be liberally construed to effectuate its remedial purposes.

**HISTORY:** Code 1933, § 79A-828, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1975, p. 919, §§ 1, 2; Ga. L. 1979, p. 879, §§ 1-3; Ga. L. 1981, p. 180, § 3; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2273, § 1; Ga. L. 1982, p. 2325, § 2; Ga. L. 1983, p. 469, § 1; Ga. L. 1986, p. 451, § 1; Ga. L. 1988, p. 958, § 1; Ga. L. 1991, p. 886, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1993, p. 1434, § 1; Ga. L. 2000, p. 1225, § 5; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 362, § 30; Ga. L. 2002, p. 1039, §§ 1A-1C; Ga. L. 2002, p. 1286, § 1; Ga. L. 2003, p. 191, § 7; Ga. L. 2004, p. 488, § 3.

#### § 16-13-49. Forfeitures

(a) As used in this Code section, the term:

(1) "Controlled substance" shall have the same meaning as provided in paragraph (4) of Code Section 16-13-21 and shall also include marijuana as such term is defined in paragraph (16) of Code Section 16-13-21, notwithstanding any other provisions of this article.

(2) "Costs" means, but is not limited to:

(A) All expenses associated with the seizure, towing, storage, maintenance, custody, preservation, operation, or sale of the property; and

(B) Satisfaction of any security interest or lien not subject to forfeiture under this Code section.

(3) "Court costs" means, but is not limited to:

(A) All court costs, including the costs of advertisement, transcripts, and court reporter fees; and

(B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed by the court pursuant to this Code section.

(4) "Enterprise" means any person, sole proprietorship, partnership, corporation, trust, association, or other legal entity created under the laws of this state, of the United States or any of the several states of the United States, or of any foreign nation or a group of individuals associated in fact although not a legal entity and includes illicit as well as licit enterprises and governmental as well as other entities.

(5) "Governmental agency" means any department, office, council, commission, committee, authority, board, bureau, or division of the executive, judicial, or legislative branch of a state, the United States, or any political subdivision thereof.

(6) "Interest holder" means a secured party within the meaning of Code Section 11-9-102 or the beneficiary of a perfected encumbrance pertaining to an interest in property.

(7) "Owner" means a person, other than an interest holder, who has an interest in property and is in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value.

(8) "Proceeds" means property derived directly or indirectly from, maintained by, or realized through an act or omission and includes any benefit, interest, or property of any kind without reduction for expenses incurred for acquisition, maintenance, or any other purpose.

(9) "Property" means anything of value and includes any interest in anything of value, including real property and any fixtures thereon, and tangible and intangible personal property, including but not limited to currency, instruments, securities, or any other kind of privilege, interest, claim, or right.

(10) "United States" includes its territories, possessions, and dominions and the District of Columbia.

(b)(1) An action filed pursuant to this Code section shall be filed in the name of the State of Georgia and may be brought:

(A) In the case of an in rem action, by the district attorney for the judicial circuit where the property is located;

(B) In the case of an in personam action, by the district attorney for the judicial circuit in which the defendant resides; or

(C) By the district attorney having jurisdiction over any offense which arose out of

the same conduct which made the property subject to forfeiture.

Such district attorney may bring an action pursuant to this Code section in any superior court of this state.

(2) If more than one district attorney has jurisdiction to file an action pursuant to this Code section, the district attorney having primary jurisdiction over a violation of this article shall, in the event of a conflict, have priority over any other district attorney.

(3) Any action brought pursuant to this Code section may be compromised or settled in the same manner as other civil actions.

(c) An action for forfeiture brought pursuant to this Code section shall be tried:

(1) If the action is in rem against real property, in the county where the property is located, except where a single tract is divided by a county line, in which case the superior court of either county shall have jurisdiction;

(2) If the action is in rem against tangible or intangible personal property, in any county where the property is located or will be during the pendency of the action; or

(3) If the action is in personam, as provided by law.

(d) The following are declared to be contraband and no person shall have a property right in them:

(1) All controlled substances, raw materials, or controlled substance analogs that have been manufactured, distributed, dispensed, possessed, or acquired in violation of this article;

(2) All property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or any proceeds derived or realized therefrom;

(3) All property located in this state which was, directly or indirectly, used or intended for use in any manner to facilitate a violation of this article or of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom;

(4) All weapons possessed, used, or available for use in any manner to facilitate a violation of this article or any of the laws of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year;

(5) Any interest, security, claim, or property or contractual right of any kind affording a source of influence over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of in violation of this article or any of the laws

of the United States or any of the several states relating to controlled substances which is punishable by imprisonment for more than one year or any proceeds derived or realized therefrom; and

(6) All moneys, negotiable instruments, securities, or other things of value which are found in close proximity to any controlled substance or marijuana or other property which is subject to forfeiture under this subsection.

(e)(1) A property interest shall not be subject to forfeiture under this Code section if the owner of such interest or interest holder establishes that the owner or interest holder:

(A) Is not legally accountable for the conduct giving rise to its forfeiture, did not consent to it, and did not know and could not reasonably have known of the conduct or that it was likely to occur;

(B) Had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in an arm's length commercial transaction;

(C) With respect to conveyances for transportation only, did not hold the property jointly, in common, or in community with a person whose conduct gave rise to its forfeiture;

(D) Does not hold the property for the benefit of or as nominee for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value without knowingly taking part in an illegal transaction; and

(E) Acquired the interest:

(i) Before the completion of the conduct giving rise to its forfeiture, and the person whose conduct gave rise to its forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or

(ii) After the completion of the conduct giving rise to its forfeiture:

(I) As a bona fide purchaser for value without knowingly taking part in an illegal transaction;

(II) Before the filing of a lien on it and before the effective date of a notice of pending forfeiture relating to it and without notice of its seizure for forfeiture under this article; and

(III) At the time the interest was acquired, was reasonably without cause to believe that the property was subject to forfeiture or likely to become subject to forfeiture under this article.

(2) A property interest shall not be subject to forfeiture under this Code section for a violation involving only one gram or less of a mixture containing cocaine or four ounces or less of marijuana unless said property was used to facilitate a transaction in or a purchase of or sale of a controlled substance or marijuana.

(f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable for the conduct which would otherwise subject the vehicle to forfeiture, consented to the conduct, or knew or reasonably should have known of the conduct or that it was likely to occur. Upon learning of the address or phone number of the company which owns any rented or leased vehicle which is present at the scene of an arrest or other action taken pursuant to this Code section, the duly authorized authorities shall immediately contact the company to inform it that the vehicle is available for the company to take possession.

(g)(1) Property which is subject to forfeiture under this Code section may be seized by the director of the Georgia Drugs and Narcotics Agency or any duly authorized agent or drug agent of this state or by any law enforcement officer of this state or of any political subdivision thereof who has power to make arrests or execute process or a search warrant issued by any court having jurisdiction over the property. A search warrant authorizing seizure of property which is subject to forfeiture pursuant to this Code section may be issued on an affidavit demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of this state, any other state, or the United States. The court may order that the property be seized on such terms and conditions as are reasonable.

(2) Property which is subject to forfeiture under this Code section may be seized without process if there is probable cause to believe that the property is subject to forfeiture under this article or the seizure is incident to an arrest or search pursuant to a search warrant or to an inspection under an inspection warrant.

(3) The court's jurisdiction over forfeiture proceedings is not affected by a seizure in violation of the Constitution of Georgia or the United States Constitution made with process or in a good faith belief of probable cause.

(h)(1) When property is seized pursuant to this article, the sheriff, drug agent, or law enforcement officer seizing the same shall report the fact of seizure, in writing, within 20 days thereof to the district attorney of the judicial circuit having jurisdiction in the county where the seizure was made.

(2) Within 60 days from the date of seizure, a complaint for forfeiture shall be initiated as provided for in subsection (n), (o), or (p) of this Code section.

(3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2) of this subsection, the property must be released on the request of an owner or interest holder, pending further proceedings pursuant to this Code section, unless the property is being held as evidence.

(i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure to any person who was present at the time of seizure who may assert an interest in the property.

(2) When property is seized pursuant to this article, the district attorney or the sheriff, drug agent, or law enforcement officer seizing the same shall give notice of the seizure to any owner or interest holder who is not present at the time of seizure by personal service, publication, or the mailing of written notice:

(A) If the owner's or interest holder's name and current address are known, by either personal service or mailing a copy of the notice by certified mail or statutory overnight delivery to that address;

(B) If the owner's or interest holder's name and address are required by law to be on record with a government agency to perfect an interest in the property but the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail or statutory overnight delivery, return receipt requested, to any address on the record; or

(C) If the owner's or interest holder's address is not known and is not on record as provided in subparagraph (B) of this paragraph or the owner's or interest holder's interest is not known, by publication in two consecutive issues of a newspaper of general circulation in the county in which the seizure occurs.

(3) Notice of seizure must include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture, and the violation of law alleged.

(j) A district attorney may file, without a filing fee, a lien for forfeiture of property upon the initiation of any civil or criminal proceeding under this article or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the property owned by the named person. The filing shall include the following:

(1) The lien notice must set forth:

(A) The name of the person and, in the discretion of the state, any alias and any corporations, partnerships, trusts, or other entities, including nominees, that are either owned entirely or in part or controlled by the person; and

(B) The description of the property, the criminal or civil proceeding that has been brought under this article, the amount claimed by the state, the name of the court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing;

(2) A lien under this subsection applies to the described property and to one named person and to any aliases, fictitious names, or other names, including names of corporations, partnerships, trusts, or other entities, that are either owned entirely or in part



or controlled by the named person and any interest in real property owned or controlled by the named person. A separate lien for forfeiture of property must be filed for any other person;

(3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized property or to the named person or related entities with respect to said property. The lien secures the amount of potential liability for civil judgment and, if applicable, the fair market value of seized property relating to all proceedings under this article enforcing the lien. The forfeiture lien referred to in this subsection must be filed in accordance with the provisions of the laws in this state pertaining to the type of property that is subject to the lien. The state may amend or release, in whole or in part, a lien filed under this subsection at any time by filing, without a filing fee, an amended lien in accordance with this subsection which identifies the lien amended. The state, as soon as practical after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a lien filed in accordance with this subsection;

(4) Upon entry of judgment in favor of the state, the state may proceed to execute on the lien as in the case of any other judgment;

(5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as the owner of record shall furnish, within ten days, to the district attorney or his designee the following information:

(A) The name and address of the person or entity for whom the property is held;

(B) The names and addresses of all beneficiaries for whose benefit legal title to the seized property, or property of the named person or related entity, is held; and

(C) A copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as the owner of record of the property; and

(6) A trustee, constructive or otherwise, who fails to comply with this subsection shall be guilty of a misdemeanor.

(k) Property taken or detained under this Code section is not subject to replevin, conveyance, sequestration, or attachment. The seizing law enforcement agency or the district attorney may authorize the release of the property if the forfeiture or retention is unnecessary or may transfer the action to another agency or district attorney by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other law enforcement agency or district attorney. An action under this Code section may be consolidated with any other action or proceeding under this article relating to the same property on motion by an interest holder and must be so consolidated on motion by the

district attorney in either proceeding or action. The property is deemed to be in the custody of the State of Georgia subject only to the orders and decrees of the superior court having jurisdiction over the forfeiture proceedings.

(l)(1) If property is seized under this article, the district attorney may:

(A) Remove the property to a place designated by the superior court having jurisdiction over the forfeiture proceeding;

(B) Place the property under constructive seizure by posting notice of pending forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of seizure in any appropriate public record relating to the property;

(C) Remove the property to a storage area, within the jurisdiction of the court, for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, the district attorney may authorize its being deposited in an interest-bearing account in a financial institution in this state. Any accrued interest shall follow the principal in any judgment with respect thereto;

(D) Provide for another governmental agency, a receiver appointed by the court pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the property and remove it to an appropriate location within the county where the property was seized; or

(E) Require the sheriff or chief of police of the political subdivision where the property was seized to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) If any property which has been attached or seized pursuant to this Code section is perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the expense of keeping the same is excessive or disproportionate to the value thereof, the court, upon motion of the state, a claimant, or the custodian, may order the property or any portion thereof to be sold upon such terms and conditions as may be prescribed by the court; and the proceeds shall be paid into the registry of the court pending final disposition of the action.

(m) As soon as possible, but not more than 30 days after the seizure of property, the seizing law enforcement agency shall conduct an inventory and estimate the value of the property seized.

(n) If the estimated value of personal property seized is \$25,000.00 or less, the district attorney may elect to proceed under the provisions of this subsection in the following manner:

(1) Notice of the seizure of such property shall be posted in a prominent location in the courthouse of the county in which the property was seized. Such notice shall include a description of the property, the date and place of seizure, the conduct giving rise to

forfeiture, a statement that the owner of such property has 30 days within which a claim must be filed, and the violation of law alleged;

(2) A copy of the notice, which shall include a statement that the owner of such property has 30 days within which a claim must be filed, shall be served upon an owner, interest holder, or person in possession of the property at the time of seizure as provided in subsection (i) of this Code section and shall be published for at least three successive weeks in a newspaper of general circulation in the county where the seizure was made;

(3) The owner or interest holder may file a claim within 30 days after the second publication of the notice of forfeiture by sending the claim to the seizing law enforcement agency and to the district attorney by certified mail or statutory overnight delivery, return receipt requested;

(4) The claim must be signed by the owner or interest holder under penalty of perjury and must set forth:

(A) The caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;

(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of the transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought;

(5) If a claim is filed, the district attorney shall file a complaint for forfeiture as provided in subsection (o) or (p) of this Code section within 30 days of the actual receipt of the claim. A person who files a claim shall be joined as a party; and

(6) If no claim is filed within 30 days after the second publication of the notice of forfeiture, all right, title, and interest in the property is forfeited to the state and the district attorney shall dispose of the property as provided in subsection (u) of this Code section.

(o) In rem proceedings.

(1) In actions in rem, the property which is the subject of the action shall be named as

the defendant. The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. Such complaint shall describe the property with reasonable particularity; state that it is located within the county or will be located within the county during the pendency of the action; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) A copy of the complaint and summons shall be served on any person known to be an owner or interest holder and any person who is in possession of the property.

(A) Service of the complaint and summons shall be as provided in subsections (a), (b), (c), and (e) of Code Section 9-11-4.

(B) If real property is the subject of the action or the owner or interest holder is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceeding shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and from any sale of the property resulting therefrom, but shall not constitute notice to an interest holder unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself to avoid service.

(C) If tangible property which has not been seized is the subject of the action, the court may order the sheriff or another law enforcement officer to take possession of the property. If the character or situation of the property is such that the taking of actual possession is impracticable, the sheriff shall execute process by affixing a copy of the complaint and summons to the property in a conspicuous place and by leaving another copy of the complaint and summons with the person having possession or his agent. In cases involving a vessel or aircraft, the sheriff or other law enforcement officer is authorized to make a written request with the appropriate governmental agency not to permit the departure of such vessel or aircraft until notified by the sheriff or his deputy that the vessel or aircraft has been released.

(3) An owner of or interest holder in the property may file an answer asserting a claim against the property in the action in rem. Any such answer shall be filed within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, an owner or interest holder shall file an answer within 30 days of the date of final publication. An answer must be verified by the owner or interest holder under penalty of perjury. In addition to complying with the general rules applicable to an answer in civil actions, the answer must set forth:

(A) The caption of the proceedings as set forth in the complaint and the name of the claimant;

(B) The address at which the claimant will accept mail;

(C) The nature and extent of the claimant's interest in the property;

(D) The date, identity of transferor, and circumstances of the claimant's acquisition of the interest in the property;

(E) The specific provision of this Code section relied on in asserting that the property is not subject to forfeiture;

(F) All essential facts supporting each assertion; and

(G) The precise relief sought.

(4) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(5) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(6) An action in rem may be brought by the state in addition to or in lieu of any other in rem or in personam action brought pursuant to this title.

(p) In personam proceedings.

(1) The complaint shall be verified on oath or affirmation by a duly authorized agent of the state in a manner required by the laws of this state. It shall describe with reasonable particularity the property which is sought to be forfeited; state its present custodian; state the name of the owner or interest holder, if known; allege the essential elements of the violation which is claimed to exist; state the place of seizure, if the property was seized; and conclude with a prayer of due process to enforce the forfeiture.

(2) Service of the complaint and summons shall be as follows:

(A) Except as otherwise provided in this subsection, service of the complaint and summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section 9-11-4; and

(B) If the defendant is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid service, notice of the proceedings shall be published once a week for two successive weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed sufficient notice to any such defendant.

(3) A defendant shall file a verified answer within 30 days after the service of the summons and complaint. Where service is made by publication and personal service has not been made, a defendant shall file such answer within 30 days of the date of final publication. In addition to complying with the general rules applicable to an answer in civil actions, the answer must contain all of the elements set forth in paragraph (3) of subsection (o) of this Code section.

(4) Any interest holder or person in possession of the property may join any action brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the "Georgia Civil Practice Act."

(5) If at the expiration of the period set forth in paragraph (3) of this subsection no answer has been filed, the court shall order the disposition of the seized property as provided for in this Code section.

(6) If an answer is filed, a hearing must be held within 60 days after service of the complaint unless continued for good cause and must be held by the court without a jury.

(7) On a determination of liability of a person for conduct giving rise to forfeiture under this Code section, the court must enter a judgment of forfeiture of the property described in the complaint and must also authorize the district attorney or his agent or any law enforcement officer or peace officer to seize all property ordered to be forfeited which was not previously seized or was not then under seizure. Following the entry of an order declaring the property forfeited, the court, on application of the state, may enter any appropriate order to protect the interest of the state in the property ordered to be forfeited.

(8) Except as provided in this subsection, no person claiming an interest in property subject to forfeiture under this Code section may intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

(q) In conjunction with any civil or criminal action brought pursuant to this article:

(1) The court, on application of the district attorney, may enter any restraining order or injunction; require the execution of satisfactory performance bonds; appoint receivers, conservators, appraisers, accountants, or trustees; or take any action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this article, including issuing a warrant for its seizure and writ of attachment, whether before or after the filing of a complaint for forfeiture;

(2) A temporary restraining order under this Code section may be entered on application of the district attorney, without notice or an opportunity for a hearing, if the district attorney demonstrates that:

(A) There is probable cause to believe that the property with respect to which the order is sought, in the event of final judgment or conviction, would be subject to forfeiture under this title; and

(B) Provision of notice would jeopardize the availability of the property for forfeiture;

(3) Notice of the entry of a restraining order and an opportunity for a hearing must be afforded to persons known to have an interest in the property. The hearing must be held at the earliest possible date consistent with the date set in subsection (b) of Code Section 9-11-65 and is limited to the issues of whether:

(A) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property's being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture; and

(B) The need to preserve the availability of property through the entry of the requested order outweighs the hardship on any owner or interest holder against whom the order is to be entered;

(4) If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under paragraph (2) of this subsection, the court, on an application filed by an owner of or interest holder in the property within 30 days after notice of its seizure or lien or actual knowledge of such seizure or lien, whichever is earlier, and complying with the requirements for an answer to an in rem complaint, and after five days' notice to the district attorney of the judicial circuit where the property was seized or, in the case of a forfeiture lien, to the district attorney filing such lien, may issue an order to show cause to the seizing law enforcement agency for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing must be held within 30 days unless continued for good cause on motion of either party. If the court finds that there is no probable cause for forfeiture of the property, the property must be released pending the outcome of a judicial proceeding which may be filed pursuant to this Code section; and

(5) The court may order property that has been seized for forfeiture to be sold to satisfy a specified interest of any interest holder, on motion of any party, and after notice and a hearing, on the conditions that:

(A) The interest holder has filed a proper claim and:

(i) Is authorized to do business in this state and is under the jurisdiction of a governmental agency of this state or of the United States which regulates financial institutions, securities, insurance, or real estate; or

(ii) Has an interest that the district attorney has stipulated is exempt from forfeiture;

(B) The interest holder must dispose of the property by commercially reasonable public sale and apply the proceeds first to its interest and then to its reasonable expenses

incurred in connection with the sale or disposal; and

(C) The balance of the proceeds, if any, must be returned to the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this Code section.

(r) A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this Code section, regardless of the pendency of an appeal from that conviction; however, evidence of the pendency of an appeal is admissible. For the purposes of this Code section, a conviction results from a verdict or plea of guilty, including a plea of nolo contendere.

(s) In hearings and determinations pursuant to this Code section:

(1) The court may receive and consider, in making any determination of probable cause or reasonable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17, together with inferences therefrom;

(2) The fact that money or a negotiable instrument was found in proximity to contraband or to an instrumentality of conduct giving rise to forfeiture authorizes the trier of the fact to infer that the money or negotiable instrument was the proceeds of conduct giving rise to forfeiture or was used or intended to be used to facilitate such conduct; and

(3) There is a rebuttable presumption that any property of a person is subject to forfeiture under this Code section if the state establishes probable cause to believe that:

(A) The person has engaged in conduct giving rise to forfeiture;

(B) The property was acquired by the person during the period of the conduct giving rise to forfeiture or within a reasonable time after the period; and

(C) There was no likely source for the property other than the conduct giving rise to forfeiture.

(t)(1) All property declared to be forfeited under this Code section vests in this state at the time of commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any property or proceeds transferred later to any person remain subject to forfeiture and thereafter must be ordered to be forfeited unless the transferee claims and establishes in a hearing under this Code section that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under subsection (e) of this Code section.

(2) On entry of judgment for a person claiming an interest in the property that is subject to proceedings to forfeit property under this Code section, the court shall order that the property or interest in property be released or delivered promptly to that person free of



liens and encumbrances, as provided under this article.

(3) The court shall order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture under subsection (e) of this Code section to pay the reasonable costs relating to the disproving of the claim which were incurred by the state, including costs for investigation, prosecution, and attorneys' fees.

(u)(1) Whenever property is forfeited under this article, any property which is required by law to be destroyed or which is harmful to the public shall, when no longer needed for evidentiary purposes, be destroyed or forwarded to the Division of Forensic Sciences of the Georgia Bureau of Investigation or any other agency of state or local government for destruction or for any medical or scientific use not prohibited under the laws of the United States or this state.

(2) When property, other than money or real property, is forfeited under this article, the court may:

(A) Order the property to be sold, with the proceeds of the sale to be distributed as provided in paragraph (4) of this subsection; or

(B) Provide for the in-kind distribution of the property as provided for in paragraph (4) of this subsection.

(2.1) When real property is forfeited, the court may order that:

(A) The real property be turned over to the state;

(B) The appropriate political subdivision take charge of the property and:

(i) Sell the property with such conditions as the court deems proper, and distribute the proceeds in such manner as the court so orders; or

(ii) Hold the property for use by one or more law enforcement agencies;

(C) The real property be turned over to an appropriate political subdivision without restrictions;

(D) The real property be deeded to a land bank authority as provided in Article 4 of Chapter 4 of Title 48; or

(E) The real property be disposed of in such other manner as the court deems proper.

(3) Where property is to be sold pursuant to this subsection, the court may direct that such property be sold by:

(A) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that the court may establish a minimum acceptable price for such property; or

(B) Any commercially feasible means, including, but not limited to, in the case of real property, listing such property with a licensed real estate broker, selected by the district attorney through competitive bids.

(4) All money and property forfeited in the same forfeiture proceeding shall be pooled together for distribution as follows:

(A) A fair market value shall be assigned to all items of property other than money in such pool; and a total value shall be established for the pool by adding together the fair market value of all such property in the pool and the amount of money in the pool;

(B) All costs, including court costs, shall be paid and the remaining pool shall be distributed pro rata to the state and to local governments, according to the role which their law enforcement agencies played in the seizure of the assets; provided, however, that the amount distributed to the state shall not exceed 25 percent of the amount distributed; county governments are authorized upon request of the district attorney to provide for payment of any and all necessary expenses for the operation of the office from the said forfeiture pool up to 10 percent of the amount distributed, in addition to any other expenses paid by the county to the district attorney's office.

(C) An order of distribution provided for in this subsection shall be submitted by the district attorney to the court for approval; and

(D)(i) Property and money distributed to a local government shall be passed through to the local law enforcement agency until the sum equals 33 1/3 percent of the amount of local funds appropriated or otherwise made available to such agency for the fiscal year in which such funds are distributed. Proceeds received may be used for any official law enforcement purpose except for the payment of salaries or rewards to law enforcement personnel, at the discretion of the chief officer of the local law enforcement agency, or may be used to fund victim-witness assistance programs or a state law enforcement museum. Such property shall not be used to supplant any other local, state, or federal funds appropriated for staff or operations.

(ii) The local governing authority shall expend any remaining proceeds for any law enforcement purpose; for the representation of indigents in criminal cases; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; to fund victim-witness assistance programs; or for any combination of the foregoing. If real property is distributed to a local government, the local government may transfer the real property to a land bank authority as provided in Article 4 of Chapter 4 of Title 48.

(iii) Any local law enforcement agency receiving property under this subsection shall submit an annual report to the local governing authority. The report shall be submitted with the agency's budget request and shall itemize the property received during the fiscal year and the utilization made thereof.

(iv) Money distributed to the state pursuant to this subsection shall be paid into the general fund of the state treasury, it being the intent of the General Assembly that the same be used, subject to appropriation from the general fund in the manner provided by law for representation of indigents in criminal cases; for funding of the Crime Victims Emergency Fund; for law enforcement and prosecution agency programs and particularly for funding of advanced drug investigation and prosecution training for law enforcement officers and prosecuting attorneys; for drug treatment, rehabilitation, prevention, or education or any other program which responds to problems created by drug or substance abuse; for use as matching funds for grant programs related to drug treatment or prevention; or for financing the judicial system of the state.

(v) Property distributed in kind to the state pursuant to this subsection may be designated by the Attorney General, with the approval of the court, for use by such agency or officer of the state as may be appropriate or, otherwise, shall be turned over to the Department of Administrative Services for such use or disposition as may be determined by the commissioner of the Department of Administrative Services.

(v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings under this article.

(w) For good cause shown, the court may stay civil forfeiture proceedings during the criminal trial resulting from a related indictment or information alleging a violation of this article.

(x)(1) The court shall order the forfeiture of any property of a claimant or defendant up to the value of property found by the court to be subject to forfeiture under the provisions of this Code section if any of the forfeited property:

(A) Cannot be located;

(B) Has been transferred or conveyed to, sold to, or deposited with a third party;

(C) Is beyond the jurisdiction of the court;

(D) Has been substantially diminished in value while not in the actual physical custody of the receiver or governmental agency directed to maintain custody of the property; or

(E) Has been commingled with other property that cannot be divided without difficulty.

(2) In addition to any other remedy provided for by law, a district attorney on behalf of the state may institute an action in any court of this state or of the United States or any of the several states against any person acting with knowledge or any person to whom notice of a lien for forfeiture of property has been provided in accordance with subsection (j) of this Code section; to whom notice of seizure has been provided in accordance with

subsection (i) of this Code section; or to whom notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section has been provided, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture under this Code section, as the case may be. The state may recover judgment in an amount equal to the value of the lien but not to exceed the fair market value of the property or, if there is no lien, in an amount not to exceed the fair market value of the property, together with reasonable investigative expenses and attorneys' fees. If a civil proceeding is pending, the action must be heard by the court in which the civil proceeding is pending.

(3) A district attorney may file and prosecute in any of the courts of this state or of the United States or of any of the several states such civil actions as may be necessary to enforce any judgment rendered pursuant to this Code section.

(4) No person claiming an interest in property subject to forfeiture under this article may commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this Code section. Except as specifically authorized by this Code section, no person claiming an interest in such property may file any counterclaim or cross-claim to any action brought pursuant to this Code section.

(5) A civil action under this article must be commenced within five years after the last conduct giving rise to forfeiture or to the claim for relief became known or should have become known, excluding any time during which either the property or defendant is out of the state or in confinement or during which criminal proceedings relating to the same conduct are in progress.

(y) Controlled substances included in Schedule I which are contraband and any controlled substance whose owners are unknown are summarily forfeited to the state. The court may include in any judgment of conviction under this article an order forfeiting any controlled substance involved in the offense to the extent of the defendant's interest.

(z) This Code section must be liberally construed to effectuate its remedial purposes.

**HISTORY:** Code 1933, § 79A-828, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1975, p. 919, §§ 1, 2; Ga. L. 1979, p. 879, §§ 1-3; Ga. L. 1981, p. 180, § 3; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2273, § 1; Ga. L. 1982, p. 2325, § 2; Ga. L. 1983, p. 469, § 1; Ga. L. 1986, p. 451, § 1; Ga. L. 1988, p. 958, § 1; Ga. L. 1991, p. 886, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1993, p. 1434, § 1; Ga. L. 2000, p. 1225, § 5; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 362, § 30; Ga. L. 2002, p. 1039, §§ 1A-1C; Ga. L. 2002, p. 1286, § 1; Ga. L. 2003, p. 191, § 7; Ga. L. 2004, p. 488, § 3.

§ 16-13-50. Burden of proof; liability of enforcement officers in lawful performance of duties

(a) It is not necessary for the state to negate any exemption or exception in this article in any complaint, accusation, indictment, or other pleading or in any trial, hearing, or other proceeding under this article. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this article, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption.

(c) No liability is imposed by this article upon any authorized state, county, or municipal officer engaged in the lawful performance of his duties.

**HISTORY:** Code 1933, § 79A-829, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-51. Judicial review of administrative determinations, findings, and conclusions

All final determinations, findings, and conclusions of the State Board of Pharmacy under this article are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the Superior Court of Fulton County. Findings of fact by the State Board of Pharmacy, if supported by substantial evidence, are conclusive.

**HISTORY:** Code 1933, § 79A-830, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

§ 16-13-52. Programs and research on prevention of abuse of controlled substances; confidentiality of research; exemption from penalties

(a) The State Board of Pharmacy and the Georgia Drugs and Narcotics Agency shall carry out programs designed to prevent and deter misuse and abuse of controlled substances.

(b) The State Board of Pharmacy and the Georgia Drugs and Narcotics Agency shall encourage research on misuse and abuse of controlled substances. In connection with the research and in furtherance of the enforcement of this article, they may:

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

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

(A) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this article;

(B) Determine patterns of misuse and abuse of controlled substances and the social effects thereof;

(C) Improve methods for preventing, predicting, understanding, and dealing with the

misuse and abuse of controlled substances; and

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

(c) The State Board of Pharmacy, in the public interest, may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not to be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(d) The State Board of Pharmacy may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

**HISTORY:** Code 1933, § 79A-831, enacted by Ga. L. 1974, p. 221, § 1; Ga. L. 1982, p. 3, § 16.

#### § 16-13-53. Pending proceedings

(a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or abated by this article. If the offense which was being prosecuted is similar to one set out in this article, then the penalties under this article apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1, 1974, are not affected by this article.

(c) All administrative proceedings pending under prior laws which were superseded by this article shall be continued and brought to a final determination in accord with the laws and rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not listed within Schedules I through V is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings, administrative proceedings, and investigations occurring after July 1, 1974.

**HISTORY:** Code 1933, § 79A-832, enacted by Ga. L. 1974, p. 221, § 1.

#### § 16-13-54. Orders and rules promulgated prior to July 1, 1974

Any orders and rules promulgated under any law affected by this article and in effect on July 1, 1974, and not in conflict with it shall continue in effect until modified, superseded, or repealed.

**HISTORY:** Code 1933, § 79A-833, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-55. Construction of article

This article shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states which enact it.

**HISTORY:** Code 1933, § 79A-834, enacted by Ga. L. 1974, p. 221, § 1.

§ 16-13-56. Penalty for violation of article; restitution to the state for cleanup of environmental hazards; other remedies

(a) Unless otherwise specified with respect to a particular offense, any person who violates any provision of this article shall be guilty of a misdemeanor.

(b) In addition to any other penalty imposed by law for a violation of this article, if the sentencing court finds that in committing a violation of this article, the defendant contributed to a release of hazardous waste, a hazardous constituent, or a hazardous substance as such terms are defined by Code Sections 12-8-62 and 12-8-92, the court shall require such defendant to make restitution to the State of Georgia pursuant to subsection (a) of Code Section 12-8-96.1 for the reasonable costs of activities associated with the cleanup of environmental hazards, including legal expenses incurred by the state. Restitution made pursuant to this Code section shall not preclude the State of Georgia from obtaining any other civil or criminal remedy available under any other provision of law. The restitution authorized by this Code section is supplemental and not exclusive.

**HISTORY:** Code 1981, § 16-13-56, enacted by Ga. L. 1985, p. 1219, § 7; Ga. L. 2001, p. 816, § 2.

### ARTICLE 3. DANGEROUS DRUGS

§ 16-13-70. Short title

This article shall be known and may be cited as the "Dangerous Drug Act."

**HISTORY:** Code 1933, § 79A-701, enacted by Ga. L. 1967, p. 296, § 1.

§ 16-13-70.1. Definition of terms

Any term used in this article and not defined in this article but defined in Code Section 16-13-21 shall have the meaning provided for that term in Code Section 16-13-21.

**HISTORY:** Code 1981, § 16-13-70.1, enacted by Ga. L. 2001, p. 816, § 3.

§ 16-13-71. "Dangerous drug" defined

(a) A "dangerous drug" means any drug other than a drug contained in any schedule of Article 2 of this chapter, which, under the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 (1938)), 21 U.S.C. Section 301, et seq., as amended, may be dispensed only upon prescription. In any civil or criminal action or other proceedings, a certification from the Food and Drug Administration of the United States Department of Health and Human Services attesting to the fact that a drug other than a drug contained in any schedule of Article 2 of this chapter involved in the action or proceeding is a dangerous drug that federal law prohibits dispensing of without a prescription pursuant to the Federal Food, Drug, and Cosmetic Act shall be admissible as prima-facie proof that such drug is a "dangerous drug."

(b) In addition to subsection (a) of this Code section, a "dangerous drug" means any other drug or substance declared by the General Assembly to be a dangerous drug; to include any of the following drugs, chemicals, or substances; salts, isomers, esters, ethers, or derivatives of such drugs, chemicals, or substances which have essentially the same pharmacological action; all other salts, isomers, esters, ethers, and compounds of such drugs, chemicals, or substances unless specifically exempted and the following devices, identified as "dangerous drugs":

(.03) Abacavir;

(.035) Abarelix;

(.037) Abatacept;

(.04) Abciximab;

(.045) Acamprostate;

(.05) Acarbose;

(.1) Acebutolol;

(1) Acecarbromal;

(2) Acenocoumarol;

(3) Acetazolamide;

(3.5) Reserved;

(4) Acetohexamide;



(4.1) Aceto-hydroxamic acid;

(5) Acetophenazine;

(6) Acetosulfone;

(7) Acetyl sulfamethoxypyridazine;

(8) Acetyl sulfoxazole;

(9) Acetylcarbromal;

(10) Acetylcholine;

(11) Acetylcysteine;

(12) Acetyldigitoxin;

(12.1) Acitretin;

(13) Acrisorcin;

(13.3) Acrivastine;

(13.5) Acyclovir;

(13.53) Adalimumab;

(13.55) Adapalene;

(13.6) Adenosine;

(14) Adenosine 5-monophosphate;

(15) Adenylic acid;

(16) Adiphenine hydrochloride;

(17) Adrenal cortex extracts;

(17.5) Albendazole;

(18) Albumin, normal human serum;

(18.1) Albuterol;

(19) Albutonium;  
(19.5) Alclometasone dipropionate;  
(19.6) Alendronate;  
(19.65) Alfuzosin;  
(19.7) Alglucerase;  
(19.75) Alglucosidase alfa;  
(19.8) Alitretinoin;  
(20) Alkaverir;  
(21) Alkavervir;  
(21.1) Alkyl nitrites;  
(22) Allopurinol;  
(22.2) Almotriptan;  
(22.5) Alosetron;  
(23) Alpha amylase;  
(23.1) Alprostadil;  
(24) Alseroxylon;  
(24.1) Altenodol;  
(24.6) Altretamine;  
(25) Aluminum nicotinate;  
(26) Alverine;  
(27) Amantadine;  
(28) Ambenonium chloride;  
(29) Ambrosiacaefollens;

(30) Amcinonide;

(30.1) Amdinocillin;

(30.5) Amifostine;

(31) Amikacin;

(31.1) Amiloride;

(32) Aminacrine;

(33) 4-amino-N-methyl-pteroylglutamic acid;

(34) Amino acid preparations for injection or vaginal use;

(35) Aminocaproic acid;

(36) Aminohippurate;

(36.5) Aminolevulinic acid;

(37) Aminophylline;

(38) Aminosalicylate -- See exceptions;

(39) Aminosalicylate calcium -- See exceptions;

(40) Aminosalicylate potassium -- See exceptions;

(41) Aminosalicylate sodium -- See exceptions;

(42) Aminosalicylic acid -- See exceptions;

(42.1) Amiodarone;

(43) Amisometradine;

(44) Amitriptyline;

(44.3) Amlexanox;

(44.5) Amlodipine;

(44.7) Ammonium lactate;

- (45) Amodiaquin;
- (45.5) Amoxapine;
- (46) Amoxicillin;
- (47) Amphotericin B;
- (48) Ampicillin;
- (48.2) Amprenavir;
- (48.6) Amrinone;
- (49) Amyl nitrite;
- (50) Amylolytic enzymes;
- (50.1) Anabolic steroids, if listed in Code Section 16-13-27.1 as being exempt as Schedule III controlled substances;
- (50.3) Anagrelide;
- (50.4) Anakinra;
- (50.5) Anastrozole;
- (51) Androgens, except those androgens listed in paragraph (6) of Code Section 16-13-27;
- (52) Angiotensin amide;
- (52.5) Anidulafungin;
- (53) Anisindione;
- (54) Anisotropine;
- (55) Antazoline;
- (56) Anterior pituitary hormones;
- (57) Anthralin;
- (58) Anti-coagulant acid:

(A) Citrate dextrose;

(59) Antigens:

(A) *Alternaria tenuis*;

(B) Aqua ivy;

(C) Ash mix;

(D) *Aspergillus fumigatus*;

(E) Bacterial, *Staphylococcus aureus*, Type 1;

(F) Bacterial, *Staphylococcus aureus*, Type 3;

(G) Bacterial, Undenatured;

(H) Bee;

(I) Beech;

(J) Bermuda grass;

(K) Birch;

(L) California live oak;

(M) *Candida albicans*;

(N) Careless weed;

(O) Cat epithelia;

(P) Cattle epithelia;

(Q) *Coccidioides immitis*;

(R) Cottonwood fremont;

(S) Dog epithelia;

(T) Elm mix;

(U) English plantain;

(V) Feather mix;

(W) Gram negative bacterial;

(X) *Helminthosporium sativum*;

(Y) Hickory;

(Z) *Hormodendrum hordei*;

(AA) Hornet;

(BB) House dust;

(CC) House dust mix;

(DD) Insects;

(EE) Intradermal or scratching test;

(FF) Johnson grass;

(GG) Kentucky blue grass;

(HH) Kochia;

(II) Lamb quarters;

(JJ) Maple;

(KK) Mesquite;

(LL) Mixed epidermals;

(MM) Mixed grass, ragweeds (spring-fall);

(NN) Mixed grasses (spring);

(OO) Mixed inhalants;

(PP) Mixed molds;

(QQ) Mixed ragweed;

(RR) Mixed ragweed -- mixed weeds (fall);

(SS) Mixed weeds;

(TT) Molds;

(UU) Mountain cedar;

(VV) Mugwort common;

(WW) National weed mix;

(XX) Oak mix;

(YY) Olive;

(ZZ) Orchard grass;

(AAA) Pecan;

(BBB) *Penicillium notatum*;

(CCC) Perennial rye;

(DDD) Poison oak and poison ivy;

(EEE) Pollens;

(FFF) Poplar mix;

(GGG) Prescription;

(HHH) Ragweed mix;

(III) Red top grass;

(JJJ) Respiratory bacterial;

(KKK) Rough pigweed;

(LLL) Russian thistle;

(MMM) Sagebrush common;

(NNN) Scale mix;

(OOO) Short ragweed;

(PPP) Simplified allergy screening set;

(QQQ) Skin bacterial;

(RRR) Southern grass;

(SSS) Staphylococcal;

(TTT) Stinging insect mix;

(UUU) Stinging insects;

(VVV) Sweet vernal;

(WWW) Sycamore;

(XXX) Tall ragweed;

(YYY) Timothy;

(ZZZ) Tree mix;

(AAAA) Trees (early spring);

(BBBB) Walnut;

(CCCC) Wasp;

(DDDD) West ragweed;

(EEEE) West weed mix;

(FFFF) Yellow jacket;

(60) Antihemophilic factor, Human;

(61) Antirabies serum;

(62) Antivenin;

(62.1) Apomorphine;

(62.3) Apraclonidine;

(62.4) Aprepitant;



(62.5) Aprotinin;  
(62.7) Ardeparin;  
(62.75) Arformoterol tartrate;  
(62.8) Argatroban;  
(63) Arginine, L-;  
(63.5) Aripiprazole;  
(64) Arsenic -- Preparation for human use;  
(64.1) Arsenic trioxide;  
(65) Artegraft;  
(66) Ascorbate sodium -- Injection;  
(67) Asparaginase;  
(67.6) Astemizole;  
(67.72) Atazanavir;  
(68.1) Atenolol;  
(68.15) Atomoxetine;  
(68.2) Atorvastatin;  
(68.3) Atovaquone;  
(68.4) Atracurium besylate;  
(68.5) Atropine -- See exceptions;  
(68.6) Auranofin;  
(69) Aurothioglucose;  
(69.5) Azacitidine;  
(70) Azapetine;

(71) Azatadine maleate;

(72) Azathioprine;

(72.3) Azelaic acid;

(72.4) Azelastine;

(72.5) Azithromycin;

(72.7) Azlocillin;

(73) Azo-sulfisoxazole;

(73.5) Aztreonam;

(74) Azuresin;

(75) Bacitracin -- See exceptions;

(76) Baclofen;

(76.5) Balsalazide;

(77) Barium -- See exceptions;

(78) Beclomethasone;

(79) Belladonna;

(80) Belladonna alkaloids;

(81) Belladonna extracts;

(82) Benactyzine;

(82.5) Benazepril;

(83) Bendroflumethiazide;

(83.1) Benoxaprofen;

(83.2) Bentiromide;

(83.5) Bentoquatam -- See exceptions;

- (84) Benzestrol;
- (85) Benzonatate;
- (86) Benzoylpas;
- (87) Benzquinamide;
- (88) Benzthiazide;
- (89) Benztropine;
- (90) Benzylpenicilloyl - polylysine;
- (91) Bephenium hydroxynaphthoate;
- (91.5) Bepridil;
- (91.7) Beractant;
- (92) Beta-carotene -- See exceptions;
- (93) Betadine vaginal gel;
- (94) Betahistine;
- (94.5) Betaine, anhydrous;
- (95) Betamethasone;
- (95.1) Betaxolol;
- (96) Betazole;
- (97) Bethanechol;
- (97.1) Bethanidine sulfate;
- (97.2) Bevacizumab;
- (97.3) Bexarotene;
- (97.5) Bicalutamide;
- (98) Bile extract;

(98.2) Bimatoprost;

(99) Biperiden;

(100) Bisacodyl tannex;

(101) Bishydroxycoumarin;

(101.5) Biskalcitrate;

(102) Bismuth sodium tartrate -- See exceptions;

(102.05) Bisoprolol;

(102.1) Bitolterol mesylate;

(102.5) Bivalirudin;

(103) Blastomycine;

(104) Bleomycin;

(105) Boroglycerin glycerite;

(105.3) Bortezomib;

(105.5) Bosentan;

(105.7) Botulinum toxin (B);

(106) Botulism antitoxin;

(107) Bretylium;

(107.3) Briazolamide;

(107.5) Brimonidine;

(108) Bromelains -- See exceptions;

(108.5) Bromfenac;

(109) Bromisovalum;

(110) Bromocriptine;

(111) Bromodiphenhydramine;

(112) Brompheniramine -- See exceptions;

(113) Brucella antigen;

(114) Brucella protein nucleate;

(115) Buclizine;

(115.3) Budesonide;

(115.5) Bumetanide;

(116) Bupivacaine;

(116.05) Reserved;

(116.1) Bupropion;

(116.5) Buspirone;

(117) Busulfan;

(118) Butacaine;

(119) Butaperazine;

(119.05) Butenafine -- See exceptions;

(119.1) Butoconazole -- See exceptions;

(120) Reserved;

(121) Butyl nitrite;

(122) Butyrophenone;

(122.5) Cabergoline;

(123) Cadmium sulfide -- See exceptions;

(124) Caffeine sodium benzoate;

(124.3) Calcifediol;

(124.7) Calcipotriene;  
(125) Calcitonin, Salmon;  
(126) Calcitriol;  
(127) Calcium disodium edetate -- See exceptions;  
(128) Calcium gluconogalactogluconate;  
(129) Calcium levulinate;  
(129.5) Calfactant;  
(130) Calusterone;  
(130.5) Candesartan;  
(131) Candicidin;  
(132) Cantharidin;  
(132.5) Capecitabine;  
(133) Capreomycin;  
(133.1) Captopril;  
(134) Capyodiame;  
(135) Caramiphen;  
(136) Carbachol;  
(137) Carbamazepine;  
(138) Carbazochrome;  
(139) Carbenicillin;  
(140) Carbetapentane;  
(141) Carbidopa;  
(142) Carbinoxamine;

(142.5) Carboplatin;

(143) Reserved;

(144) Carmustine;

(144.1) Carnitine;

(145) Carphenazine;

(145.6) Carteolol;

(145.8) Carvedilol;

(146) Casein hydrolysate;

(146.6) Caspofungin;

(147) Catarrhalis combined vaccine;

(148) Catarrhalis vaccine mixed;

(149) Cefaclor;

(150) Cefadroxil;

(151) Cefamandole;

(151.3) Cefazolin;

(151.4) Cefdinir;

(151.45) Cefditoren;

(151.5) Cefepime;

(151.6) Cefixime;

(151.7) Cefmetazole;

(151.8) Cefonicid;

(152) Cefoperazone;

(152.1) Ceforanide;

(152.2) Cefotaxime;  
(152.3) Cefotetan;  
(152.7) Cefotiam;  
(152.9) Cefoxitin;  
(153.1) Cefpiramide;  
(153.2) Cefpodoxime;  
(153.3) Cefprozil;  
(153.4) Ceftazidime;  
(153.5) Ceftibuten;  
(153.6) Ceftizoxime;  
(153.8) Ceftriaxone;  
(153.9) Cefuroxime;  
(153.95) Celecoxib;  
(154) Cellulose, Oxadized, Regenerated -- See exceptions;  
(155) Cephalexin;  
(156) Cephaloglycin;  
(157) Cephaloridine;  
(158) Cephalothin;  
(159) Cephapirin;  
(159.3) Cephradine;  
(159.6) Ceretec;  
(159.8) Cerivastatin;  
(160.1) Ceruletide;



(160.15) Cetirizine;

(160.16) Cetrorelix;

(160.165) Cetuximab;

(160.17) Cevimeline;

(160.20) Chenodiol;

(161) Chlophedianol;

(162) Chlorambucil;

(163) Chloramphenicol;

(164) Chloranil -- See exceptions;

(165) Chlordantoin;

(166) Chlordiazepoxide in combination with clidinium bromide or water soluble esterified estrogens;

(166.5) Chlorhexidine -- See exceptions;

(167) Chlormadinone;

(168) Chlormerodrin;

(169) Chlormezanone;

(170) Chloroacetic acid -- See exceptions;

(171) Chlorobutanol -- See exceptions;

(172) Chloroform -- See exceptions;

(173) Chloroguanide;

(174) Chloroprocaine;

(175) Chloroquine;

(176) Chlorothiazide;

(177) Chlorotrianisene;  
(178) Chloroxine;  
(179) Chlorphenesin;  
(180) Chlorpheniramine -- See exceptions;  
(181) Chlorphenoxamine;  
(182) Chlorpromazine;  
(183) Chlorpropamide;  
(184) Chlorprothixene;  
(185) Chlorquinaldol;  
(186) Chlortetracycline;  
(187) Chlorthalidone;  
(188) Chlorzoxazone;  
(189) Cholera vaccine;  
(190) Cholestyramine resin;  
(191) Chondroitin;  
(191.5) Chymopapain;  
(192) Chymotrypsin;  
(192.02) Ciclesonide;  
(192.03) Ciclopirox;  
(192.05) Cidofovir;  
(192.1) Cilastatin;  
(192.4) Cilexetil;  
(192.7) Cilostazol;

(193) Cimetidine -- See exceptions;

(193.5) Cinacalcet;

(194) Cinoxacin;

(194.5) Ciprofloxacin;

(194.7) Cisapride;

(194.8) Cisatracurium;

(195) Cisplatin;

(195.2) Citalopram;

(195.3) Cladribine;

(195.5) Clarithromycin;

(195.7) Clavulanate;

(196) Clemastine -- See exceptions;

(197) Clidinium bromide;

(198) Clindamycin;

(198.1) Clobetasol propionate;

(199) Clocortolone pivalate;

(200) Clofibrate;

(201) Clomiphene;

(201.5) Clomipramine;

(202) Clonidine;

(203) Clopidogrel;

(204) Clostridiopeptidase;

(205) Clotrimazole -- See exceptions;

(206) Cloxacillin;

(206.5) Clozapine;

(207) Coal tar solution topical;

(208) Cobra venom;

(209) Colchicine -- See exceptions;

(210) Colestipol;

(211) Colistimethate;

(212) Colistin;

(213) Collagenase;

(213.3) Conivaptan;

(213.5) Corticorelin;

(214) Corticotropin;

(215) Corticotropin, Respository;

(216) Cortisone;

(217) Cosyntropin;

(217.5) Crixivan;

(218) Cromolyn -- See exceptions;

(219) Crotaline antivenin, Polyvalent;

(220) Crotamiton;

(221) Cryptenamine;

(221.5) Cupric chloride -- injectable;

(222) Cyanide antidote;

(223) Cyclacillin;

(224) Cyclandelate;

(225) Reserved;

(226) Cyclobenzaprine;

(227) Cyclomethycaine;

(228) Cyclopentamine;

(229) Cyclopentolate;

(230) Cyclophosphamide;

(231) Cycloserine;

(231.5) Cyclosporine;

(232) Cyclothiazide;

(233) Cycrimine;

(234) Cyproheptadine;

(234.5) Cysteamine;

(235) Cytarabine;

(236) Dacarbazine;

(236.6) Daclizumab;

(237) Dactinomycin;

(237.2) Dalfopristin;

(237.5) Dalteparin;

(237.7) Danaparoid;

(238) Danazol;

(239) Dantrolene;

(239.5) Dapiprazole;

(240) Dapsone -- See exceptions;

(240.3) Daptomycin;

(240.5) Darbepoetin alfa;

(240.7) Darunavir;

(240.9) Dasatinib;

(241) Daunorubicin;

(242) Deanol;

(243) Decamethonium;

(243.3) Decitabine;

(243.5) Deferasirox;

(244) Deferoxamine;

(244.5) Delavirdine;

(245) Demecarium;

(246) Demeclocycline;

(247) Demethylchlortetracycline;

(248) Deoxyribonuclease, Pancreatic;

(249) Deserpidine;

(249.5) Desflurane;

(250) Desipramine;

(250.5) Desirudin;

(251) Deslanoside;

(251.5) Desloratadine;

(252) Desmopressin;

(252.5) Desogestrel;  
(253) Desonide;  
(254) Desoximetasone;  
(255) Desoxycorticosterone;  
(256) Desoxyribonuclease;  
(257) Dexamethasone;  
(258) Dexbrompheniramine -- See exceptions;  
(259) Dexchlorpheniramine;  
(260) Dexpanthenol;  
(260.5) Dexrazoxane;  
(261) Dextran;  
(262) Reserved;  
(263) Dextriferron;  
(264) Dextroisoephedrine;  
(265) Dextrothyroxine;  
(265.5) Dezocine;  
(266) Diatrizoate;  
(267) Diazoxide;  
(268) Dibucaine;  
(269) Dichloralphenazone;  
(270) Dichlorphenamide;  
(270.5) Diclofenac;  
(271) Dicloxacillin;

(272) Dicyclomine;

(272.5) Didanosine;

(273) Dienestrol;

(274) Diethylcarbamazine;

(275) Diethylstilbestrol;

(276) Reserved;

(277) Diflorasone diacetate;

(277.5) Diflunisal;

(278) Digitalis;

(279) Digitoxin;

(280) Digoxin;

(281) Dihydroergocornine;

(282) Dihydroergocristine;

(283) Dihydroergocryptine;

(284) Dihydroergotamine;

(285) Dihydrostreptomycin;

(286) Dihydrotachysterol;

(287) Diiodohydroxyquin;

(287.5) Diltiazem;

(288) Dimenhydrinate -- Injection or suppositories;

(289) Dimercaprol;

(290) Dimethindene;

(291) Dimethisterone;



(292) Dimethyl sulfoxide -- See exceptions;

(293) Dimethyl tubocurarine;

(293.5) Dimyristoyl;

(294) Dinoprost;

(295) Dinoprostone;

(296) Dioxyline;

(297) Diphemanil;

(298) Diphenadione;

(299) Diphenhydramine -- See exceptions;

(300) Diphenidol;

(301) Diphenylhydantoin;

(302) Diphenylpyraline;

(303) Diphtheria antitoxin;

(304) Diphtheria and tetanus toxoids;

(305) Diphtheria and tetanus toxoids and pertussis vaccine;

(306) Diphtheria and tetanus toxoids, Absorbed;

(307) Diphtheria and tetanus toxoids, Pertussis;

(308) Diphtheria toxoid;

(309) Dipivefrin;

(310) Dipyridamole;

(311) Dipyrone;

(311.3) Dirithromycin;

(311.5) Disibind;

(312) Disodium edetate -- See exceptions;

(313) Disopyramide;

(314) Disulfiram;

(314.5) Divalproex;

(315) Dobutamine;

(315.5) Docetaxel;

(315.7) Docosanol -- See exceptions;

(316) Doderlein bacilli;

(316.2) Dofetilide;

(316.3) Dolasetron;

(316.5) Donepezil;

(317) Dopamine;

(317.3) Dornase Alpha;

(317.4) Dorzolamide;

(317.5) Doxacurium;

(318) Doxapram;

(318.5) Doxazosin mesylate;

(319) Doxepin;

(319.5) Doxercalciferol;

(320) Doxorubicin;

(321) Doxycycline;

(322) Doxylamine;

(323) Doxylamine succinate;

(324) Dromostanolone;

(325) Droperidol;

(325.3) Drospirenone;

(325.4) Drotrecogin alfa;

(325.45) Duloxetine;

(325.5) Dutasteride;

(326) Dyclonine;

(327) Dydrogesterone;

(328) Dyphylline;

(329) Echothiophate;

(329.5) Econazole;

(330) Ectylurea;

(330.5) Edetate -- See exceptions;

(331) Edrophonium;

(331.03) Efavirenz;

(331.05) Eflornithine;

(331.07) Emedastine;

(331.072) Emtricitabine;

(331.1) Enalapril;

(331.6) Enalaprilat;

(332) Enflurane;

(332.2) Enfuvirtide;

(332.5) Enoxacin;

(332.7) Enoxaparin;  
(332.8) Entacapone;  
(332.85) Entecavir;  
(332.9) Epinastine;  
(333) Epinephrine;  
(334) Epinephryl borate;  
(334.3) Epirubicin;  
(334.4) Eplerenone;  
(334.5) Epoprostenol;  
(334.7) Eprosartan;  
(334.8) Eptifibatide;  
(335) Ergocalciferol -- See exceptions;  
(335.5) Ergoloid mesylates;  
(336) Ergonovine;  
(337) Ergotamine;  
(338) Ergosine;  
(339) Ergocristine;  
(340) Ergocryptine;  
(341) Ergocornine;  
(342) Ergotaminine;  
(343) Ergosinine;  
(344) Ergocristinine;  
(345) Ergocryptinine;

(346) Ergocorninine;

(346.1) Erlotinib;

(346.5) Ertapenem;

(347) Erythrityl tetranitrate;

(348) Erythromycin;

(348.722) Escitalopram;

(349) Eserine;

(349.4) Esmolol;

(349.7) Esomeprazole;

(350) Esterified estrogens;

(351) Estradiol;

(352) Estriol;

(353) Estrogens;

(354) Estrogenic substances;

(355) Estrone;

(355.5) Estropipate;

(356) Ethacrynate;

(357) Ethacrynic acid;

(358) Ethambutol;

(359) Ethamivan;

(359.5) Ethanolamine oleate;

(360) Ethaverine;

(361) Ether -- See exceptions;

(361.5) Ethinamate;

(362) Ethinyl estradiol;

(363) Ethiodized oil;

(364) Ethionamide;

(365) Ethisterone;

(366) Ethoheptazine;

(367) Ethopropazine;

(368) Ethosuximide;

(369) Ethotoin;

(370) Ethoxazene -- See exceptions;

(371) Ethoxyzolamide;

(372) Ethyl biscoumacetate;

(373) Ethyl chloride -- See exceptions;

(374) Ethyl nitrite spirit;

(375) Reserved;

(376) Ethylnorepinephrine;

(377) Ethynodiol diacetate;

(378) Etidocaine;

(379) Etidronate;

(379.05) Etodolac;

(379.07) Etomidate;

(379.09) Etonogestrel;

(379.1) Etoposide;

(380) Eucatropine;

(380.5) Exemestane;

(380.6) Exenatide;

(380.7) Ezetimibe;

(381) Factor IX complex, Human;

(381.1) Famciclovir;

(381.2) Famotidine -- See exceptions;

(381.3) Felbamate;

(381.5) Felodipine;

(381.55) Fenfibrate;

(381.6) Fenofenadine;

(381.7) Fenofibrate;

(381.8) Fenoldopam;

(382) Fenoprofen;

(383) Ferric cacodylate;

(383.15) Ferric Hexacyanoferrate;

(383.3) Ferumoxides;

(383.4) Ferumoxsil;

(383.5) Fexofenadine;

(384) Fibrinogen;

(385) Fibrinogen/antihemophilic factor, Human;

(386) Fibrinolysin, Human;

(386.3) Finasteride;

(386.5) Filgrastin;  
(387) Flavoxate;  
(387.1) Flecainide acetate;  
(388) Florantyrone;  
(388.5) Flosequinan;  
(389) Floxuridine;  
(389.5) Fluconazole;  
(390) Flucytosine;  
(390.5) Fludarabine;  
(390.7) Fludeoxyglucose;  
(391) Fludrocortisone;  
(391.5) Flumazenil;  
(392) Flumethasone;  
(392.1) Flunisolide;  
(393) Fluocinonide;  
(394) Fluocinolone;  
(395) Fluorescein;  
(396) Fluoride -- See exceptions;  
(396.5) Fluorometholone;  
(397) Fluorophosphates;  
(398) Fluorouracil;  
(399) Fluoxetine;  
(399.5) Fluoxymesterone;



(400) Fluphenazine;

(401) Fluprednisolone;

(402) Flurandrenolide;

(402.2) Flurbiprofen;

(402.5) Flutamide;

(402.7) Fluticasone Propionate;

(402.8) Fluvastatin;

(402.9) Fluvoxamine;

(403) Folate sodium;

(404) Folic acid -- See exceptions;

(404.3) Follitropin;

(404.5) Fomivirsen;

(404.7) Fondaparinux;

(405) Foreign protein;

(406) Formaldehyde -- See exceptions;

(406.2) Formoterol;

(406.3) Fosamprenavir;

(406.4) Foscarnet;

(406.5) Fosfomycin;

(406.7) Fosinopril;

(406.9) Fosphenytoin;

(406.95) Frovatriptan;

(407) Furazolidone;

(408) Furosemide;

(408.2) Gabapentin;

(408.25) Gadobenate;

(408.3) Gadodiamide;

(408.4) Gadopentetate dimeglumine;

(408.6) Gadoteridol;

(408.8) Gadoversetamide;

(408.9) Galantamine;

(409) Gallamine triethiodide;

(409.3) Gallium citrate;

(409.5) Gallium nitrate;

(409.8) Galsulfase;

(410) Gamma benzene hexachloride;

(411) Gamma globulin;

(411.5) Ganciclovir;

(411.7) Ganirelix;

(412) Gas gangrene polyvalent antitoxin;

(412.03) Gatifloxacin;

(412.04) Gefitinib;

(412.05) Gemcitabine;

(412.1) Gemfibrozil;

(412.2) Gemifloxacin;

(412.3) Gemtuzumab ozogamicin;

(412.5) Genotropin;

(413) Gentamicin;

(414) Gentian violet vaginal suppositories;

(415) Gitalin;

(415.03) Glatiramer;

(415.05) Glimepiride;

(415.1) Glipizide;

(416) Glucagon;

(417) Gluceptate;

(418) Gluconate magnesium;

(419) Gluconate potassium -- See exceptions;

(420) Glutamate arginine;

(420.1) Glyburide;

(420.5) Glycine -- See exceptions;

(421) Glycobiarsol;

(422) Glycopyrrolate;

(423) Gold sodium thiomalate;

(424) Gold thiosulfate -- See exceptions;

(425) Gomenol Solution;

(425.5) Gonadorelin acetate;

(426) Gonadotropin, Chroinic;

(427) Gonadotropin, Chroinic, Anti-human serum;

(428) Gonadotropin, Serum;

(428.5) Goserelin;  
(429) Gramicidin;  
(430) Gramineae pollens;  
(430.3) Gramosetron;  
(430.5) Granisetron;  
(431) Griseofulvin;  
(431.5) Guanabenz;  
(432) Guanethidine;  
(432.4) Guanadrel;  
(432.7) Guanfacine;  
(432.9) Guanidine;  
(433) Halcinonide;  
(433.5) Halobetasol Propionate;  
(433.7) Halofantrine;  
(434) Haloperidol;  
(435) Haloproglin;  
(436) Halothane;  
(437) Hartman's solution;  
(438) Heparin;  
(439) Hetacillin;  
(440) Hexachlorophene -- See exceptions;  
(441) Hexafluorenum;  
(442) Hexocyclium;

(443) Hexylcaine;

(444) Histamine;

(445) Histoplasmin;

(445.5) Histrelin acetate;

(446) Homatropine;

(446.4) Human secretin;

(446.6) Hyaluronan;

(446.7) Hyaluronic acid;

(447) Hyaluronidase;

(448) Hydralazine;

(449) Hydrocalciferol;

(450) Hydrochlorothiazide;

(451) Hydrocortamate;

(452) Hydrocortisone -- See exceptions;

(453) Hydroflumethiazide;

(454) Hydroquinone;

(455) Hydroxocobalamin -- See exceptions;

(456) Hydroxyamphetamine;

(457) Hydroxychloroquine;

(458) Hydroxyprogesterone;

(459) Hydroxyurea;

(460) Hydroxyzine;

(461) Hyoscyamine;

(462) Hyoscyamus alkaloids;

(463) Hypophamine;

(463.03) Ibandronate;

(464) Ibuprofen -- See exceptions;

(464.05) Ibutilide;

(464.1) Idarubicin;

(464.3) Idoxuridine;

(464.5) Idursulfase;

(464.6) Ifosfamide;

(464.7) Iloprost;

(464.8) Imatinib;

(465) Imiglucerase;

(465.1) Imipenem/cilastatin;

(466) Imipramine;

(466.5) Imiquimod;

(467) Immune hepatitis B globulin, Human;

(468) Immune poliomyelitis globulin, Human;

(469) Immune serum globulin, Human;

(469.1) Indapamide;

(469.5) Indecainide;

(470) Indigotindisulfonate;

(470.05) Indinavir;

(470.1) Indium IN-III oxyquinolone;

(470.3) Indium IN-III pentetreotide;

(471) Indocyanine green;

(472) Indomethacin;

(472.5) Infliximab;

(473) Influenza virus vaccines;

(474) Injections, All substances for human use -- See exceptions;

(474.2) Insulin aspart;

(474.4) Insulin glargine;

(474.45) Insulin glulisine;

(474.5) Interferon;

(475) Intrinsic factor concentrate manufactured for human use;

(475.3) Inulin;

(475.5) Iobenguane;

(476) Iocetamic acid;

(477) Iodamide;

(478) Iodinated I-125 serum albumin;

(479) Iodinated I-131 serum albumin;

(480) Iodinated glycerol-theophylline;

(481) Iodine solution, Strong oral;

(482) Iodipamide;

(482.5) Iodixanol;

(483) Iodized oil;

(484) Iodobenzoic acid -- See exceptions;

(485) Iodobrassid;  
(485.1) Iodohippurate sodium;  
(486) Iodopyracet;  
(487) Iodothiouracil;  
(487.05) Iofetamine;  
(487.08) Iohexol;  
(487.1) Iopamidol;  
(488) Iopanoic acid -- See exceptions;  
(489) Iophendylate;  
(489.1) Iopromide;  
(489.2) Iothalamate;  
(489.3) Iothiouracil;  
(489.5) Iotrolan;  
(489.6) Ioversol;  
(490.1) Ioxaglate;  
(490.5) Ioxilan;  
(491) Ipodate;  
(491.5) Ipratropium;  
(491.6) Irbesartan;  
(491.7) Irinotecan;  
(492) Iron cacodylate;  
(493) Iron dextran injection;  
(494) Iron peptonized;



(495) Iron sorbitex;  
(496) Isocarboxazid;  
(497) Isoetharine;  
(498) Isoflurane;  
(499) Isoflurophate;  
(500) Isometheptene;  
(501) Isoniazid;  
(502) Isopropamide;  
(503) Isoproterenol;  
(504) Isosorbide dinitrate;  
(504.05) Isosorbide mononitrate;  
(504.1) Isosulfan blue;  
(505) Isothipendyl;  
(505.5) Isotretinoin;  
(506) Isoxsuprine;  
(506.5) Isradipine;  
(506.7) Itraconazole;  
(506.8) Ivermectin;  
(507) Kanamycin;  
(508) Reserved;  
(509) Ketocholanic acids;  
(509.1) Ketoconazole -- See exceptions;  
(509.15) Ketoprofen -- See exceptions;

(509.17) Ketorolac tromethamine;

(509.18) Ketotifen -- See exceptions;

(509.2) Labetalol;

(510) Lactated ringers solution;

(511) Lactulose;

(511.3) Lamivudine;

(511.5) Lamotrigine;

(512) Lanatoside C;

(512.5) Lansoprazole;

(512.6) Lanthanum;

(512.7) Latanoprost;

(513) Latrodectus mactans;

(513.5) Leflunomide;

(513.7) Lenalidomide;

(513.8) Letrozole;

(514) Leucovorin;

(514.1) Leuprolide;

(514.5) Levalbuterol;

(515) Reserved;

(515.5) Levamisole;

(516) Levarterenol;

(516.05) Levetiracetam;

(516.07) Levobetaxolol;

(516.1) Levobunolol;  
(516.3) Levobupivacaine;  
(516.5) Levocabastine;  
(516.7) Levocarnitine;  
(517) Levodopa;  
(517.2) Levofloxacin;  
(517.3) Levomethadyl;  
(517.4) Levonordefrin;  
(518) Levopropoxyphene;  
(519) Levothyroxine;  
(520) Lidocaine -- See exceptions;  
(521) Lincomycin;  
(522) Lindane -- See exceptions;  
(522.5) Linezolid;  
(523) Linolenic acid;  
(524) Liothyronine;  
(525) Liotrix;  
(525.5) Lisinopril;  
(526) Lithium carbonate -- See exceptions;  
(527) Lithium citrate;  
(528) Liver extract;  
(528.3) Lodoxamide;  
(528.5) Lomefloxacin;

(529) Lomustine;

(529.1) Loperamide -- See exceptions;

(529.5) Lopinavir;

(529.7) Loracarbef;

(529.9) Loratadine -- See exceptions;

(529.95) Losartan;

(529.97) Loteprednol;

(530) Lovastatin;

(530.5) Loxapine;

(530.7) Lubiprostone;

(531) Lugols solution;

(532) Lututrin;

(533) Lymphogranuloma venereum antigen;

(534) Lypressin synthetic;

(535) Mafenide;

(536) Magnesium gluconate -- See exceptions;

(537) Magnesium salicylate;

(538) Mandelic acid -- See exceptions;

(539) Mannitol -- See exceptions;

(540) Mannitol hexanitrate;

(540.1) Maprotiline;

(540.5) Masoprocol;

(541) Measles immune globulin, Human;

(542) Measles virus vaccines;

(543) Mebendazole for human use;

(544) Mecamylamine;

(544.5) Mecasermin;

(545) Mechlorethamine;

(546) Meclizine -- See exceptions;

(546.5) Meclocycline;

(547) Meclofenamate;

(548) Medroxyprogesterone;

(549) Medrysone;

(550) Mefenamic acid;

(550.5) Mefloquine;

(551) Megestrol;

(552) Meglumine;

(552.5) Meloxicam;

(553) Melphalan;

(553.5) Memantine;

(554) Menadiol;

(555) Menadione;

(556) Meningococcal polysaccharide vaccine;

(557) Menotropins;

(558) Mepenzolate;

(559) Mephenesin;

(560) Mephentermine;  
(561) Mephenytoin;  
(562) Meprednisone;  
(563) Mepivacaine;  
(563.5) Mequinol;  
(564) Meralluride;  
(565) Mercaptomerin;  
(566) Mercaptopurine;  
(567) Mercury bichloride -- See exceptions;  
(567.1) Meropenem;  
(567.2) Mersalyl;  
(567.3) Mesalamine;  
(567.5) Mesna;  
(568) Mesoridazine;  
(569) Mestranol;  
(570) Metaproterenol;  
(571) Metaraminol;  
(572) Metaxalone;  
(572.5) Metformin;  
(573) Methacholine;  
(574) Methacycline;  
(575) Methallenestril;  
(576) Reserved;

(577) Reserved;

(578) Methantheline;

(579) Methazolamide;

(580) Methdilazine;

(581) Methenamine hippurate;

(582) Methenamine mandelate;

(583) Methenamine sulfosalicylate;

(584) Methicillin;

(585) Methimazole;

(586) Methiodal;

(587) Methionine;

(588) Methixene;

(589) Methocarbamol;

(590) Methotrexate;

(591) Methotrimeprazine;

(592) Methoxamine;

(593) Methoxsalen;

(594) Methoxyflurane;

(595) Methoxyphenamine;

(596) Methscopolamine;

(597) Methsuximide;

(598) Methyclothiazide;

(599) Methylandrostenediol;

(600) Methylatropine;

(601) Methyldopa;

(602) Methyldopate;

(603) Methylene blue, Oral;

(604) Methylergonovine;

(605) Methylprednisolone;

(606) Reserved;

(607) Methysergide;

(608) Metoclopramide;

(609) Metocurine iodide injection;

(610) Metolazone;

(611) Metoprolol;

(612) Metrizamide;

(612.5) Metrizoate;

(613) Metronidazole;

(614) Metyrapone;

(615) Metyrosine;

(615.01) Mexiletine;

(615.1) Mezlocillin;

(615.6) Mibefradil;

(615.9) Micafungin;

(616) Miconazole -- See exceptions;

(617) Microfibrillar collagen hemostat;



(617.1) Midodrine;  
(617.22) Midubosathol;  
(617.3) Mifepristone;  
(617.4) Miglitol;  
(617.44) Miglustat;  
(617.5) Milrinone;  
(618) Minocycline;  
(619) Minoxidil -- See exceptions;  
(619.3) Mirtazapine;  
(619.5) Misoprostol;  
(620) Mithramycin;  
(621) Mitomycin;  
(622) Mitotane;  
(622.3) Mitoxantrone;  
(622.5) Mivacurium;  
(622.7) Moexipril;  
(623) Molindone;  
(623.5) Mometasone;  
(624) Monobenzene;  
(624.1) Monoctanoin;  
(624.5) Montelukast;  
(624.7) Moricizine;  
(625) Morrhuate;

(625.1) Moxalactam;

(625.3) Moxidectin;

(625.5) Moxifloxacin;

(626) Mumps virus vaccines;

(626.5) Mupirocin;

(627) Mushroom spores which, when mature, contain either psilocybin or psilocin;

(627.5) Mycophenolate;

(628) N-acetyl-L-cysteine;

(629) N. catarrhalis antigen;

(629.5) Nabumetone;

(630) Nadolol;

(630.5) Nafarelin;

(631) Nafcillin;

(631.5) Naftifine;

(632) Nalbuphine;

(633) Reserved;

(634) Nalidixic acid;

(634.5) Nalmefene;

(635) Naloxone;

(635.1) Naltrexone;

(636) Reserved;

(637) Naphazoline -- See exceptions;

(638) Naproxen -- See exceptions;

(638.3) Naratriptan;

(638.4) Natalizumab;

(638.5) Nedocromil;

(638.7) Nefazodone;

(638.75) Nelarabine;

(638.8) Nelfinavir;

(639) Neomycin -- See exceptions;

(640) Neostigmine;

(640.1) Nepafenac;

(640.2) Nesiritide;

(640.3) Netilmicin;

(640.4) Nevirapine;

(640.5) Niacinamide -- See exceptions;

(640.7) Nicardipine;

(640.8) Niclosamide;

(641.1) Nicotine resin complex (polacrilex) -- See exceptions;

(641.15) Nicotine transdermal system -- See exceptions;

(642) Nicotiny alcohol;

(642.1) Nifedipine;

(643) Nifuroximine;

(644) Nikethamide;

(644.4) Nilutamide;

(644.5) Nimodipine;

(644.7) Nisoldipine;  
(644.72) Nitazoxanide;  
(644.8) Nitisinone;  
(644.9) Nitric oxide -- for use in humans;  
(645) Nitrofurantoin;  
(646) Nitrofurazone;  
(647) Nitroglycerin;  
(648) Nitroprusside -- See exceptions;  
(648.3) Nitrous oxide -- See exceptions;  
(648.6) Nizatidine -- See exceptions;  
(649.1) Nomifensine maleate;  
(650) Nonoxynol -- See exceptions;  
(651) Norepinephrine;  
(652) Norethindrone;  
(653) Norethynodrel;  
(653.5) Norfloxacin;  
(654) Norgestrel;  
(655) Normal serum albumin, Human;  
(656) Nortriptyline;  
(657) Nositol;  
(658) Novobiocin;  
(659) Nux vomica;  
(660) Nylidrin;

(661) Nystatin;

(661.5) Octreotide acetate;

(661.7) Ofloxacin;

(661.8) Olanzapine;

(662) Old tuberculin;

(663) Oleandomycin;

(663.1) Olmesartan;

(663.2) Olopatadine;

(663.3) Olsalazine Sodium;

(663.4) Omega-3-acid;

(663.5) Omeprazole -- See exceptions;

(663.7) Ondansetron;

(663.75) Orlistat -- See exceptions;

(664) Orphenadrine;

(665) Orthiodobenzoic acid;

(665.5) Oseltamivir;

(665.7) Ovine hyaluronidase;

(666) Oxacillin;

(666.4) Oxaliplatin;

(666.6) Oxamniquine;

(667) Oxaprozin;

(667.5) Oxcarbazepine;

(668) Oxethazaine;

(668.5) Oxiconazole;

(669) Oxolinic acid;

(669.1) Oxprenolol;

(670) Oxtriphylline;

(671) Oxybutynin;

(672) Oxygen for human use -- See exceptions;

(673) Reserved;

(674) Oxyphenbutazone;

(675) Oxyphencyclimine;

(676) Oxyphenisatin;

(677) Oxyphenonium;

(678) Oxyquinoline;

(679) Oxytetracycline;

(680) Oxytocin;

(680.5) Ozogamicin;

(681) P-nitrosulfathiazole;

(681.3) Paclitaxel;

(681.4) Palifermin;

(681.45) Paliperidone;

(681.5) Palonosetron;

(681.7) Pamidronate;

(682) Pancreatin dornase;

(683) Pancreatic enzyme;

(684) Pancrelipase;  
(685) Pancuronium;  
(685.5) Panidronate;  
(685.6) Panitumumab;  
(685.7) Pantoprazole;  
(686) Papaverine;  
(687) Paramethadione;  
(688) Paramethasone;  
(689) Paranitrosulfathiazole;  
(690) Parathyroid injection;  
(691) Pargyline;  
(691.5) Paricalcitol;  
(692) Paromomycin;  
(692.2) Paroxetine;  
(692.4) Pegademase bovine;  
(692.5) Pegaspargase;  
(692.51) Pegfilgrastin;  
(692.515) Peginterferon;  
(692.52) Pegvisomant;  
(692.54) Pemetrexed;  
(692.55) Pemirolast;  
(692.6) Penbutolol;  
(692.8) Penciclovir;

(693) Penicillamine;  
(694) Penicillin;  
(695) Penicillin G;  
(696) Penicillin O;  
(697) Penicillin V;  
(698) Penicillinase;  
(699) Pentaerythritol tetranitrate;  
(700) Pentagastrin;  
(700.1) Pentamidine isethionate;  
(701) Pentapiperide;  
(701.5) Pentetate calcium trisodium;  
(701.7) Pentetate zinc trisodium;  
(702) Penthienate;  
(703) Pentolinium;  
(703.03) Pentosan;  
(703.05) Pentostatin;  
(703.1) Pentoxifylline;  
(703.4) Pentylenetetrazol;  
(703.45) Perflexane;  
(703.5) Perflubron;  
(703.6) Perfluoroalkylpolyether;  
(703.65) Perflutren;  
(703.7) Pergolide;



(704) Perindopril;

(704.1) Permethrin -- See exceptions;

(705) Perphenazine;

(706) Pertussis immune globulin, Human;

(707) Phenacetamide;

(708) Phenaglycodol;

(709) Phenaphthazine;

(710) Phenazopyridine -- See exceptions;

(711) Phenelzine;

(712) Phenethicillin;

(713) Phenformin;

(714) Phenindamine;

(715) Phenindione;

(716) Pheniramine -- See exceptions;

(717) Phenitramin;

(718) Phenothiazine derivatives;

(719) Phenoxybenzamine;

(720) Phenoxymethyl penicillin;

(721) Phenuprocoumon;

(722) Phensuximide;

(723) Phentolamine;

(724) Phenylbutazone;

(725) Phenylmercuric acetate;

(726) Phenylmercuric nitrate;

(726.5) Phenylpropanolamine;

(727) Phenyltoloxamine dihydrogen citrate;

(727.2) Phenytoin;

(728) Phthalylsulfacetamide;

(729) Phthalylsulfathiazole;

(730) Physostigmine;

(731) Phytonadione;

(731.1) Pimozide;

(732) Pilocarpine;

(732.3) Pinacidil;

(732.7) Pindolol;

(732.8) Pioglitazone;

(732.9) Pimecrolimus;

(733) Pipazethate;

(733.5) Pipecuronium;

(734) Pipenzolate;

(735) Piperacetazine;

(735.1) Piperacillin;

(736) Piperazine;

(737) Piperidolate;

(738) Piperocaine;

(739) Pipobraman;

(740) Pipradrol;

(740.05) Pirbuterol;

(740.1) Piroxicam;

(741) Plague vaccine;

(742) Plasma protein fraction;

(742.5) Plicamycin;

(743) Pneumococcal polyvalent vaccine;

(743.3) Podofilox;

(743.5) Podophyllotoxin;

(744) Poison ivy extract;

(745) Poison ivy oak extract;

(746) Poison ivy oak, sumac extract;

(747) Poldine methysulfate;

(748) Poliomyelitis vaccine;

(749) Poliovirus vaccine, Live, Oral, All;

(750) Polyestradiol;

(751) Polymyxin B -- See exceptions;

(751.5) Polytetrafluoroethylene;

(752) Polythiazide;

(752.2) Poractant alfa;

(752.5) Porfimer;

(752.7) Posaconazole;

(753) Posterior pituitary;

(754) Potassium acetate injection;

(755) Potassium acid phosphate -- See exceptions;

(756) Potassium p-aminobenzoate -- See exceptions;

(757) Potassium aminosalicylate -- See exceptions;

(758) Potassium arsenite -- See exceptions;

(759) Potassium bicarbonate -- See exceptions;

(760) Potassium carbonate -- See exceptions;

(761) Potassium chloride -- See exceptions;

(762) Potassium citrate -- See exceptions;

(763) Potassium gluconate -- See exceptions;

(764) Potassium hetacillin;

(765) Potassium iodide -- See exceptions;

(766) Reserved;

(767) Potassium permanganate -- See exceptions;

(768) Povidone -- Iodine -- See exceptions;

(769) Pralidoxime;

(769.2) Pramipexole;

(769.3) Pramlintide;

(769.4) Pravastatin;

(769.7) Praziquantel;

(770) Prazosin;

(770.5) Prednicarbate;

(771) Prednisolone;

(772) Prednisone;  
(773) Prilocaine;  
(774) Primaquine;  
(775) Primidone;  
(776) Probenecid;  
(777) Probucol;  
(778) Procainamide;  
(779) Procaine;  
(780) Procaine penicillin;  
(781) Procaine penicillin G;  
(782) Procarbazine;  
(783) Prochlorperazine;  
(784) Procyclidine;  
(785) Progesterone;  
(785.5) Proguanil;  
(786) Promazine;  
(787) Promethazine;  
(788) Promethestrol;  
(788.5) Propafenone;  
(789) Propantheline;  
(790) Proparacaine;  
(791) Propenpyridamine -- See exceptions;  
(792) Propiolactone;

(793) Propiomazine;

(793.5) Propofol;

(794) Propoxycaine;

(795) Propranolol;

(795.5) Propylhexedrine;

(796) Propylparaben;

(797) Propylthiouracil;

(798) Protamine sulfate injection;

(799) Protein hydrolysate injection;

(800) Protein, Foreign injection;

(801) Proteolytic enzyme;

(802) Protirelin;

(803) Protokylol;

(804) Protoveratrine A and B;

(805) Protriptyline;

(805.5) Prussian blue;

(806) Pseudoephedrine -- See exceptions;

(807) Pseudomonas polysaccharide complex;

(808) P-ureidobenzenearsonic acid;

(809) Purified protein derivatives of tuberculin;

(810) Pyrantel;

(811) Pyrazinamide;

(812) Pyrazolon;

(813) Pyridostigmine;

(814) Pyrimethamine;

(815) Pyrrobutamine;

(816) Pyrvinium;

(816.5) Quetiapine;

(817) Quinacrine;

(817.5) Quinapril;

(818) Quinestrol;

(819) Quinethazone;

(820) Quinidine;

(821) Quinine hydrochloride;

(822) Quinine and urea hydrochloride;

(822.3) Quinupristin;

(822.5) Rabeprazole;

(823) Rabies anti-serum;

(824) Rabies immune globulin, Human;

(825) Rabies vaccine;

(826) Radio-iodinated compounds;

(827) Radio-iodine;

(828) Radio-iron;

(829) Radioisotopes;

(830) Radiopaque media;

(831) Ragweed pollen extract;

(831.02) Raloxifene;

(831.04) Ramelteon;

(831.05) Ramipril;

(831.07) Ranibizumab;

(831.1) Ranitidine -- See exceptions;

(831.3) Ranolazine;

(831.5) Rapacuronium;

(831.7) Rasagiline;

(832) Rauwolfia serpentina;

(832.2) Reboparhamil;

(833) Rescinnamine;

(834) Reserpine;

(835) Reserpine alkaloids;

(836) Resorcinol monoacetate -- See exceptions;

(836.5) Retinoic acid, all-trans;

(837) Rhus toxicodendron antigen;

(838) Rh D immune globulin, Human;

(838.5) Ribavirin;

(839) Riboflavin -- See exceptions;

(840) Ricinoleic acid;

(840.5) Rifabutin;

(841) Reserved;

(842) Rifampin;



(842.1) Rifapentine;  
(842.15) Rifaximin;  
(842.2) Riluzole;  
(842.4) Rimantadine;  
(842.7) Rimexolone;  
(843) Ringer's injection;  
(843.2) Risedronate;  
(843.3) Risperidone;  
(843.7) Ritodrine;  
(843.8) Ritonavir;  
(843.82) Rituximab;  
(843.83) Rivastigmine;  
(843.9) Rizatriptan;  
(844) Rocky mountain spotted fever vaccine;  
(844.5) Rocuronium;  
(844.7) Rofecoxib;  
(845) Rolitetracycline;  
(845.3) Ropinirole;  
(845.5) Ropivacaine;  
(845.7) Rosiglitazone;  
(845.8) Rosuvastatin;  
(845.9) Rotavirus vaccine;  
(846) Rotoxamine;

(846.5) RSVIGIV;

(847) Rubella and mumps virus vaccine;

(848) Rubella virus vaccine;

(849) Rutin -- See exceptions;

(849.5) Sacrosidase;

(850) Salicylazosulfapyridine;

(850.5) Salmeterol;

(851) Salmonella typhosa, Killed;

(851.03) Samarium SM 153 lexidronam;

(851.04) Saneromazile;

(851.05) Saquinavir;

(851.1) Saralasin acetate;

(852) Scopolamine;

(852.1) Secretin;

(852.6) Selegiline;

(853) Selenium sulfide -- See exceptions;

(853.5) Selenomethionine;

(854) Senecio cineraria extract ophthalmic solution;

(855) Senega fluid extract;

(855.3) Seractide acetate;

(855.5) Sermorelin Acetate;

(855.6) Sertaconazole;

(855.7) Sertraline;

(855.74) Sevelamer;

(855.8) Sevoflurane;

(855.85) Sildenafil;

(856) Silver nitrate ophthalmic solutions or suspensions;

(857) Silver sulfadiazine cream;

(857.3) Simethicone coated cellulose suspension;

(857.5) Simvastatin;

(858) Sincalide;

(858.3) Sinecatechins;

(858.5) Sirolimus;

(858.7) Sitagliptin;

(859) Sitosterols;

(860) Solutions for injections, All;

(861) Smallpox vaccine;

(862) Sodium acetate injection;

(863) Sodium acetrizoate;

(864) Sodium ascorbate injection;

(865) Sodium biphosphate -- See exceptions;

(866) Sodium cacodylate;

(867) Sodium chloride injection;

(868) Sodium dehydrocholate;

(869) Sodium dextrothyroxine;

(870) Sodium estrone;

(871) Sodium fluorescein -- See exceptions;

(872) Sodium fluoride -- See exceptions;

(873) Sodium iothalamate;

(873.5) Sodium nitroprusside;

(873.7) Sodium phenylbutyrate;

(874) Sodium polystyrene sulfonate;

(875) Sodium propionated vaginal cream;

(876) Sodium sulfacetamide;

(877) Sodium sulfadiazine;

(878) Sodium sulfobromophthalein;

(879) Sodium sulfoxone;

(880) Sodium tetradecyl;

(880.5) Sodium thiosulfate;

(881) Sodium tyropanoate;

(881.05) Solifenacin;

(881.1) Somatrem;

(882) Somatropin;

(882.5) Sorafenib;

(883) Sorbus extract;

(883.5) Sotalol;

(883.8) Sparfloxacin;

(884) Sparteine;

(885) Spectinomycin;

(886) Spirapril;

(887) Spironolactone;

(888) Staphage lysate bacterial antigen;

(889) Staphylococcus and streptococcus vaccine;

(890) Staphylococcus toxoid;

(890.5) Stavudine;

(891) Stibophen;

(892) Stinging insect antigens -- Combined;

(893) Stockes expectorant;

(894) Stramonium;

(895) Streptococcus antigen;

(896) Streptokinase-streptodornase;

(897) Streptomycin;

(898) Strontium -- See exceptions;

(899) Strophanthin-G;

(900) Strychnine -- See exceptions;

(901) Succimer;

(902) Succinylcholine;

(903) Succinylsulfathiazole;

(903.1) Sucralfate;

(903.2) Sulconazole;

(904) Sulfabenzamide vaginal preparations;

(905) Sulfacetamide;

(906) Sulfachlorpyridazine;  
(907) Sulfacytine;  
(908) Sulfadiazine;  
(909) Sulfadimethoxine;  
(909.1) Sulfadoxine;  
(910) Sulfaethidole;  
(911) Sulfaguanidine;  
(912) Sulfamerazine;  
(913) Sulfameter;  
(914) Sulfamethazine;  
(915) Sulfamethizole;  
(916) Sulfamethoxazole;  
(917) Sulfamethoxypyridazine;  
(918) Sulfanilamide;  
(919) Sulfaphenazole;  
(920) Reserved;  
(921) Sulfapyridine;  
(922) Sulfasalazine;  
(922.5) Sulfathiazole;  
(923) Sulfapyrazone;  
(924) Sulfisomidine;  
(925) Sulfisoxazole;  
(926) Sulfur thioglycerol;

(927) Sulindac;  
(927.5) Sumatriptan;  
(927.7) Sunitinib;  
(928) Superinone;  
(928.1) Suprofen;  
(929) Sutilains;  
(930) Syrosingopine;  
(930.5) Tacrine;  
(930.7) Tacrolimus;  
(930.9) Tadalafil;  
(931) Tamoxifen;  
(931.1) Tamsulosin;  
(931.3) Tazarotene;  
(931.35) Tazobacam;  
(931.5) Technetium;  
(931.55) Tegaserod;  
(931.56) Telbivudine;  
(931.57) Telithromycin;  
(931.6) Telmisartan;  
(931.7) Temafloxacin;  
(931.75) Temozolomide;  
(931.8) Teniposide;  
(931.85) Terazosin;

(931.9) Tenofovir;

(931.95) Terbinafine -- See exceptions;

(932) Terbutaline;

(932.05) Terconazole;

(932.1) Terfenadine;

(932.3) Teriparatide;

(933) Terpin hydrate with codeine;

(934) Reserved;

(935) Reserved;

(936) Tetanus and diphtheria toxoids;

(937) Tetanus antitoxin;

(938) Tetanus immune globulin;

(939) Tetanus toxoids;

(940) Tetracaine;

(941) Tetracycline;

(942) Tetraethylammonium chloride;

(943) Tetrahydrozoline -- See exceptions;

(943.5) Thalidomide;

(944) Thallous chloride;

(945) Theobromide;

(945.5) Theobromine;

(946) Theobromine magnesium oleate;

(947) Theophylline -- See exceptions;



(948) Theophylline sodium glycinate;

(949) Thiabendazole;

(950) Thiamylal;

(951) Thiethylperazine;

(952) Thiopropazate;

(953) Thioguanine;

(954) Thioridazine;

(955) Thiosalicylate;

(956) Thiotepa;

(957) Thiothixene;

(958) Thiphenamil;

(959) Thrombin;

(960) Thyroglobulin;

(961) Thyroid;

(962) Thyrotropin;

(963) Thyroxine;

(964) Thyroxine fraction;

(964.5) Tiagabine;

(965) Ticarcillin;

(965.5) Ticlopidine;

(966) Ticrynafen;

(966.3) Tigecycline;

(966.6) Tiludronate;

(967) Timolol;

(967.1) Tinidazole;

(967.2) Tinzaparin;

(967.3) Tioconazole -- See exceptions;

(967.5) Tiopronin;

(967.55) Tiotropium;

(967.57) Tipranavir;

(967.6) Tirofiban;

(967.7) Tizanidine;

(968) Tobramycin;

(968.1) Tocainide;

(969) Tocamphyl;

(970) Tolazamide;

(971) Tolazoline;

(972) Tolbutamide;

(972.5) Tolcapone;

(973) Tolmetin;

(973.05) Tolterodine;

(973.1) Topiramate;

(973.3) Topotecan;

(973.4) Toremifene;

(973.5) Toremide;

(973.7) Tramadol;

(973.8) Trandolapril;  
(973.9) Tranexamic acid;  
(974) Tranylcypromine;  
(974.4) Travoprost;  
(974.5) Trazodone;  
(974.7) Treprostinil;  
(975) Tretinoin;  
(976) Triamcinolone;  
(977) Triamterene;  
(978) Trichlormethiazide;  
(979) Trichloroacetic acid -- See exceptions;  
(980) Trichloroethylene -- See exceptions;  
(981) Trichlobisonium;  
(982) Triclofos;  
(983) Tridihexethyl chloride;  
(983.1) Trientine;  
(984) Triethanolamine polypeptides;  
(985) Triethylenethiophosphoramidate;  
(986) Trifluoperazine;  
(987) Triflupromazine;  
(988) Trifluridine;  
(989) Trihexyphenidyl;  
(990) Triiodothyronine;

(990.1) Trilostane;

(991) Trimeprazine;

(992) Trimethadione;

(993) Trimethaphan cansylate;

(994) Trimethobenzamide;

(995) Trimethoprim;

(995.5) Trimetrexate;

(996) Trimipramine;

(997) Triolein;

(998) Trioxsalen;

(999) Tripeleennamine -- See exceptions;

(1000) Triphenyltetrazolium;

(1001) Triple sulfas;

(1002) Triprolidine -- See exceptions;

(1002.5) Triptorelin;

(1003) Trisulfapyrimidines;

(1003.5) Troglitazone;

(1004) Troleandomycin;

(1005) Trolnitrate;

(1006) Tromethamine;

(1007) Tropicamide;

(1007.3) Trospium;

(1007.5) Trovafloxacin;

(1008) Trypsin;

(1009) Trypsin-chymotrypsin;

(1010) Tuaminoheptane;

(1011) Tuberculin, Purified protein derivatives;

(1012) Tuberculin tine test;

(1013) Tuberculin, Old;

(1014) Tubocurarine;

(1015) Tybamate;

(1016) Typhoid and paratyphoid vaccine;

(1017) Typhus vaccine;

(1018) Tyropanoate;

(1019) Undecoylium;

(1019.5) Unoprostone;

(1020) Uracil;

(1021) Urea -- See exceptions;

(1021.3) Urofollitropin;

(1021.5) Ursodiol;

(1021.7) Valacyclovir;

(1021.8) Valdecoxib;

(1022) Valethamate;

(1022.2) Valganciclovir;

(1023) Valproate;

(1024) Valproic acid -- See exceptions;

(1024.3) Valrubicin;  
(1024.5) Valsartan;  
(1025) Vancomycin;  
(1025.5) Vardenafil;  
(1025.7) Varenicline;  
(1026) Vasopressin;  
(1027) VDRL antigen;  
(1027.1) Vecuronium bromide;  
(1027.5) Velnacrine;  
(1027.6) Venlafaxine;  
(1027.7) Verapamil;  
(1028) Veratrum viride;  
(1029) Versenate;  
(1029.5) Verteporfin;  
(1030) Vidarabine;  
(1031) Vinblastine;  
(1032) Vincristine;  
(1032.5) Vinorelbine;  
(1033) Vinyl ethyl -- See exceptions;  
(1034) Viomycin;  
(1035) Vitamin K;  
(1036) Vitamin B12 injection;  
(1037) Vitamine with fluoride;

- (1037.5) Voriconazole;
- (1037.7) Vorinostat;
- (1038) Warfarin;
- (1039) Wargarin;
- (1039.1) Xylocaine;
- (1040) Yellow fever vaccine;
- (1041) Yohimbine;
- (1042) 4-chloro-3, 5-xlenol -- See exceptions;
- (1042.01) Zafirlukast;
- (1042.02) Zalcitabine;
- (1042.03) Zanamivir;
- (1042.05) Zidovudine;
- (1042.4) Zileuton;
- (1042.7) Zinc acetate -- See exceptions;
- (1042.75) Ziprasidone;
- (1042.8) Zoledronic Acid;
- (1042.9) Zolmitriptan;
- (1042.92) Zonisamide;
- (1043) Devices that require a prescription:

(A) Cellulose, Oxadized, Regenerated (surgical absorbable hemostat) -- See exceptions;

(B) Diaphragms for vaginal use;

(C) Hemodialysis solutions;

(D) Hemodialysis kits;

- (E) Lippes loop intrauterine;
- (F) Saf-T-Coil intrauterine device;
- (G) Intrauterine devices, All;
- (H) Absorbable hemostat;
- (I) Gonorrhea test kit.

(c) The following are exceptions to and exemptions from subsection (b) of this Code section:

- (1) Atropine sulfate -- where the oral dose is less than 1/200 gr. per unit;
- (2) Bacitracin cream or ointment for topical use;
- (3) Belladonna or belladonna alkaloids when in combination with other drugs and the dosage unit is less than 0.1 mg. of the alkaloids or its equivalent;
- (3.5) Bantoquatam--when used with a strength of 5 percent or less in topical preparations;
- (4) Beta carotene -- all forms occurring in food products or lotions;
- (5) Bromelain, pancreatic enzymes, trypsin and bile extract -- when labeled properly as digestive aids with appropriate dosage and in compliance with FDA labeling and restrictions;
- (6) Brompheniramine -- where a single dosage unit is 4 mg. or less but with no more than 3 mg. of the dextrorotary optical isomer of racemic brompheniramine per released dose;
- (6.2) Butenafine -- when used with a strength of 1 percent or less as a topical preparation;
- (6.4) Butoconazole -- when used with a strength up to 2 percent in a vaginal preparation;
- (6.7) Chlorhexadine -- when used with a strength up to 4 percent in a topical skin product;
- (7) Chlorpheniramine -- where a single dosage unit is 12 mg. or less;
- (7.1) Cimetidine -- when a single dosage unit is 200 mg. or less;



- (7.3) Clemastine -- where a single dose is 1.34 mg. or less;
- (7.5) Clotrimazole -- when a single vaginal insert is 200 mg. or less or with a strength up to 2 percent in a topical skin, topical vaginal, or vaginal product;
- (7.8) Cromolyn -- when used as cromolyn sodium in a nasal solution of 4 percent or less in strength;
- (7.9) Dexbrompheniramine--when a single dosage unit is 6 mg. or less;
- (8) Diphenhydramine -- up to 12.5 mg. in each 5 cc's when used in cough preparations and up to 50 mg. per single dose when used as a nighttime sleep aid or used as an antihistamine and labeled in compliance with FDA requirements;
- (8.5) Docosanol -- when used in 10 percent topical preparation to treat fever blisters, cold sores, or fever blisters and cold sores.
- (9) Doxylamine succinate -- where a single dosage form is 25 mg. or less and when labeled to be used as a nighttime sedative;
- (9.3) Edetate -- when used in any form other than an oral or parenteral;
- (9.5) Famotidine -- when a single dosage unit is 20 mg. or less;
- (9.7) Fluoride -- when used with a strength up to 1,500 parts per million in an oral care or dentifrice product;
- (9.8) Glycine -- when used with a strength up to 1.5 percent in an irrigation solution, when used in a topical skin product;
- (10) Hydrocortisone topical skin preparations up to 1.0 percent in strength;
- (11) Hydroxocobalamin, riboflavin, niacinamide, ergocalciferol (maximum of 400 I.U. per day), Folic acid (maximum of 0.4 mg. per day), and magnesium gluconate -- when as a source of vitamins and dietary supplement but must bear such labels and adhere to such restrictions of FDA regulations;
- (11.1) Ibuprofen -- where a single dose is 200 mg. or less;
- (11.6) Reserved;
- (12) Insulin -- all injectable products which do not require a prescription drug order and bear a label which indicates "Rx Use Only" or are otherwise listed under subsection (b) of this Code section; and no injectable insulin product may be sold except by a pharmacy issued a permit by the State Board of Pharmacy or by a medical practitioner authorized to

dispense medications;

(12.3) Ketoconazole--when used with a strength of 1 percent or less in topical preparations;

(12.5) Ketoprofen -- when a single dosage unit is 12.5 mg. or less;

(12.7) Ketotifen -- when used with a strength of 0.025 percent or less in an ophthalmic solution;

(13) Lidocaine topical ointment, 25 mg./gm. or less;

(13.5) Loperamide -- where a single dose is either 1 mg. per 5 ml. or 2 mg. per dosage unit;

(13.7) Loratadine -- when used in a single dose of 10 mg. or less, including doses used in combination with other drugs provided for under this subsection;

(14) Meclizine -- 25 mg. or less;

(14.1) Miconazole -- when used as antifungal powder or cream, or both, and containing not more than 4 percent of miconazole, or when used as a vaginal insert and containing not more than 1,200 mg. of miconazole;

(14.2) Minoxidil -- when used with a strength of 5 percent or less in topical preparations;

(14.3) Naphazoline -- when used in an ophthalmic solution in a concentration of 0.027 percent or less in combination with a pheniramine concentration of 0.315 percent or less;

(14.5) Naproxen -- where a single dosage unit is 220 mg. or less;

(15) Neomycin sulfate ointment or cream for topical use;

(15.5) Nicotine resin complex (polacrilex) -- when used as oral chewing gum where a single dose (piece of gum) is 4 mg. or less;

(15.55) Nicotine transdermal system -- when used in a strength of 21 mg. or less per transdermal patch (transdermal delivery system);

(16) Nitrous oxide -- air products suppliers shall not sell medical grade nitrous oxide to other than licensed practitioners or medical suppliers; industrial grade nitrous oxide shall only be sold when mixed with not less than 100 parts per million of sulfur dioxide and used as a fuel additive for combustion engines or when used in industrial laboratory equipment;

- (16.3) Nizatidine -- when a single dosage unit is 75 mg. or less;
- (16.8) Nonoxynol -- when used with a strength up to 12.5 percent or 1 gram per dose in a vaginal product;
- (16.9) Omeprazole -- when a single dosage unit is 20.6 mg. or less;
- (16.95) Orlistat -- when a single dosage unit is 60 mg. or less;
- (17) Oxygen -- compressed oxygen which is not labeled "CAUTION: Federal law prohibits dispensing without prescription" or similar wording;
- (17.3) Permethrin -- when used as a topical preparation in a strength of 1 percent or less;
- (17.5) Phenazopyridine -- where a single dose is 100 mg. or less, as approved by the federal Food and Drug Administration;
- (18) Pheniramine -- when the oral dose is 25 mg. or less, or when used in an ophthalmic solution in a concentration of 0.315 percent or less in combination with a naphazoline concentration of 0.027 percent or less;
- (19) Polymyxin B when in combination with other drugs in an ointment or cream for topical use;
- (20) Any potassium electrolyte when manufactured for use as a dietary supplement, food additive for industrial, scientific, or commercial use, or when added to other drug products when the product is not intended as a potassium supplement but must bear such labels and adhere to such restrictions of FDA regulations;
- (21) Povidone -- Iodine solutions and suspensions;
- (22) Reserved;
- (23) Pseudoephedrine -- when a single dosage unit is 60 mg. or less or when manufactured in an extended release form with a dosage unit of 240 mg. or less;
- (23.5) Ranitidine -- when a single dosage unit is 150 mg. or less;
- (24) Rutin -- where the dosage unit is less than 60 mg.;
- (25) Selenium sulfide suspension 1 percent or less in strength;
- (25.1) Strychnine -- when used in combination with other active ingredients in a rodent killer, and when not bearing a label containing the words "CAUTION: Federal law prohibits dispensing without prescription" or other similar wording;

(25.5) Terbinafine -- when used with a strength of 1 percent or less in a topical antifungal cream;

(26) Tetrahydrozoline for ophthalmic or topical use;

(27) Theophylline preparations alone or in combination with other drugs prepared for and approved for OTC (over the counter) sale by FDA; example -- tedral tablets (plain) or oral suspension;

(27.5) Tioconazole -- when used with a strength of 1 percent or less in topical preparations or when used with a strength of 6.5 percent or less in vaginal preparations;

(28) Tripeleminamine cream or ointment for topical use;

(28.5) Tripolidine -- when a single dose is 5 mg. or less when combined in the same preparation as one or more other drug products for use as an antihistamine or decongestant or an antihistamine and decongestant;

(29) Urea -- except when the manufacturer's label contains the wording "CAUTION: Federal law prohibits dispensing without prescription" or similar wording;

(29.5) Zinc acetate -- when used in topical preparations;

(30) Any drug approved by FDA for animal use and the package does not bear the statement "CAUTION: Federal law prohibits dispensing without prescription" or similar wording; or

(31) Loperamide Oral Liquid (1.00 mg/5.00 ml).

(d) The following list of compounds or preparations may be purchased without a prescription, provided the products are manufactured for industrial, scientific, or commercial sale or use, unless they are intended for human use or contain on the label "CAUTION: Federal law prohibits dispensing without prescription" or similar wording:

(1) Aminosalicylate;

(2) Aminosalicylate calcium;

(3) Aminosalicylate potassium;

(4) Aminosalicylate sodium;

(5) Aminosalicylic acid;

(6) Barium;

- (7) Beta-carotene;
- (8) Bismuth sodium tartrate;
- (9) Cadmium sulfide;
- (10) Calcium disodium edetate;
- (11) Cellulose, Oxadized, Regenerated;
- (12) Chlorabutanol;
- (13) Chloranil;
- (14) Chloroacetic acid;
- (15) Chloroform;
- (16) Colchicine;
- (17) Dapsone;
- (18) Dimethyl sulfoxide;
- (19) Disodium edetate;
- (20) Edetate disodium;
- (21) Ether;
- (22) Ethoxazene;
- (23) Ethyl chloride;
- (24) Fluoride;
- (25) Formaldehyde;
- (26) Gold thiosulfate;
- (27) Hexachlorophene;
- (28) Iodobenzoic acid;
- (29) Iopanoic acid;

- (30) Lindane;
- (31) Lithium carbonate;
- (32) Mandelic acid;
- (33) Mannitol;
- (34) Mercury bichloride;
- (35) Nitroprusside;
- (36) Potassium aminosalicylate;
- (37) Potassium p-aminobenzoate;
- (37.5) Potassium perchlorate;
- (38) Potassium permanganate;
- (39) Resorcinol monoacetate;
- (40) Selenium sulfide;
- (41) Sodium biphosphate;
- (42) Sodium fluorescein;
- (43) Sodium fluoride;
- (44) Strontium;
- (45) Trichloroacetic acid;
- (46) Trichloroethylene;
- (47) Valproic acid;
- (48) Vinyl ether;
- (49) 4-chloro-3, 5-xlenol.

(e) The State Board of Pharmacy may delete drugs from the dangerous drug list set forth in this Code section. In making such deletions the board shall consider, with respect to each drug, the following factors:

- (1) The actual or relative potential for abuse;
- (2) The scientific evidence of its pharmacological effect, if known;
- (3) The state of current scientific knowledge regarding the drug;
- (4) The history and current pattern of abuse, if any;
- (5) The scope, duration, and significance of abuse;
- (6) Reserved;
- (7) The potential of the drug to produce psychic or physiological dependence liability;  
and
- (8) Whether such drug is included under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C. Section 301, et seq., as amended.

**HISTORY:** Code 1933, § 79A-702, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1972, p. 948, § 1; Ga. L. 1976, p. 631, § 1; Ga. L. 1978, p. 1668, § 5; Ga. L. 1979, p. 859, § 3; Ga. L. 1980, p. 1746, § 2; Ga. L. 1981, p. 557, § 2; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 2403, §§ 3-8, 20; Ga. L. 1983, p. 3, § 13; Ga. L. 1983, p. 349, §§ 3-6; Ga. L. 1984, p. 22, § 16; Ga. L. 1984, p. 1019, §§ 3-5; Ga. L. 1985, p. 1219, §§ 8, 9; Ga. L. 1986, p. 1555, §§ 6, 7; Ga. L. 1987, p. 261, § 7; Ga. L. 1989, p. 233, §§ 7, 8; Ga. L. 1990, p. 640, §§ 2, 3; Ga. L. 1991, p. 312, § 2; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 1131, §§ 5-7; Ga. L. 1993, p. 590, §§ 4-7; Ga. L. 1994, p. 169, §§ 6, 7; Ga. L. 1994, p. 849, § 1; Ga. L. 1996, p. 356, §§ 3-5; Ga. L. 1997, p. 1311, §§ 6-10; Ga. L. 1998, p. 778, §§ 3-6; Ga. L. 1999, p. 81, § 16; Ga. L. 1999, p. 643, §§ 2-5; Ga. L. 2000, p. 1317, §§ 4-6; Ga. L. 2001, p. 816, §§ 4-6; Ga. L. 2003, p. 349, §§ 8-11; Ga. L. 2004, p. 488, §§ 4-7; Ga. L. 2005, p. 1028, §§ 2, 3/SB 89; Ga. L. 2006, p. 219, §§ 3-5/HB 1054; Ga. L. 2007, p. 47, § 16/SB 103; Ga. L. 2007, p. 605, §§ 3-5/HB 286.

§ 16-13-71.1. "Anabolic steroid" defined

Repealed by Ga. L. 1991, p. 312, § 3, effective April 4, 1991.

§ 16-13-72. Sale, distribution, or possession of dangerous drugs

Except as provided for in this article, it shall be unlawful for any person, firm, corporation, or association to sell, give away, barter, exchange, distribute, or possess in this state any dangerous drug, except under the following conditions:

- (1) A drug manufacturer, wholesaler, distributor, or supplier holding a license or registration issued in accordance with the Federal Food, Drug, and Cosmetic Act and authorizing the holder to possess dangerous drugs may possess dangerous drugs within this state but may not distribute, sell, exchange, give away, or by any other means supply dangerous drugs without a permit issued by the State Board of Pharmacy. Any drug manufacturer, wholesaler, distributor, or supplier holding a permit issued by the State Board of Pharmacy may sell, give away, exchange, or distribute dangerous drugs within

this state, but only to a pharmacy, pharmacist, a practitioner of the healing arts, and educational institutions licensed by the state, or to a drug wholesaler, distributor, or supplier, and only if such distribution is made in the normal course of employment;

(2) A pharmacy may possess dangerous drugs, but the same shall not be sold, given away, bartered, exchanged, or distributed except by a licensed pharmacist in accordance with this article;

(3) A pharmacist may possess dangerous drugs but may sell, give away, barter, exchange, or distribute the same only when he compounds or dispenses the same upon the prescription of a practitioner of the healing arts. No such prescription shall be refilled except upon the authorization of the practitioner who prescribed it;

(4) A practitioner of the healing arts may possess dangerous drugs and may sell, give away, barter, exchange, or distribute the same in accordance with Code Section 16-13-74;

(4.1) A physician in conformity with Code Section 43-34-26.1 may delegate to a nurse or a physician's assistant the authority to possess vaccines and such other drugs as specified by the physician for adverse reactions to those vaccines, and a nurse or physician's assistant may possess such drugs pursuant to that delegation; provided, however, that nothing in this paragraph shall be construed to restrict any authority of nurses or physician's assistants existing under other provisions of law;

(4.2) A registered professional nurse licensed under Article 1 of Chapter 26 of Title 43 who is employed or engaged by a licensed home health agency may possess sterile saline, sterile water, and diluted heparin for use as intravenous maintenance for use in a home health setting, and such nurse may administer such items to patients of the home health agency upon the order of a licensed physician. The State Board of Pharmacy shall be authorized to adopt regulations governing the storage, quantity, use, and administration of such items; provided, however, nothing in this paragraph or in such regulations shall be construed to restrict any authority of nurses existing under other provisions of law;

(5) A manufacturer's sales representative may distribute a dangerous drug as a complimentary sample only upon the written request of a practitioner. The request must be made for each distribution and shall contain the names and addresses of the supplier and the requestor and the name and quantity of the specific dangerous drug requested. The written request shall be preserved by the manufacturer for a period of two years; and

(6) Such person, firm, corporation, or association shall keep a complete and accurate record of all dangerous drugs received, purchased, manufactured, sold, dispensed, or otherwise disposed of and shall maintain such records for at least two years or in conformance with any other state or federal law or rule issued by the Georgia State Board of Pharmacy.

**HISTORY:** Code 1933, § 79A-703, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1972, p. 948, § 2; Ga. L. 1975, p. 690, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1996, p. 356, § 6; Ga. L. 1998, p. 219, § 1; Ga. L. 1999, p. 643, § 5.2; Ga. L. 2003, p. 140, § 16.



§ 16-13-72.1. Revocation of dangerous drug permit; forfeiture

(a) A permit issued by the State Board of Pharmacy under paragraph (1) of Code Section 16-13-72 may be suspended or revoked by the State Board of Pharmacy upon a finding that the drug manufacturer, wholesaler, distributor, or supplier:

(1) Has furnished false or fraudulent material information in any application filed under this article;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance or has been convicted of a felony or misdemeanor under any state or federal law relating to any dangerous drug;

(3) Has violated any provision of this article or the rules and regulations promulgated under this article; or

(4) Has failed to maintain sufficient controls against diversion of dangerous drugs into other than legitimate medical, scientific, or industrial channels.

(b) The State Board of Pharmacy may limit revocation or suspension of a permit to the particular dangerous drug with respect to which grounds for revocation or suspension exist.

(c) Instead of suspending or revoking a permit as authorized by subsection (a) or (b) of this Code section, the State Board of Pharmacy may impose a fine in an amount not to exceed \$1,500.00.

(d) If the State Board of Pharmacy suspends or revokes a permit, all dangerous drugs owned or possessed by the permittee at the time of suspension or the effective date of the revocation order shall be placed under seal. No disposition may be made of drugs under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable drugs and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all dangerous drugs shall be forfeited to the state.

**HISTORY:** Code 1981, § 16-13-72.1, enacted by Ga. L. 1986, p. 421, § 1; Ga. L. 1999, p. 81, § 16.

§ 16-13-73. Labeling prescription containers of dangerous drugs

(a) Whenever a pharmacist dispenses a dangerous drug, he shall, in each case, place upon the container the following information:

(1) Name of the patient;

(2) Name of the physician prescribing the drug;

- (3) The expiration date, if any, of the drug;
- (4) Name and address of the pharmacy from which the drug was dispensed; and
- (5) The date of the prescription.

(b) Any pharmacist who dispenses a dangerous drug and fails to place the label required by subsection (a) of this Code section upon the container of such drug shall be guilty of a misdemeanor.

**HISTORY:** Ga. L. 1939, p. 288, § 3; Code 1933, §§ 79A-705, 79A-9908, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1971, p. 406, § 1; Ga. L. 1989, p. 14, § 16.

#### § 16-13-74. Written prescriptions for dangerous drugs; content; signature

(a) All written prescription drug orders for dangerous drugs shall be dated as of, and be signed on, the date when issued and shall bear the name and address of the patient, together with the name and strength of the drug, the quantity to be dispensed, complete directions for administration, the printed name, address, and telephone number of the practitioner, and the number of permitted refills. A prescription drug order for a dangerous drug is not required to bear the DEA permit number of the prescribing practitioner. A prescription drug order for a dangerous drug may be prepared by the practitioner or the practitioner's agent. The practitioner's signature must appear on each prescription prepared by the practitioner or the practitioner's agent and the nature of the practitioner's signature must meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the State Board of Pharmacy, or both such guidelines and regulations. Any practitioner who shall dispense dangerous drugs shall comply with the provisions of Code Section 16-13-73.

(b) Any practitioner of the healing arts who fails to comply with subsection (a) of this Code section shall be guilty of a misdemeanor.

**HISTORY:** Ga. L. 1939, p. 288, § 4; Code 1933, §§ 79A-706, 79A-9909, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1982, p. 2403, §§ 9, 21; Ga. L. 2003, p. 349, § 12.

#### § 16-13-75. Drugs to be kept in original container

Possession and control of controlled substances or dangerous drugs by anyone other than the individuals specified in Code Section 16-13-35 or 16-13-72 shall be legal only if such drugs are in the original container in which they were dispensed by the pharmacist or the practitioner of the healing arts and are labeled according to Code Section 26-3-8.

**HISTORY:** Ga. L. 1939, p. 288, § 5; Code 1933, § 79A-707, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1996, p. 356, § 7.

#### § 16-13-76. Use of fictitious name or false address when obtaining drugs

No person shall obtain or attempt to obtain any dangerous drug by use of a fictitious name or by the giving of a false address.

**HISTORY:** Ga. L. 1939, p. 288, § 5; Code 1933, § 79A-708, enacted by Ga. L. 1967, p. 296, § 1.

§ 16-13-77. Applicability of article to practitioner of the healing arts

Nothing in this article shall be construed to prohibit the administration of dangerous drugs by or under the direction of a practitioner of the healing arts.

**HISTORY:** Code 1933, § 79A-704, enacted by Ga. L. 1967, p. 296, § 1.

§ 16-13-78. Obtaining or attempting to obtain dangerous drugs by fraud, forgery, or concealment of material fact

(a) No person shall obtain or attempt to obtain any dangerous drug or attempt to procure the administration of any such drug by:

- (1) Fraud, deceit, misrepresentation, or subterfuge;
- (2) The forgery or alteration of any prescription or of any written order;
- (3) The concealment of a material fact; or
- (4) The use of a false name or the giving of a false address.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

(c) Nothing in this Code section shall apply to drug manufacturers or their agents or employees when such manufacturers or their agents or employees are authorized to engage in and are actually engaged in investigative activities directed toward the safeguarding of the manufacturer's trademark.

**HISTORY:** Code 1933, § 79A-9910, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1970, p. 461, § 1.

§ 16-13-78.1. Prescribing or ordering dangerous drugs

(a) No person shall prescribe or order the dispensing of a dangerous drug, except a registered practitioner who is:

- (1) Licensed or otherwise authorized by this state to prescribe dangerous drugs;
- (2) Acting in the usual course of his professional practice; and
- (3) Prescribing or ordering such dangerous drug for a legitimate medical purpose.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

**HISTORY:** Code 1981, § 16-13-78.1, enacted by Ga. L. 1985, p. 1219, § 10.

§ 16-13-78.2. Possession, manufacture, delivery, distribution, or sale of counterfeit substances

Except as authorized by this article, it is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, sell, or possess with intent to distribute a counterfeit substance. Any person who violates this Code section shall be guilty of a misdemeanor.

**HISTORY:** Code 1981, § 16-13-78.2, enacted by Ga. L. 1985, p. 1219, § 11.

§ 16-13-79. Violations

(a) Except as provided in subsections (b), (c), and (d) of this Code section, any person who violates this article shall be guilty of a misdemeanor.

(b) Any person who distributes or possesses with the intent to distribute nitrous oxide for any use other than for a medical treatment prescribed by the order of a licensed medical practitioner, except as provided for by paragraph (16) of subsection (c) of Code Section 16-13-71, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one year nor more than three years or by a fine not to exceed \$5,000.00 or both.

(c) Any person who distributes or possesses with the intent to distribute to any person under 18 years of age nitrous oxide for any use other than for a medical treatment prescribed by the order of a licensed medical practitioner, except as provided for by paragraph (16) of subsection (c) of Code Section 16-13-71, shall be guilty of a felony and upon conviction thereof shall be punished for not less than two years nor more than six years or by a fine not to exceed \$10,000.00 or both.

**HISTORY:** Code 1933, § 79A-9907, enacted by Ga. L. 1967, p. 296, § 1; Ga. L. 1989, p. 238, § 2; Ga. L. 1991, p. 312, § 4; Ga. L. 1996, p. 356, § 8; Ga. L. 1998, p. 778, § 7.

#### ARTICLE 4. SALE, POSSESSION, TRANSFER, OR INHALATION OF MODEL GLUE

§ 16-13-90. "Model glue" defined

As used in this article, the term "model glue" means any glue, cement, solvent, or chemical substance containing one or more of the following chemicals: acetone, amyl chloride (iso- and tertiary), benzene, carbon disulfide, carbon tetrachloride, chloroform, ether, ethyl acetate, ethyl alcohol, ethylene dichloride, isopropyl acetate, isopropyl

alcohol, isopropyl ether, methyl acetate, methyl alcohol, propylene dichloride, propylene oxide, trichlorethylene, amyl acetate, amyl alcohol, butyl acetate, butyl alcohol, butyl ether, diethylcarbonate, diethylene oxide (dioxane), dipropyl ketone, ethyl butyrate, ethylene glycol monoethyl ether (cellosolve), ethylene glycol monomethyl ether acetate (methyl cellosolve acetate), isobutyl alcohol, methyl amyl acetate, methyl amyl alcohol, methyl isobutyl ketone, or toluene.

**HISTORY:** Ga. L. 1968, p. 1194, § 2; Ga. L. 1983, p. 3, § 13.

§ 16-13-91. Intentional inhalation of model glue; application of article to anesthesia

No person shall, for the purpose of causing a condition of intoxication, stupefaction, euphoria, excitement, exhilaration, or dulling of the senses or nervous system, intentionally smell or inhale the fumes from any model glue, provided that this Code section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

**HISTORY:** Ga. L. 1968, p. 1194, § 1

§ 16-13-92. Possession, sale, or transfer of model glue

No person shall intentionally possess, buy, sell, transfer possession, or receive possession of any model glue for the purpose of violating or aiding another person to violate this article.

**HISTORY:** Ga. L. 1968, p. 1194, § 3.

§ 16-13-93. Sale or transfer of model glue to minors

No person shall sell or transfer possession of any model glue to another person under 18 years of age, nor shall any person under 18 years of age possess or buy any model glue unless the purchase is for model building or other lawful use and the person under 18 years of age has in his possession and exhibits to the seller or transferor the written consent of his parent or legal guardian to make such purchase or take possession of the model glue, provided any minor who shall transfer possession of model glue to another minor for model building or other lawful purpose shall not be held criminally liable for failing to require exhibition of the written consent of the transferee-minor's parents or for failing to keep same available for inspection by law enforcement officials.

**HISTORY:** Ga. L. 1968, p. 1194, § 4.

§ 16-13-94. Maintenance of records of sales to minors

The person making a sale or transfer of possession of model glue to a person under 18 years of age must require the purchaser to exhibit the written consent of his parent or guardian and the name and address of the consenting parent or guardian. All data required by this Code section shall be kept available by the seller for inspection by law enforcement officials for a period of six months.

**HISTORY:** Ga. L. 1968, p. 1194, § 5.

§ 16-13-95. Effect of article on laws or ordinances of counties and municipalities

No provisions in this article shall be construed to repeal or limit laws or ordinances of the governing authority of any county or municipality regulating, restricting, or prohibiting the sale of model glue to any person under the age of 18, nor shall this article restrict the governing authority of any county or municipality from enacting ordinances or regulations governing the regulation of model glue not inconsistent with this article.

**HISTORY:** Ga. L. 1968, p. 1194, § 7.

§ 16-13-96. Penalty for violation of article; separate offenses

Any person who violates this article shall be guilty of a misdemeanor. Each violation of this article shall be deemed a separate and distinct offense.

**HISTORY:** Ga. L. 1968, p. 1194, § 6.

**ARTICLE 5. SANCTIONS AGAINST LICENSED PERSONS FOR OFFENSES INVOLVING CONTROLLED SUBSTANCES OR MARIJUANA**

§ 16-13-110. Definitions

(a) As used in this article, the term:

(1) "Controlled substance" means any drug, substance, or immediate precursor included in the definition of the term "controlled substance" in paragraph (4) of Code Section 16-13-21.

(2) "Convicted" or "conviction" refers to a final conviction in a court of competent jurisdiction, or the acceptance of a plea of guilty or nolo contendere or affording of first offender treatment by a court of competent jurisdiction.

(3) "Licensed individual" means any individual to whom any department, agency, board, bureau, or other entity of state government has issued any license, permit, registration, certification, or other authorization to conduct a licensed occupation.

(4) "Licensed occupation" means any occupation, profession, business, trade, or other commercial activity which requires for its lawful conduct the issuance to an individual of any license, permit, registration, certification, or other authorization by any department, agency, board, bureau, or other entity of state government.

(5) "Licensing authority" means any department, agency, board, bureau, or other entity of state government which issues to individuals any license, permit, registration, certification, or other authorization to conduct a licensed occupation.

(6) "Marijuana" means any substance included in the definition of the term "marijuana" in paragraph (16) of Code Section 16-13-21.

(b) Without limiting the generality of the provisions of subsection (a) of this Code section, the practice of law shall constitute a licensed occupation for purposes of this article and the Supreme Court of Georgia shall be the licensing authority for the practice of law.

**HISTORY:** Code 1981, § 16-13-110, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-111. Notification of conviction of licensed individual to licensing authority; reinstatement of license; imposition of more stringent sanctions

(a) Any licensed individual who is convicted under the laws of this state, the United States, or any other state of any criminal offense involving the manufacture, distribution, trafficking, sale, or possession of a controlled substance or marijuana shall notify the appropriate licensing authority of the conviction within ten days following the conviction.

(b) Upon being notified of a conviction of a licensed individual, the appropriate licensing authority shall suspend or revoke the license, permit, registration, certification, or other authorization to conduct a licensed occupation of such individual as follows:

(1) Upon the first conviction, the licensed individual shall have his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation suspended for a period of not less than three months; provided, however, that in the case of a first conviction for a misdemeanor the licensing authority shall be authorized to impose a lesser sanction or no sanction upon the licensed individual; and

(2) Upon the second or subsequent conviction, the licensed individual shall have his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation revoked.

(c) The failure of a licensed individual to notify the appropriate licensing authority of a conviction as required in subsection (a) of this Code section shall be considered grounds for revocation of his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation.

(d) A licensed individual sanctioned under subsection (b) or (c) of this Code section may be entitled to reinstatement of his or her license, permit, registration, certification, or other authorization to conduct a licensed occupation upon successful completion of a drug abuse treatment and education program approved by the licensing authority.

(e) The suspension and revocation sanctions prescribed in this Code section are intended as minimum sanctions, and nothing in this Code section shall be construed to prohibit any licensing authority from establishing and implementing additional or more stringent sanctions for criminal offenses and other conduct involving the unlawful manufacture,

distribution, trafficking, sale, or possession of a controlled substance or marijuana.

**HISTORY:** Code 1981, § 16-13-111, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-112. Applicability of administrative procedures

Administrative procedures for the implementation of this article for each licensed occupation shall be governed by the appropriate provisions applicable to each licensing authority.

**HISTORY:** Code 1981, § 16-13-112, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-113. Article as supplement to power of licensing authority

The provisions of this article shall be supplemental to and shall not operate to prohibit any licensing authority from acting pursuant to those provisions of law which may now or hereafter authorize other sanctions and actions for that particular licensing authority.

**HISTORY:** Code 1981, § 16-13-113, enacted by Ga. L. 1990, p. 2009, § 1.

§ 16-13-114. Period of applicability of article

This article shall apply only with respect to criminal offenses committed on or after July 1, 1990; provided, however, that nothing in this Code section shall prevent any licensing authority from implementing sanctions additional to or other than those provided for in this article with respect to offenses committed prior to July 1, 1990.

**HISTORY:** Code 1981, § 16-13-114, enacted by Ga. L. 1990, p. 2009, § 1.

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