

CHAPTER 124  
CONTROLLED SUBSTANCES

[P]

See §205.11 – 205.13 for additional provisions relating to administration and enforcement  
See also chapter 124A, imitation controlled substances  
This chapter not enacted as a part of this title; transferred  
from chapter 204 in Code 1993

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## DIVISION I DEFINITIONS

### 124.101 Definitions.

As used in this chapter:

1. “*Administer*” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

a. A practitioner, or in the practitioner’s presence, by the practitioner’s authorized agent; or

b. The patient or research subject at the direction and in the presence of the practitioner.

2. “*Agent*” 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 warehouse, or employee of the carrier or warehouse.

3. “*Board*” means the board of pharmacy.

4. “*Bureau*” means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

5. “*Controlled substance*” means a drug, substance, or immediate precursor in schedules I through V of division II of this chapter.

6. “*Counterfeit substance*” means 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 substance.

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. “*Department*” means the department of public safety of the state of Iowa.

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.

10. “*Dispenser*” means a practitioner who dispenses.

11. “*Distribute*” means to deliver other than by administering or dispensing a controlled substance.

12. “*Distributor*” means a person who distributes.

13. “*Drug*” means:

a. Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

c. Substances, other than food, intended to affect the structure or any function of the human body or animals; and

d. Substances intended for use as a component of any article specified in paragraph “a”, “b”, or “c” of this subsection. It does not include devices or their components, parts, or accessories.

14. “*Electronic prescription*” means a prescription which is transmitted by a computer device in a secure manner, including computer-to-computer transmission and computer-to-facsimile transmission.

15. “*Facsimile prescription*” means a prescription which is transmitted by a device which sends an exact image to the receiver.

16. “*Immediate precursor*” means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

17. “*Isomer*” means the optical isomer, except as used in section 124.204, subsection 4, and section 124.206, subsection 2, paragraph “d”. As used in section 124.204, subsection 4, “*isomer*” means the optical, positional, or geometric isomer. As used in section 124.206, subsection 2, paragraph “d”, “*isomer*” means the optical or geometric isomer.

18. “*Manufacture*” means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and 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 administering or dispensing of a controlled substance in the course of the practitioner’s professional practice, or

b. By a practitioner, or by an authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

19. “*Marijuana*” means all parts of the plants of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

20. “*Narcotic drug*” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

b. Poppy straw and concentrate of poppy straw.

c. Opium poppy.

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs “a” through “c”.

21. “Office” means the governor’s office of drug control policy, as referred to in section 80E.1.

22. “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 section 124.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

23. “Opium poppy” means the plant of the species *Papaver somniferum* L., except its seeds.

24. “Person” means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

25. “Poppy straw” means all parts, except the seeds, of the opium poppy, after mowing.

26. “Practitioner” means either:

a. A physician, dentist, podiatric physician, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted 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 permitted 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.

27. “Production” includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

28. “Simulated controlled substance” means a substance which is not a controlled substance but which is expressly represented to be a controlled substance, or a substance which is not a controlled substance but which is impliedly represented to be a controlled substance and which because of its nature, packaging, or appearance would lead a reasonable person to believe it to be a controlled substance.

29. “State”, when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any area subject to the legal authority of the United States of America.

30. “Ultimate user” means a person who lawfully possesses a controlled substance for the person’s own use or for the use of a member of the person’s household or for administering to an animal owned by the person or by a member of the person’s household.

[C51, §2728; R60, §4374; C73, §4038; C97, §2593; S13, §2593, 2596-a; C24, 27, 31, 35, §3151; C39, §3169.01, 3169.07; C46, 50, 54, 58, 62, 66, §204.1, 204.7; C71, §204.1, 204.7, 204A.1; C73, 75, 77, 79, 81, §204.101; 82 Acts, ch 1147, §1]

84 Acts, ch 1013, §1 – 3; 91 Acts, ch 8, §1

C93, §124.101

94 Acts, ch 1009, §1; 95 Acts, ch 108, §1; 99 Acts, ch 89, §1, 2; 2001 Acts, ch 24, §28; 2004 Acts, ch 1036, §1; 2007 Acts, ch 8, §1; 2007 Acts, ch 10, §8; 2009 Acts, ch 25, §1; 2009 Acts, ch 133, §194

#### **124.101A Administration of controlled substances — delegation.**

Nothing contained in this chapter shall be construed to prevent a physician, dentist, podiatric physician, or veterinarian from delegating the administration of controlled substances under this chapter to a nurse, intern, or other qualified individual or, as to veterinarians, to an orderly or assistant, under the veterinarian’s direction and supervision; all pursuant to rules adopted by the board.

2009 Acts, ch 133, §195

DIVISION II  
STANDARDS AND SCHEDULES

**124.201 Duty to recommend changes in schedules.**

1. The board shall administer the regulatory provisions of this chapter. Annually, within thirty days after the convening of each regular session of the general assembly, the board shall recommend to the general assembly any deletions from, or revisions in the schedules of substances, enumerated in section 124.204, 124.206, 124.208, 124.210, or 124.212, which it deems necessary or advisable. In making a recommendation to the general assembly regarding a substance, the board shall consider the following:

- a. The actual or relative potential for abuse;
- b. The scientific evidence of its pharmacological effect, if known;
- c. State of current scientific knowledge regarding the substance;
- d. The history and current pattern of abuse;
- e. The scope, duration, and significance of abuse;
- f. The risk to the public health;
- g. The potential of the substance to produce psychic or physiological dependence liability; and
- h. Whether the substance is an immediate precursor of a substance already controlled under this division.

2. After considering the above factors, the board shall make a recommendation to the general assembly, specifying the change which should be made in existing schedules, if it finds that the potential for abuse or lack thereof of the substance is not properly reflected by the existing schedules.

3. If the board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor. Such designations shall be made pursuant to the procedures of chapter 17A.

4. If any new substance is designated as a controlled substance under federal law and notice of the designation is given to the board, the board shall similarly designate as controlled the new substance under this chapter after the expiration of thirty days from publication in the Federal Register of a final order designating a new substance as a controlled substance, unless within that thirty-day period the board objects to the new designation. In that case the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing the board shall announce its decision. Upon publication of objection to a new substance being designated as a controlled substance under this chapter by the board, control under this chapter is stayed until the board publishes its decision. If a substance is designated as controlled by the board under this paragraph the control shall be temporary and if within sixty days after the next regular session of the general assembly convenes it has not made the corresponding changes in this chapter, the temporary designation of control of the substance by the board shall be nullified.

[C73, 75, 77, 79, 81, §204.201]

C93, §124.201

**124.202 Controlled substances — listed regardless of name.**

The controlled substances listed in the schedules in sections 124.204, 124.206, 124.208, 124.210 and 124.212 are included by whatever official name, common or usual name, chemical name, or trade name is designated.

[C73, 75, 77, 79, 81, §204.202]

C93, §124.202

**124.203 Substances listed in schedule I — criteria.**

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule I if the substance is not already included therein and the board finds that the substance:

a. Has high potential for abuse; and  
 b. Has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.

2. If the board finds that any substance included in schedule I does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.203]

C93, §124.203

2009 Acts, ch 41, §34, 263

**124.204 Schedule I — substances included.**

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

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

- a. Acetylmethadol.
- b. Allylprodine.
- c. Alphacetylmethadol (except levo-alpha-cetylmethadol also known as levo-alpha-cetylmethadol, levomethadyl acetate, or LAAM).
- d. Alphameprodine.
- e. Alphamethadol.
- f. Alpha-Methylfentanyl (N-(1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl) propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine).
- g. Benzethidine.
- h. Betacetylmethadol.
- i. Betameprodine.
- j. Betamethadol.
- k. Betaprodine.
- l. Clonitazene.
- m. Dextromoramide.
- n. Difenoxin.
- o. Diampromide.
- p. Diethylthiambutene.
- q. Dimenoxadol.
- r. Dimepheptanol.
- s. Dimethylthiambutene.
- t. Dioxaphetyl butyrate.
- u. Dipipanone.
- v. Ethylmethylthiambutene.
- w. Etonitazene.
- x. Etoxidine.
- y. Furethidine.
- z. Hydroxypethidine.
- aa. Ketobemidone.
- ab. Levomoramide.
- ac. Levophenacetylmorphan.
- ad. Morpheridine.
- ae. Noracymethadol.
- af. Norlevorphanol.
- ag. Normethadone.
- ah. Norpipanone.
- ai. Phenadoxone.
- aj. Phenampromide.
- ak. Phenomorphan.

- al. Phenoperidine.
- am. Piritramide.
- an. Proheptazine.
- ao. Properidine.
- ap. Propiram.
- aq. Racemoramide.
- ar. Tilidine.
- as. Trimeperidine.
- at. Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).
- au. Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).
- av. Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
- aw. Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).
- ax. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide). For purposes of this opiate, "isomers" includes optical and geometric isomers.
- ay. 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
- az. MPPP (1-methyl-4-phenyl-4-propionoxy-piperidine).
- ba. Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide).
- bb. PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine).
- bc. Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).
- 3. *Opium derivatives.* Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers and salts of isomers, whenever the existence of 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 (except hydrochloride salt).
  - j. Heroin.
  - k. Hydromorphanol.
  - 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.
  - w. Drotebanol.
- 4. *Hallucinogenic substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of 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 (for purposes of this paragraph only, the term “*isomer*” includes the optical, position and geometric isomers):

- a. 4-bromo-2,5-dimethoxy-amphetamine.  
Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA.
- b. 2,5-dimethoxyamphetamine. Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA.
- c. 4-methoxyamphetamine. Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA.
- d. 5-methoxy-3,4-methylenedioxy-amphetamine.
- e. 4-methyl-2,5-dimethoxy-amphetamine. Some trade or other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; “DOM”; and “STP”.
- f. 3,4-methylenedioxy amphetamine, also known as MDA.
- g. 3,4,5-trimethoxy amphetamine.
- h. Bufotenine. Some trade or other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine.
- i. Diethyltryptamine. Some trade and other names: N, N-Diethyltryptamine; DET.
- j. Dimethyltryptamine. Some trade or other names: DMT.
- k. Ibogaine. Some trade or other names: 7-Ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; Tabernanthe iboga.
- l. Lysergic acid diethylamide.
- m. Marijuana, except as otherwise provided by rules of the board for medicinal purposes.
- n. Mescaline.
- o. Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo(b,d) pyran; synhexyl.
- p. Peyote, except as otherwise provided in subsection 8. Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or extracts.
- q. N-ethyl-3-piperidyl benzilate.
- r. N-methyl-3-piperidyl benzilate.
- s. Psilocybin.
- t. Psilocyn.
- u. Tetrahydrocannabinols, except as otherwise provided by rules of the board for medicinal purposes, meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (*Cannabis* plant) as well as synthetic equivalents of the substances contained in the *Cannabis* plant, or in the resinous extractives of such plant, and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:
  - (1) 1 cis or trans tetrahydrocannabinol, and their optical isomers.
  - (2) 6 cis or trans tetrahydrocannabinol, and their optical isomers.
  - (3) 3,4 cis or trans tetrahydrocannabinol, and their optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- v. Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.
- w. Pyrrolidine analog of phencyclidine. Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.
- x. Thiophene analog of phencyclidine. Some trade or other names: 1-(1-(2-thienyl)-cyclohexyl)-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP.
- y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine. Some other names: TCPy.
- z. 3,4-methylenedioxymethamphetamine (MDMA).
- aa. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-

alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA).

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

*ac.* 2,5-dimethoxy-4-ethylamphetamine. Some trade or other names: DOET.

*ad.* Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; a-ethyl-1H-indole-3-ethanamine;3-(2-aminobutyl)indole; alpha-ET; and AET.

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

*af.* 2,5-dimethoxy-4-(n)-propylthiophenethylamine. Other name: 2C-T-7.

*ag.* Alpha-methyltryptamine. Other name: AMT.

*ah.* 5-methoxy-N,N-diisopropyltryptamine. Other name: 5-MeO-DIPT.

5. *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

*a.* Mecloqualone.

*b.* Methaqualone.

*c.* Gamma-hydroxybutyric acid. Some trade or other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate.

6. *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

*a.* Fenethylamine.

*b.* N-ethylamphetamine.

*c.* (+-)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).

*d.* N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).

*e.* Cathinone. Some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone.

*f.* Aminorex. Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine.

*g.* Methcathinone, its salts, optical isomers, and salts of optical isomers. Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432.

*h.* N-benzylpiperazine. Some other names: BZP, 1-benzylpiperazine.

7. *Exclusions.* This section does not apply to marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol when utilized for medicinal purposes pursuant to rules of the board.

8. *Peyote.* Nothing in this chapter shall apply to peyote when used in bona fide religious ceremonies of the Native American Church; however, persons supplying the product to the church shall register, maintain appropriate records of receipts and disbursements of peyote, and otherwise comply with all applicable requirements of this chapter and rules adopted pursuant thereto.

9. *Other materials.* Any material, compound, mixture, or preparation which contains any quantity of the following substances:

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

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

[C73, 75, 77, 79, 81, §204.204; 82 Acts, ch 1044, §1, 2]

84 Acts, ch 1013, §4 – 8; 85 Acts, ch 86, §1, 2; 86 Acts, ch 1037, §1, 2; 87 Acts, ch 122, §1; 88 Acts, ch 1024, §1; 89 Acts, ch 109, §1, 2; 91 Acts, ch 8, §2

C93, §124.204

94 Acts, ch 1009, §2 – 8; 2000 Acts, ch 1140, §2 – 4; 2001 Acts, ch 58, §1; 2003 Acts, ch 53, §1 – 3; 2007 Acts, ch 8, §2 – 7; 2007 Acts, ch 10, §9 – 11

**124.205 Substances listed in schedule II — criteria.**

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule II if the substance is not already included therein and the board finds that:

a. The substance has high potential for abuse;

b. The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

c. Abuse of the substance may lead to severe psychic or physical dependence.

2. If the board finds that any substance included in schedule II does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.205]

C93, §124.205

2009 Acts, ch 41, §35

**124.206 Schedule II — substances included.**

1. Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

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

a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmeferne, naloxone, and naltrexone, and their respective salts, but including the following:

(1) Raw opium.

(2) Opium extracts.

(3) Opium fluid.

(4) Powdered opium.

(5) Granulated opium.

(6) Tincture of opium.

(7) Codeine.

(8) Ethylmorphine.

(9) Etorphine hydrochloride.

(10) Hydrocodone, also known as dihydrocodeinone.

(11) Hydromorphone, also known as dihydromorphanone.

(12) Metopon.

(13) Morphine.

(14) Oxycodone.

(15) Oxymorphone.

(16) Thebaine.

(17) Dihydroetorphine.

(18) Oripavine.

b. Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph “a”, subparagraph (1), except that these substances shall not include the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves. Decocainized coca leaves or extractions of coca leaves, which extractions do not contain

cocaine or ecgonine, are excluded from this paragraph. The following substances and their salts, optical and geometric isomers, derivatives, and salts of derivatives and optical and geometric isomers, and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical to any of such substances, are included in this paragraph:

(1) Cocaine.

(2) Ecgonine.

e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy).

3. *Opiates*. Unless specifically excepted or unless listed in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

a. Alphaprodine.

b. Alfentanyl.

c. Anileridine.

d. Bezitramide.

e. Bulk dextropropoxyphene (nondosage forms).

f. Carfentanil.

g. Dihydrocodeine.

h. Diphenoxylate.

i. Fentanyl.

j. Isomethadone.

k. Levomethorphan.

l. Levorphanol.

m. Metazocine.

n. Methadone.

o. Methadone – intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.

p. Moramide – intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.

q. Pethidine (meperidine).

r. Pethidine – intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.

s. Pethidine – intermediate-B, ethyl-4-phenylpiperidine-carboxylate.

t. Pethidine – intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

u. Phenazocine.

v. Piminodine.

w. Racemethorphan.

x. Racemorphan.

y. Sufentanil.

z. Levo-alpha-acetylmethadol. Some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM.

aa. Remifentanil.

ab. Tapentadol.

4. *Stimulants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.

b. Methamphetamine, its salts, isomers, and salts of its isomers.

c. Phenmetrazine and its salts.

d. Methylphenidate and its salts.

e. Lisdexamfetamine, its salts, isomers, and salts of its isomers.

5. *Depressants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances 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.

- b. Glutethimide.
- c. Pentobarbital.
- d. Phencyclidine.
- e. Secobarbital.

6. *Immediate precursors.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. Phenylacetone, an immediate precursor to amphetamine and methamphetamine. Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

b. Immediate precursors to phencyclidine (PCP):

- (1) 1-phenylcyclohexylamine.
- (2) 1-piperidinocyclohexanecarbonitrile (PCC).

7. *Hallucinogenic substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. Marijuana when used for medicinal purposes pursuant to rules of the board.

b. Nabilone [another name for nabilone: (+) - trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

8. The board, by rule, may except any compound, mixture, or preparation containing any stimulant listed in subsection 4 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant effect on the central nervous system, and if the admixtures are included in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

[C73, 75, 77, 79, 81, §204.206; 82 Acts, ch 1044, §3, 4]

84 Acts, ch 1013, §9; 85 Acts, ch 86, §3, 4; 86 Acts, ch 1037, §3 – 5; 87 Acts, ch 122, §2; 90 Acts, ch 1059, §1, 2; 91 Acts, ch 8, §3

C93, §124.206

94 Acts, ch 1009, §9, 10; 2000 Acts, ch 1140, §5 – 7; 2003 Acts, ch 53, §4, 5; 2007 Acts, ch 8, §8, 9; 2007 Acts, ch 10, §12, 13; 2008 Acts, ch 1010, §1, 2; 2010 Acts, ch 1046, §1

[T] Subsection 3, NEW paragraph ab

#### **124.207 Substances listed in schedule III — criteria.**

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule III if the substance is not already included therein and the board finds that:

- a. The substance has a potential for abuse which is less than that of the substances listed in schedules I and II;
- b. The substance has currently accepted medical use in treatment in the United States; and
- c. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

2. If the board finds that any substance included in schedule III does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.207]

C93, §124.207

2009 Acts, ch 41, §36

#### **124.208 Schedule III — substances included.**

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

2. *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances 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. Benzphetamine.
- b. Chlorphentermine.
- c. Clortermine.
- d. Phendimetrazine.

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

a. Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedules.

b. Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the federal food and drug administration 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. Lysergic acid.
- f. Lysergic acid amide.
- g. Methyprylon.
- h. Sulfondiethylmethane.
- i. Sulfonethylmethane.
- j. Sulfonmethane.

k. Tiletamine and zolazepam or any salt thereof, including the following:

(1) Some trade or other names for a tiletamine-zolazepam combination product: Telazol.

(2) Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

(3) Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyraxolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

l. Ketamine, its salts, isomers, and salts of isomers.

Some other names for ketamine: (+-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone.

m. Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act.

n. Embutramide.

4. *Nalorphine.*

5. *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule:

a. Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than one point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than one point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than three hundred milligrams of dihydrocodeinone (another name: hydrocodone) per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than three hundred milligrams of dihydrocodeinone (another name:

hydrocodone) per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than one point eight grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

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

b. Any material, compound, mixture, or preparation containing the narcotic drug buprenorphine, or its salts.

6. *Anabolic steroids.* Unless specifically excepted in subsection 7 or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, esters, and ethers:

- a. 3[beta],17-dihydroxy-5[alpha]-androstane.
- b. 3[alpha],17[beta]-dihydroxy-5[alpha]-androstane.
- c. 5[alpha]-androstane-3,17-dione.
- d. 1-androstenediol(3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene).
- e. 1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene).
- f. 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene).
- g. 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene).
- h. 1-androstenedione ([5[alpha]]-androst-1-en-3,17-dione).
- i. 4-androstenedione (androst-4-en-3,17-dione).
- j. 5-androstenedione (androst-5-en-3,17-dione).
- k. Bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one).
- l. Boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one).
- m. Calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one).
- n. Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one).
- o. Dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methylandrost-1,4-dien-3-one).
- p. [Delta]1-dihydrotestosterone (also known as 1-testosterone)(17[beta]-hydroxy-5[alpha]-androst-1-en-3-one).
- q. 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one).
- r. Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one).
- s. Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene).
- t. Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one).
- u. Formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one).
- v. Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furan).
- w. 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one.
- x. 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one).
- y. 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one).
- z. Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one).
- aa. Mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one).
- ab. Methandriolone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one).
- ac. Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene).
- ad. Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one).
- ae. 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5[alpha]-androstane.
- af. 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5[alpha]-androstane.
- ag. 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene.

- ah. 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one).
- ai. Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one).
- aj. Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9-11-trien-3-one).
- ak. Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one).
- al. Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one).
- am. 17[alpha]-methyl-[Delta]1-dihydrotestosterone (17b[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (also known as 17-[alpha]-methyl-1-testosterone).
- an. Nandrolone (17[beta]-hydroxyestr-4-en-3-one).
- ao. 19-nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene).
- ap. 19-nor-4-androstenediol (3[alpha],17[beta]-dihydroxyestr-4-ene).
- aq. 19-nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene).
- ar. 19-nor-5-androstenediol (3[alpha],17[beta]-dihydroxyestr-5-ene).
- as. 19-nor-4-androstenedione (estr-4-en-3,17-dione).
- at. 19-nor-5-androstenedione (estr-5-en-3,17-dione).
- au. Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one).
- av. Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one).
- aw. Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one).
- ax. Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one).
- ay. Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]-androst-3-one).
- az. Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one).
- ba. Oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androst-3-one).
- bb. Stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-eno[3,2-c]-pyrazole).
- bc. Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one).
- bd. Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone).
- be. Testosterone (17[beta]-hydroxyandrost-4-en-3-one).
- bf. Tetrahydrogestrinone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one).
- bg. Trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one).

7. *Exclusions — anabolic steroids.* This section shall not apply to an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved for such administration. A person who prescribes, dispenses, or distributes such steroid for human use shall be considered to have prescribed, dispensed, or distributed an anabolic steroid subject to this section. This section shall not apply to estrogens, progestins, corticosteroids, or dehydroepiandrosterone.

8. The board by rule may except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 2 and 3 of this section from the application of all or any part of this chapter 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 such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

9. *Hallucinogenic substances.*

a. Dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved for marketing by the United States food and drug administration.

b. Any drug product in tablet or capsule form containing natural dronabinol (derived from the cannabis plant) or synthetic dronabinol (produced from synthetic materials) for which an abbreviated new drug application (ANDA) has been approved by the United States food and drug administration under section 505(j) of the federal Food, Drug, and Cosmetic Act and which references as its listed drug the drug product identified in paragraph "a".

c. Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-

3-pentyl-6H-dibenzo [b,d] pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

[C73, 75, 77, 79, 81, §204.208; 82 Acts, ch 1044, §5]

84 Acts, ch 1013, §10; 88 Acts, ch 1024, §2; 91 Acts, ch 8, §4; 91 Acts, ch 37, §1  
C93, §124.208

94 Acts, ch 1009, §11 – 13; 95 Acts, ch 6, §1; 2000 Acts, ch 1140, §8 – 10; 2001 Acts, ch 58, §2; 2003 Acts, ch 53, §6, 7; 2007 Acts, ch 8, §10 – 12; 2008 Acts, ch 1010, §3, 4

**124.209 Substances listed in schedule IV — criteria.**

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule IV if the substance is not already included therein and the board finds that:

a. The substance has a low potential for abuse when compared with the substances listed in schedule III;

b. The substance has currently accepted medical use in treatment in the United States; and

c. Abuse of the substance may lead to limited physical dependence or psychological dependence when compared with the substances listed in schedule III.

2. If the board finds that any substance included in schedule IV does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.209]

C93, §124.209

2009 Acts, ch 41, §37

**124.210 Schedule IV — substances included.**

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

2. *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

a. Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

b. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

3. *Depressants.* 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 specific chemical designation:

a. Alprazolam.

b. Barbital.

c. Bromazepam.

d. Camazepam.

e. Chloral betaine.

f. Chloral hydrate.

g. Chlordiazepoxide.

h. Clobazam.

i. Clonazepam.

j. Clorazepate.

k. Clotiazepam.

l. Cloxazolam.

m. Delorazepam.

n. Diazepam.

o. Dichloralphenazone.

p. Estazolam.

- q. Ethchlorvynol.
- r. Ethinamate.
- s. Ethyl Loflazepate.
- t. Fludiazepam.
- u. Flunitrazepam.
- v. Flurazepam.
- w. Halazepam.
- x. Haloxazolam.
- y. Ketazolam.
- z. Loprazolam.
- aa. Lorazepam.
- ab. Lormetazepam.
- ac. Mebutamate.
- ad. Medazepam.
- ae. Meprobamate.
- af. Methohexital.
- ag. Methylphenobarbital (mephobarbital).
- ah. Midazolam.
- ai. Nimetazepam.
- aj. Nitrazepam.
- ak. Nordiazepam.
- al. Oxazepam.
- am. Oxazolam.
- an. Paraldehyde.
- ao. Petrichloral.
- ap. Phenobarbital.
- aq. Pinazepam.
- ar. Prazepam.
- as. Quazepam.
- at. Temazepam.
- au. Tetrazepam.
- av. Triazolam.
- aw. Zaleplon.
- ax. Zolpidem.
- ay. Zopiclone.
- az. Fospropofol.

4. *Fenfluramine*. Any material, compound, mixture, or preparation which contains any quantity of fenfluramine, 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.

5. *Stimulants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- a. Cathine [(+)-norpseudoephedrine].
- b. Diethylpropion.
- c. Fencamfamin.
- d. Fenproporex.
- e. Mazindol.
- f. Mefenorex.
- g. Pemoline (including organometallic complexes and chelates thereof).
- h. Phentermine.
- i. Pipradrol.
- j. SPA ((-)-1-dimethylamino-1,2-diphenylethane).
- k. Modafinil.
- l. Sibutramine.

6. *Other substances.* 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:

a. Pentazocine.

b. Butorphanol (including its optical isomers).

[C73, 75, §204.210; C77, 79, 81, §204.208(6c), 204.210; 82 Acts, ch 1044, §6 – 10]

84 Acts, ch 1013, §11; 85 Acts, ch 86, §5; 87 Acts, ch 122, §3; 89 Acts, ch 109, §3

C93, §124.210

94 Acts, ch 1009, §14, 15; 2000 Acts, ch 1140, §11 – 14; 2002 Acts, ch 1108, §1; 2007 Acts, ch 8, §13, 14; 2010 Acts, ch 1046, §2

[T] Subsection 3, NEW paragraph az

#### **124.211 Schedule V — criteria.**

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule V if any substance is not already included therein and the board finds that:

a. The substance has a low potential for abuse when compared with the substances listed in schedule IV;

b. The substance has currently accepted medical use in treatment in the United States; and

c. The substance has limited physical dependence or psychological dependence liability when compared with the controlled substances listed in schedule IV.

2. If the board finds that any substance included in schedule V does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.211]

C93, §124.211

2009 Acts, ch 41, §38

#### **124.212 Schedule V — substances included.**

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

2. *Narcotic drugs containing nonnarcotic active medicinal ingredients.* Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams.

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams.

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams.

d. Not more than two point five milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit.

e. Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams.

f. Not more than point five milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

3. *Stimulants.* Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of pyrovalerone, including its salts, isomers, and salts of isomers.

4. *Precursors to amphetamine and methamphetamine.* Unless specifically excepted in paragraph “d” or “e” or listed in another schedule, any material, compound, mixture, or

preparation which contains any quantity of the following precursors to amphetamine or methamphetamine, including their salts, optical isomers, and salts of their optical isomers:

- a. Ephedrine.
- b. Phenylpropanolamine.
- c. Pseudoephedrine. A person shall present a government-issued photo identification card when purchasing a pseudoephedrine product from a pharmacy. A person shall not purchase a quantity of pseudoephedrine in violation of section 124.213 from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity. A pseudoephedrine product not excepted from this schedule shall be sold by a pharmacy as provided in section 124.212A.
- d. Any product that contains three hundred sixty milligrams or less of pseudoephedrine, its salts, optical isomers, and salts of its optical isomers, which is in liquid, liquid capsule, or liquid-filled gel capsule form, is excepted from this schedule and may be warehoused, distributed, and sold over the counter pursuant to section 126.23A.
- e. A pseudoephedrine product warehoused by a distributor located in this state which is warehoused for export to a retailer outside this state is excepted from this schedule. A distributor warehousing and exporting a pseudoephedrine product shall register with the board and comply with any rules adopted by the board and relating to the diversion of pseudoephedrine products from legitimate commerce.

5. *Depressants.* Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of any of the following substances having a depressant effect on the central nervous system, including salts of such substances:

- a. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].
- b. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].  
[C73, 75, 77, 79, 81, §204.212]  
84 Acts, ch 1013, §12; 85 Acts, ch 86, §6; 89 Acts, ch 109, §4  
C93, §124.212  
94 Acts, ch 1009, §16, 17; 97 Acts, ch 77, §1; 2000 Acts, ch 1140, §15, 16; 2003 Acts, ch 53, §8; 2005 Acts, ch 15, §1, 14; 2005 Acts, ch 179, §56; 2007 Acts, ch 8, §15, 16; 2009 Acts, ch 25, §2; 2010 Acts, ch 1046, §3  
[T] Subsection 5 amended

**124.212A Pharmacy pseudoephedrine sale — restrictions — records — contingent applicability.**

A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall do the following:

1. Provide for the sale of a pseudoephedrine product from a locked cabinet or behind the sales counter where the public is unable to reach the product and where the public is not permitted.
2. Require the purchaser to present a government-issued photo identification card identifying the purchaser prior to purchasing a pseudoephedrine product.
3. Provide an electronic logbook for purchasers of pseudoephedrine products to sign.
4. Require the purchaser to sign the electronic logbook. If the electronic logbook is not available, require a signature that is associated with a transaction number.
5. Enter the purchaser's name, address, date of purchase, time of purchase, name of the pseudoephedrine product purchased, and the quantity sold in the electronic logbook. If the electronic logbook is unavailable, an alternative record shall be kept that complies with the rules adopted by both the office and the board.
6. Determine that the signature in the electronic logbook corresponds with the name on the government-issued photo identification card.
7. Provide notice that a purchaser entering a false statement or misrepresentation in the electronic logbook may subject the purchaser to criminal penalties under 18 U.S.C. § 1001.
8. Keep electronic logbook records and any other records obtained from pseudoephedrine purchases if the electronic logbook is unavailable for twenty-four months from the date of the last entry.

9. Disclose electronic logbook information and any other pseudoephedrine purchase records as provided by state and federal law.

10. Comply with training requirements pursuant to federal law.

2009 Acts, ch 25, §3, 9; 2010 Acts, ch 1061, §23

[T] Governor's office of drug control policy notified Code editor on September 14, 2010, that establishment of statewide repository is complete; subsection 2 stricken pursuant to directive; 2009 Acts, ch 25, §9

[T] Subsection 2 stricken and former subsection 1 and paragraphs a – j redesignated as unnumbered paragraph and subsections 1 – 10 respectively

[T] Subsection 1 amended

#### **124.212B Pseudoephedrine sales — tracking — penalty.**

1. The office shall establish a real-time electronic repository to monitor and control the sale of schedule V products containing any detectable amount of pseudoephedrine, its salts, or optical isomers, or salts of optical isomers; ephedrine; or phenylpropanolamine. A pharmacy dispensing such products shall report all such sales electronically to a central repository under the control of the office.

2. The information collected in the central repository is confidential unless otherwise ordered by a court, or released by the lawful custodian of the records pursuant to state or federal law.

3. A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall not be provided access to the stored information in the electronic central repository. However, a pharmacy, an employee of a pharmacy, or a licensed pharmacist shall be provided access to the stored information for the limited purpose of determining what sales have been made by the pharmacy. A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall not be given the obligation or duty to view the stored information.

4. A pharmacy, or an employee of a pharmacy, or a licensed pharmacist shall not be given the obligation or duty to seek information from the central repository if the real-time electronic logbook becomes unavailable for use.

5. If the electronic logbook is unavailable for use, a paper record for each sale shall be maintained including the purchaser's signature. Any paper record maintained by the pharmacy shall be provided to the office for inclusion in the electronic real-time central repository as soon as practicable.

6. A pharmacy, or an employee of a pharmacy, or a licensed pharmacist shall not be liable, if acting reasonably and in good faith, to any person for any claim which may arise when reporting sales of products enumerated in subsection 1 to the central repository.

7. A person who discloses information stored in the central repository in violation of this section commits a simple misdemeanor.

8. Both the office and the board shall adopt rules to administer this section.

9. The office shall report to the board on an annual basis, beginning January 1, 2010, regarding the repository, including the effectiveness of the repository in discovering unlawful sales of pseudoephedrine products.

2009 Acts, ch 25, §4, 9; 2010 Acts, ch 1069, §13

[T] Governor's office of drug control policy notified Code editor on September 14, 2010, that establishment of statewide repository is complete; subsection 10 stricken pursuant to directive; 2009 Acts, ch 25, §9

[T] Subsection 9 amended

[T] Subsection 10 stricken

#### **124.212C Pseudoephedrine advisory council — electronic monitoring.**

1. The office shall establish a pseudoephedrine advisory council to provide input and advise the office regarding the implementation and maintenance of the statewide real-time central repository established under section 124.212B to monitor sales of pseudoephedrine. The office shall specify the duties, responsibilities, and other related matters of the advisory council.

2. a. The council shall consist of four licensed pharmacists. The office shall solicit recommendations for membership on the council from the Iowa pharmacy association and Iowa retail federation, and shall appoint members from the recommendations. The council shall include a member from an independent pharmacy, a member from a regional chain pharmacy, and a member from a national chain pharmacy. The license of any member must be current and not subject to disciplinary sanctions.

b. The council shall also consist of four members of the general assembly serving as ex officio, nonvoting members, one representative to be appointed by the speaker of the house of representatives, one representative to be appointed by the minority leader of the house of representatives, one senator to be appointed by the majority leader of the senate after consultation with the president of the senate, and one senator to be appointed by the minority leader of the senate.

3. The council may make recommendations regarding the implementation and maintenance of the statewide real-time central repository monitoring system under section 124.212B.

4. The council shall do the following:

a. Assist the office in implementing and maintaining the statewide real-time central repository monitoring system.

b. Assist the office in developing utilization guidance related to the statewide real-time central repository monitoring system and disseminating such guidance.

c. Assist the office in developing guidelines to ensure patient confidentiality and the integrity of the relationship established by the patient and the patient's health care provider.

5. All members of the council shall receive actual and necessary expenses incurred in the performance of their duties.

2009 Acts, ch 25, §5

**124.213 Pseudoephedrine purchase restrictions from pharmacy or retailer — penalty.**

1. A person shall not purchase more than three thousand six hundred milligrams of pseudoephedrine, either separately or collectively, within a twenty-four-hour period from a pharmacy, or more than one package of a product containing pseudoephedrine within a twenty-four-hour period from a retailer in violation of section 126.23A.

2. A person shall not purchase more than seven thousand five hundred milligrams of pseudoephedrine, either separately or collectively, within a thirty-day period from a pharmacy or from a retailer in violation of section 126.23A.

3. A person who violates this section commits a serious misdemeanor.

2005 Acts, ch 15, §2, 14; 2009 Acts, ch 25, §6

### DIVISION III

#### REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED SUBSTANCES

**124.301 Rules.**

The board may, subject to chapter 17A, promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

[C73, 75, 77, 79, 81, §204.301]

C93, §124.301

**124.302 Registration requirements.**

1. Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain and maintain a biennial registration issued by the board in accordance with its rules.

2. Persons registered by the board under this chapter 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 the other provisions of this division.

3. The following persons need not register and may lawfully possess controlled substances under this chapter:

a. An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of the agent's or employee's business or employment.

b. A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.

c. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in possession of a schedule V substance.

4. A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

5. The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rules.

[C24, 27, 31, 35, §3155; C39, §3169.03, 3169.12; C46, 50, 54, 58, 62, 66, 71, §204.03, 204.12; C73, 75, 77, 79, 81, §204.302]

91 Acts, ch 233, §5

C93, §124.302

**124.303 Registration.**

1. The board shall register an applicant to manufacture or distribute controlled substances included in sections 124.204, 124.206, 124.208, 124.210 and 124.212 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider all of the following factors:

a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

b. Compliance with applicable state and local law.

c. Any convictions of the applicant under any federal and state laws relating to any controlled substance.

d. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion.

e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter.

f. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law.

g. Any other factors relevant to and consistent with the public health and safety.

2. Registration under subsection 1 of this section does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.

3. Practitioners shall be registered 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 board need not require separate registration under this division for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this division in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research in schedule I substances within this state upon furnishing the board evidence of the federal registration.

4. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration, excluding fees, entitles them to be registered under this chapter.

[C73, 75, 77, 79, 81, §204.303]

C93, §124.303

**124.304 Revocation, suspension, or restriction of registration.**

1. The board may suspend, revoke, or restrict a registration under section 124.303 to manufacture, distribute, or dispense a controlled substance upon a finding that any of the following apply to the registrant:

a. The registrant has furnished false or fraudulent material information in any application filed under this chapter.

b. The registrant has had the registrant's federal registration to manufacture, distribute, or dispense controlled substances suspended, revoked, or restricted.

c. The registrant has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this section only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even though the entry of the judgment or sentence has been withheld and the individual placed on probation.

d. The registrant has committed such acts as would render the registrant's registration under section 124.303 inconsistent with the public interest as determined under that section.

e. If the registrant is a licensed health care professional, the registrant has had the registrant's professional license revoked or suspended or has been otherwise disciplined in a way that restricts the registrant's authority to handle or prescribe controlled substances.

2. The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

3. If the board 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 may 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, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances may be forfeited to the state.

4. The board shall promptly notify the bureau and the department of all orders suspending or revoking registration and all forfeitures of controlled substances.

[C39, §3169.04; C46, 50, 54, 58, 62, 66, 71, §204.4; C73, 75, 77, 79, 81, §204.304]

91 Acts, ch 233, §6

C93, §124.304

2003 Acts, ch 53, §9

#### **124.305 Order to show cause.**

1. Before denying, suspending or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, 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 board at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

2. The board, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under section 124.304, 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, under the provisions of the Iowa administrative procedure Act, chapter 17A, unless sooner withdrawn by the board or dissolved by the order of the district court or an appellate court.

[C73, 75, 77, 79, 81, §204.305]

C93, §124.305

2003 Acts, ch 44, §114

#### **124.306 Records of registrants.**

Persons registered to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with such additional

rules as may be issued by the board. A practitioner who engages in dispensing any controlled substance to the practitioner's patients shall keep records of receipt and disbursements of such drugs, including dispensing or other disposition, and information as to controlled substances stolen, lost, or destroyed. In every such case the records of controlled substance received shall show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances dispensed or otherwise disposed of, shall show the date of dispensing, the name and address of the person to whom or for whose use, or the owner and species of animal for which the drugs were dispensed and the kind and quantity of drugs dispensed.

Every such record shall be kept for a period of two years from the date of the transaction recorded. Records of controlled substances lost, destroyed or stolen, shall contain a detailed list of the kind and quantity of such drugs and the date of the discovery of such loss, destruction, or theft.

No person shall distribute complimentary packages of controlled substances, to a practitioner unless that person prepares and leaves with the practitioner a specific written list of the items so distributed. This list shall be prepared on a form prescribed by rules promulgated by the board, and the person who distributes the items listed shall send a copy of the list to the board as soon as practicable after distribution of the complimentary packages to the practitioner.

[C39, §3169.09; C46, 50, 54, 58, 62, 66, §204.9; C71, §204.9, 204A.4; C73, 75, 77, 79, 81, §204.306]

C93, §124.306

#### **124.307 Order forms.**

Controlled substances in schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

[C24, 27, 31, 35, §3154, 3155; C39, §3169.05; C46, 50, 54, 58, 62, 66, 71, §204.5; C73, 75, 77, 79, 81, §204.307]

C93, §124.307

#### **124.308 Prescriptions.**

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner or without the electronic or facsimile prescription of a practitioner in accordance with subsection 2.

2. A practitioner, other than a pharmacy, or a practitioner's authorized agent may transmit an electronic prescription or facsimile prescription to a pharmacy for a schedule II controlled substance, provided that the prescription complies with section 155A.27 and provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the schedule II controlled substance. If permitted by federal law, and in accordance with federal requirements, the electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide the patient or the patient's authorized representative with a signed, written prescription.

3. In emergency situations, as defined by rule of the board, schedule II drugs may be dispensed upon electronic, facsimile, or oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 124.306. No prescription for a schedule II substance may be refilled.

4. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner or without an electronic or facsimile prescription in accordance with subsection 5. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

5. A practitioner, other than a pharmacy, or the practitioner's authorized agent may transmit an electronic prescription or a facsimile prescription to a pharmacy for a schedule

III, IV, or V controlled substance, provided that the prescription complies with section 155A.27, and provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance, or if the prescription is electronic, an oral prescription or a facsimile prescription is provided. If permitted by federal law, and in accordance with federal requirements, the electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide the patient or the patient's authorized representative with a signed, written prescription.

6. A controlled substance included in schedule V shall not be distributed or dispensed other than for a medical purpose.

[C39, §3169.06; C46, 50, 54, 58, 62, 66, §204.6; C71, §204.6, 204A.7; C73, 75, 77, 79, 81, §204.308]

87 Acts, ch 215, §44

C93, §124.308

2004 Acts, ch 1036, §2, 3; 2005 Acts, ch 3, §29; 2007 Acts, ch 8, §17

[P] See §147.107, 205.3

#### DIVISION IV

#### OFFENSES AND PENALTIES

##### **124.401 Prohibited acts — manufacturers — possessors — counterfeit substances — simulated controlled substances — penalties.**

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, or a simulated controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance, a counterfeit substance, or a simulated controlled substance.

a. Violation of this subsection, with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "B" felony, and notwithstanding section 902.9, subsection 2, shall be punished by confinement for no more than fifty years and a fine of not more than one million dollars:

(1) More than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than five hundred grams of a mixture or substance containing a detectable amount of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) through (c).

(3) More than fifty grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) More than one hundred grams of phencyclidine (PCP) or one kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

(6) More than one thousand kilograms of a mixture or substance containing a detectable amount of marijuana.

(7) More than five kilograms of a mixture or substance containing a detectable amount of any of the following:

(a) Methamphetamine, its salts, isomers, or salts of isomers.

(b) Amphetamine, its salts, isomers, and salts of isomers.

(c) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) and (b).

b. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class “B” felony, and in addition to the provisions of section 902.9, subsection 2, shall be punished by a fine of not less than five thousand dollars nor more than one hundred thousand dollars:

(1) More than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than one hundred grams but not more than five hundred grams of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) through (c).

(3) More than ten grams but not more than fifty grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) More than ten grams but not more than one hundred grams of phencyclidine (PCP) or more than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) Not more than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

(6) More than one hundred kilograms but not more than one thousand kilograms of marijuana.

(7) More than five grams but not more than five kilograms of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

(8) More than five grams but not more than five kilograms of amphetamine, its salts, isomers, or salts of isomers, or any compound, mixture, or preparation which contains any quantity or detectable amount of amphetamine, its salts, isomers, or salts of isomers.

c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class “C” felony, and in addition to the provisions of section 902.9, subsection 4, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

(1) One hundred grams or less of a mixture or substance containing a detectable amount of heroin.

(2) One hundred grams or less of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) through (c).

(3) Ten grams or less of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) Ten grams or less of phencyclidine (PCP) or one hundred grams or less of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than fifty kilograms but not more than one hundred kilograms of marijuana.

(6) Five grams or less of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

(7) Five grams or less of amphetamine, its salts, isomers, or salts of isomers, or any

compound, mixture, or preparation which contains any quantity or detectable amount of amphetamine, its salts, isomers, or salts of isomers.

(8) Any other controlled substance, counterfeit substance, or simulated controlled substance classified in schedule I, II, or III.

d. Violation of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances classified in schedule IV or V is an aggravated misdemeanor. However, violation of this subsection involving fifty kilograms or less of marijuana or involving flunitrazepam is a class "D" felony.

e. A person in the immediate possession or control of a firearm while participating in a violation of this subsection shall be sentenced to two times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

f. A person in the immediate possession or control of an offensive weapon, as defined in section 724.1, while participating in a violation of this subsection, shall be sentenced to three times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

2. If the same person commits two or more acts which are in violation of subsection 1 and the acts occur in approximately the same location or time period so that the acts can be attributed to a single scheme, plan, or conspiracy, the acts may be considered a single violation and the weight of the controlled substances, counterfeit substances, or simulated controlled substances involved may be combined for purposes of charging the offender.

3. It is unlawful for any person to sell, distribute, or make available any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, if the person knows, or should know, that the product may be used as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a serious misdemeanor.

4. A person who possesses any product containing any of the following commits a class "D" felony, if the person possesses with the intent that the product be used to manufacture any controlled substance:

- a. Ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine.
- b. Pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine.
- c. Ethyl ether.
- d. Anhydrous ammonia.
- e. Red phosphorous.
- f. Lithium.
- g. Iodine.
- h. Thionyl chloride.
- i. Chloroform.
- j. Palladium.
- k. Perchloric acid.
- l. Tetrahydrofuran.
- m. Ammonium chloride.
- n. Magnesium sulfate.

5. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a serious misdemeanor for a first offense. A person who commits a violation of this subsection and who has previously been convicted of violating this chapter or chapter 124A, 124B, or 453B is guilty of an aggravated misdemeanor. A person who commits a violation of this subsection and has previously been convicted two or more times of violating this chapter or chapter 124A, 124B, or 453B is guilty of a class "D" felony.

If the controlled substance is marijuana, the punishment shall be by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars,

or by both such fine and imprisonment for a first offense. If the controlled substance is marijuana and the person has been previously convicted of a violation of this subsection in which the controlled substance was marijuana, the punishment shall be as provided in section 903.1, subsection 1, paragraph “b”. If the controlled substance is marijuana and the person has been previously convicted two or more times of a violation of this subsection in which the controlled substance was marijuana, the person is guilty of an aggravated misdemeanor.

All or any part of a sentence imposed pursuant to this subsection may be suspended and the person placed upon probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court.

If a person commits a violation of this subsection, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. If the person is not sentenced to confinement under the custody of the director of the department of corrections, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person’s placement to any appropriate placement permissible under the court order.

If the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. The court may place the person on intensive probation. However, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person’s placement to any appropriate placement permissible under the court order.

[C51, §2728; R60, §4374; C73, §4038; C97, §2593, 5003; S13, §2593, 2596-a; C24, 27, 31, 35, §3152, 3168, 3169; C39, §3169.02, 3169.21; C46, 50, 54, 58, 62, §204.2, 204.22; C66, §204.2, 204.20; C71, §204.2, 204.20, 204A.3, 204A.10; C73, 75, 77, 79, 81, §204.401; 82 Acts, ch 1147, §2]

84 Acts, ch 1013, §13, 14; 84 Acts, ch 1105, §2, 3; 89 Acts, ch 225, §11; 90 Acts, ch 1233, §7 C93, §124.401

94 Acts, ch 1107, §7; 96 Acts, ch 1164, §1 – 4; 97 Acts, ch 122, §1 – 3; 98 Acts, ch 1138, §24, 25; 99 Acts, ch 12, §2, 3; 99 Acts, ch 65, §1; 2000 Acts, ch 1144, §1; 2000 Acts, ch 1201, §4; 2003 Acts, ch 16, §1; 2003 Acts, ch 156, §1 – 7; 2004 Acts, ch 1057, §1; 2004 Acts, ch 1086, §32; 2006 Acts, ch 1030, §12; 2007 Acts, ch 8, §18; 2007 Acts, ch 126, §24; 2009 Acts, ch 41, §263

[P] See §124B.9

#### **124.401A Enhanced penalty for manufacture or distribution to persons on certain real property.**

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully manufactures with intent to distribute, distributes, or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced up to an additional term of confinement of five years.

90 Acts, ch 1251, §5

C91, §204.401A

C93, §124.401A

94 Acts, ch 1172, §6; 96 Acts, ch 1164, §5; 2002 Acts, ch 1175, §25; 2002 Acts, 2nd Ex, ch 1003, §236, 262

**124.401B Possession of controlled substances on certain real property — additional penalty.**

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

94 Acts, ch 1172, §7; 96 Acts, ch 1164, §6

**124.401C Manufacturing methamphetamine in presence of minors.**

1. In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older and who either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufactures methamphetamine, its salts, isomers, or salts of its isomers in the presence of a minor shall be sentenced up to an additional term of confinement of five years. However, the additional term of confinement shall not be imposed on a person who has been convicted and sentenced for a child endangerment offense under section 726.6, subsection 1, paragraph “g”, arising from the same facts.

2. For purposes of this section, the term “*in the presence of a minor*” shall mean, but is not limited to, any of the following:

- a. When a minor is physically present during the activity.
- b. When the activity is conducted in the residence of a minor.
- c. When the activity is conducted in a building where minors can reasonably be expected to be present.
- d. When the activity is conducted in a room offered to the public for overnight accommodation.
- e. When the activity is conducted in any multiple-unit residential building.

97 Acts, ch 125, §1; 2004 Acts, ch 1151, §1; 2006 Acts, ch 1030, §13

**124.401D Conspiracy to manufacture for delivery or delivery or intent or conspiracy to deliver amphetamine or methamphetamine to a minor.**

1. a. It is unlawful for a person eighteen years of age or older to act with, or enter into a common scheme or design with, or conspire with one or more persons to manufacture for delivery to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

- b. A violation of this subsection is a felony punishable under section 902.9, subsection 1.
- c. A second or subsequent violation of this subsection is a class “A” felony.

2. a. It is unlawful for a person eighteen years of age or older to deliver, or possess with the intent to deliver to a person under eighteen years of age, a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, or to act with, or enter into a common scheme or design with, or conspire with one or more persons to deliver or possess with the intent to deliver to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

- b. A violation of this subsection is a felony punishable under section 902.9, subsection 1.
- c. A second or subsequent violation of this subsection is a class “A” felony.

99 Acts, ch 12, §4; 2000 Acts, ch 1144, §2; 2009 Acts, ch 41, §181

**124.401E Certain penalties for manufacturing or delivery of amphetamine or methamphetamine.**

1. If a court sentences a person for the person's first conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

2. If a court sentences a person for a conviction of manufacturing of a controlled substance under section 124.401, subsection 1, paragraph "c", and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced, or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

3. If a court sentences a person for the person's second or subsequent conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, and the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court, in addition to any other authorized penalties, shall sentence the person to imprisonment in accordance with section 124.401, subsection 1, and the person shall serve the minimum period of confinement as required by section 124.413.

99 Acts, ch 12, §5; 2000 Acts, ch 1144, §3

[SP] Continuation of drug court pilot programs; 2002 Acts, ch 1174, §1; 2002 Acts, 2nd Ex, ch 1003, §157, 171, 172; 2003 Acts, ch 183, §1; 2004 Acts, ch 1176, §1; 2005 Acts, ch 176, §1; 2006 Acts, ch 1181, §1; 2007 Acts, ch 208, §1; 2007 Acts, ch 218, §32; 2008 Acts, ch 1186, §1; 2009 Acts, ch 179, §68, 72

[SP] Juvenile drug court programs; 2007 Acts, ch 218, §18, 57, 67; 2008 Acts, ch 1187, §16; 2009 Acts, ch 182, §16; 2010 Acts, ch 1192, §19

**124.401F Prohibitions on tampering with, possessing, or transporting anhydrous ammonia or anhydrous ammonia equipment.**

1. A person shall not intentionally tamper with anhydrous ammonia equipment. Tampering occurs when a person who is not authorized by the owner of anhydrous ammonia equipment uses the equipment in violation of a provision of this section. A person shall not in any manner or for any purpose sell, fill, refill, deliver, permit to be delivered, or use an anhydrous ammonia container or receptacle, including for the storage of any gas or compound, unless the person owns the container or receptacle or is authorized to do so by the owner. A person shall not possess or transport anhydrous ammonia in a container or receptacle which is not authorized by the secretary of agriculture to hold anhydrous ammonia.

2. A person violating this section commits a serious misdemeanor. In addition to the imposition of the serious misdemeanor penalty, a person shall be subject to a civil penalty of not more than one thousand five hundred dollars, if the person does any of the following:

a. Intentionally tampers with anhydrous ammonia equipment.

b. Possesses or transports anhydrous ammonia in a container or receptacle which is not authorized to hold anhydrous ammonia according to rules adopted by the secretary of agriculture.

3. A person tampering with anhydrous ammonia equipment in violation of this section shall not have a cause of action against the owner of the equipment, any person responsible for the installation and maintenance of the equipment, or the person lawfully selling the anhydrous ammonia for damages arising out of the tampering.

99 Acts, ch 12, §6; 99 Acts, ch 208, §48; 2000 Acts, ch 1058, §13

**124.402 Prohibited acts — distributors — registrants — proprietors — penalties.**

1. It is unlawful for any person:

- a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308;
  - b. Who is a registrant, to manufacture a controlled substance not authorized by the registration, or to distribute or dispense a controlled substance not authorized by the registration to another registrant or other authorized person;
  - c. To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter;
  - d. To refuse an entry into any premises during reasonable business hours for any inspection authorized by this chapter; or
  - e. Knowingly to keep or permit the keeping or to maintain any premises, store, shop, warehouse, dwelling, temporary, or permanent building, vehicle, boat, aircraft, or other temporary or permanent structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping, possessing or selling them in violation of this chapter.
2. Any person who violates subsection 1 of this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate subsection 1 of this section, is guilty of a public offense and upon conviction:
- a. Of a violation of paragraphs “a”, “b”, “d”, or “e” shall be an aggravated misdemeanor.
  - b. Of a violation of paragraph “c” shall be a serious misdemeanor.
- [C73, 75, 77, 79, 81, §204.402]  
C93, §124.402

**124.403 Prohibited acts — controlled substances, distribution, use, possession — records and information — penalties.**

1. It is unlawful for any person knowingly or intentionally:
- a. To distribute as a registrant a controlled substance classified in schedules I or II, except pursuant to an order form as required by section 124.307;
  - b. 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;
  - c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;
  - d. To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; or
  - e. 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.
2. Any person who violates this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate this section, is guilty of a serious misdemeanor.
- [C39, §3169.17; C46, 50, 54, 58, 62, §204.18; C66, §204.17; C71, §204.17, 204A.3; C73, 75, 77, 79, 81, §204.403]  
C93, §124.403

**124.404 Penalties under other laws.**

- Any penalty imposed for violation of this division shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.
- [C73, 75, 77, 79, 81, §204.404]  
C93, §124.404

**124.405 Bar to prosecution.**

If a violation of this chapter is a violation of a federal law or the law of another state, the conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

[C39, §3169.22; C46, 50, 54, 58, 62, §204.23; C66, 71, §204.21; C73, 75, 77, 79, 81, §204.405] C93, §124.405

**124.406 Distribution to person under age eighteen.**

1. A person who is eighteen years of age or older who:

a. Unlawfully distributes or possesses with intent to distribute a substance listed in schedule I or II to a person under eighteen years of age commits a class “B” felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with the intent to distribute a controlled substance listed in schedule III to a person under eighteen years of age who is at least three years younger than the violator commits a class “C” felony.

c. Unlawfully distributes a controlled substance listed in schedule IV or V to a person under eighteen years of age who is at least three years younger than the violator commits an aggravated misdemeanor.

2. A person who is eighteen years of age or older who:

a. Unlawfully distributes or possesses with the intent to distribute a counterfeit substance listed in schedule I or II, or a simulated controlled substance represented to be a substance classified in schedule I or II, to a person under eighteen years of age commits a class “B” felony. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with intent to distribute a counterfeit substance listed in schedule III, or a simulated controlled substance represented to be any substance listed in schedule III, to a person under eighteen years of age who is at least three years younger than the violator commits a class “C” felony.

c. Unlawfully distributes a counterfeit substance listed in schedule IV or V, or a simulated controlled substance represented to be a substance listed in schedule IV or V, to a person under eighteen years of age who is at least three years younger than the violator commits an aggravated misdemeanor.

3. It is unlawful for a person to deliver a controlled substance to another person in order to act with, enter into a common scheme or design with, conspire with, or recruit the other person for the purpose of delivering a controlled substance to one or more persons under eighteen years of age. A person who violates this subsection with respect to a controlled substance classified in schedule I, II, III, IV, or V is guilty of a class “D” felony.

[C97, §5003; C24, 27, 31, 35, §3168, 3169; C39, §3169.21; C46, 50, 54, 58, 62, §204.22; C66, §204.20; C71, §204.20, 204A.11; C73, 75, 77, 79, 81, §204.406; 82 Acts, ch 1147, §3]

84 Acts, ch 1013, §15; 89 Acts, ch 225, §12; 90 Acts, ch 1251, §6, 7

C93, §124.406

94 Acts, ch 1172, §8, 9; 97 Acts, ch 33, §2, 3

**124.406A Use of persons under age eighteen in the drug trade.**

It is unlawful for a person who is eighteen years of age or older to conspire with or recruit a person under the age of eighteen for the purpose of delivering or manufacturing a controlled substance classified in schedules I through IV. A person violating this section commits a class “C” felony.

94 Acts, ch 1172, §10

**124.407 Gatherings where controlled substances unlawfully used — penalties.**

It is unlawful for any person to sponsor, promote, or aid, or assist in the sponsoring or promoting of a meeting, gathering, or assemblage with the knowledge or intent that a controlled substance be there distributed, used or possessed, in violation of this chapter.

Any person who violates this section and where the controlled substance is any one other than marijuana is guilty of a class “D” felony.

Any person who violates this section, and where the controlled substance is marijuana only, is guilty of a serious misdemeanor.

The district court shall grant an injunction barring a meeting, gathering, or assemblage if upon hearing the court finds that the sponsors or promoters of the meeting, gathering, or assemblage have not taken reasonable means to prevent the unlawful distribution, use or possession of a controlled substance. Further injunctive relief may be granted against all persons furnishing goods or services to such meeting, gathering, or assemblage.

The district court may, upon application and a showing of one or more of the grounds provided in section 639.3, grant to the state or governmental subdivision thereof a writ of attachment, ex parte, without bond, in an amount necessary to secure the payment of any fine that may be imposed and the payment of costs. The reasonable expense to the state and governmental subdivisions thereof to provide the necessary law enforcement resulting from a meeting, gathering or assemblage held in violation of this section may be taxed as costs in the criminal action.

[C73, 75, 77, 79, 81, §204.407]

C93, §124.407

99 Acts, ch 135, §13

**124.408 Joint criminal trials.**

Information, indictments, trial, and sentencing for violations of this chapter may allege any number of violations of their provisions against one person and join one or more persons as defendants who it is alleged violated the same provisions in the same transaction or series of transactions and which involve common questions of law and fact. The several charges shall be set out in separate counts and each accused person shall be convicted or acquitted upon each count by separate verdict. Each accused person shall thereafter be sentenced upon each verdict of guilty. The court may consider such separate verdicts of guilty returned at the same time as one offense for the purpose of sentencing as provided in this chapter. The court may grant a severance and separate trial to any accused person jointly charged or indicted if it appears that substantial injustice would result to such accused person unless a separate trial was granted.

[C73, 75, 77, 79, 81, §204.408]

C93, §124.408

**124.409 Conditional discharge, commitment for treatment, and probation.**

Whenever the court finds that a person who is charged with a violation of section 124.401 and who consents thereto, or who has entered a plea of guilty to or been found guilty of a violation of that section, is addicted to, dependent upon, or a chronic abuser of any controlled substance and that such person will be aided by proper medical treatment and rehabilitative services, it may order that the person be committed as an in-patient or out-patient to a facility licensed by the Iowa department of public health for medical treatment and rehabilitative services. A person committed under this subsection who is not possessed of sufficient income or estate to enable the person to make payment of the costs of such treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44. The determination of ability to pay shall be made by the court. The court shall require the patient, or the patient’s parent, guardian, or custodian to complete under oath a detailed financial statement. The court may enter appropriate orders requiring the patient or those legally liable for the patient’s support to reimburse the state with the costs, or any part thereof. In order to obtain the most effective results from such medical treatment and rehabilitative services, the court may commit the person to the custody of a public or private agency or any other responsible person and impose other conditions upon the commitment

as is necessary to insure compliance with the court's order and to insure that the person will not, during the period of treatment and rehabilitation, again violate a provision of this chapter. If it is established thereafter to the satisfaction of the court that the person has again violated a provision of this chapter, the person may be returned to custody or sentenced upon conviction as provided by law. The public or private agency or responsible person to whom the accused person was committed by the court shall immediately report to the court when the person has received maximum benefit from the program or has recovered from addiction, dependency, or tendency to chronically abuse any controlled substance. The person shall then be returned to the court for disposition of the case. If the person has been charged or indicted, but not convicted, such charge shall proceed to trial or final disposition. If the person has been convicted or is thereafter convicted, the court shall sentence the person as provided by law but may remit all or any part of the sentence and place the person on probation upon terms and conditions as the court may prescribe.

[C73, 75, 77, 79, 81, §204.409]

84 Acts, ch 1013, §16

C93, §124.409

96 Acts, ch 1034, §4; 2002 Acts, ch 1175, §26; 2002 Acts, 2nd Ex, ch 1003, §237, 262

#### **124.410 Accommodation offense.**

In a prosecution for unlawful delivery or possession with intent to deliver marijuana, if the prosecution proves that the defendant violated the provisions of section 124.401, subsection 1, by proving that the defendant delivered or possessed with intent to deliver one-half ounce or less of marijuana which was not offered for sale, the defendant is guilty of an accommodation offense and rather than being sentenced as if convicted for a violation of section 124.401, subsection 1, paragraph "d", shall be sentenced as if convicted of a violation of section 124.401, subsection 5. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to deliver marijuana in violation of section 124.401, subsection 1. This section does not apply to hashish, hashish oil, or other derivatives of marijuana as defined in section 124.101, subsection 19.

[C73, 75, 77, 79, 81, §204.410]

89 Acts, ch 225, §13

C93, §124.410

99 Acts, ch 67, §1

#### **124.411 Second or subsequent offenses.**

1. Any person convicted of a second or subsequent offense under this chapter, may be punished by imprisonment for a period not to exceed three times the term otherwise authorized, or fined not more than three times the amount otherwise authorized, or punished by both such imprisonment and fine.

2. For purposes of this section, an offense is considered a second or subsequent offense, if, prior to the person's having been convicted of the offense, the offender has ever been convicted under this chapter or under any state or federal statute relating to narcotic drugs or cocaine, marijuana, depressant, stimulant, or hallucinogenic drugs.

3. This section does not apply to offenses under section 124.401, subsection 5.

[C97, §5003; C24, 27, 31, 35, §3168, 3169; C39, §3169.21; C46, 50, 54, 58, 62, §204.22; C66, 71, §204.20; C73, 75, 77, 79, 81, §204.411]

84 Acts, ch 1013, §17

C93, §124.411

#### **124.412 Notice of conviction.**

If a person enters a plea of guilty to, or forfeits bail or collateral deposited to secure the person's appearance in court, and such forfeiture is not vacated, or if a person is found guilty upon an indictment or information alleging a violation of this chapter, a copy of the minutes attached to the indictment returned by the grand jury, or to the county attorney's information, a copy of the judgment and sentence, and a copy of the opinion of the judge if one is filed, shall be sent by the clerk of the district court or the judge to the state department

of transportation and to any state board or officer by whom the convicted person has been licensed or registered to practice the person's profession or carry on the person's business. On the conviction of a person, the court may suspend or revoke the license or registration of the convicted defendant to practice the defendant's profession or carry on the defendant's business. On the application of a person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, the board or officer may reinstate the license or registration.

[C39, §3169.15; C46, 50, 54, 58, 62, §204.16; C66, 71, §204.15; C73, 75, 77, 79, 81, §204.412]  
C93, §124.412  
93 Acts, ch 16, §1

**124.413 Mandatory minimum sentence.**

1. A person sentenced pursuant to section 124.401, subsection 1, paragraph "a", "b", "c", "e", or "f", shall not be eligible for parole until the person has served a minimum period of confinement of one-third of the maximum indeterminate sentence prescribed by law.

2. This section shall not apply if:

- a. The offense is found to be an accommodation pursuant to section 124.410; or
- b. The controlled substance is marijuana.

[C79, 81, §204.413]  
89 Acts, ch 225, §14  
C93, §124.413  
2009 Acts, ch 41, §182

**124.414 Drug paraphernalia.**

1. a. As used in this section, "*drug paraphernalia*" means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

- (1) Manufacture a controlled substance.
- (2) Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
- (3) Test the strength, effectiveness, or purity of a controlled substance.
- (4) Enhance the effect of a controlled substance.

b. "*Drug paraphernalia*" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

3. A person who violates this section commits a simple misdemeanor.

2000 Acts, ch 1144, §4

**124.415 Parental and school notification — persons under eighteen years of age.**

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, or simulated controlled substance in violation of this chapter, and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first-class mail.

90 Acts, ch 1251, §8  
C91, §204.415

C93, §124.415

94 Acts, ch 1172, §11; 95 Acts, ch 191, §5

**124.416 Exception to restrictions on bail.**

Notwithstanding section 811.1, the court, after making the finding required by section 811.1, subsection 3, may admit a person convicted of a violation of section 124.401, subsection 2, or of a violation of section 124.406, to bail if the prosecuting attorney in the action and the defendant’s counsel jointly petition the court to admit the person to bail.

90 Acts, ch 1251, §9

C91, §204.416

C93, §124.416

95 Acts, ch 191, §6

DIVISION V  
ENFORCEMENT AND ADMINISTRATIVE  
PROVISIONS

**124.501 Responsibility for enforcement.**

The department is primarily responsible for the enforcement of this chapter, and all other laws and regulations of this state, relating to controlled or counterfeit substances, or simulated or imitation controlled substances, except that the board is primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, and health care facilities as defined in section 135C.1, subsection 6, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances, and is also primarily responsible for any other duties in respect to controlled substances as specifically delegated to the board by law. An officer or employee of the board may, when so directed or authorized by the board:

1. Execute and serve search warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.

2. Make seizures of property pursuant to the provisions of this chapter.

[C39, §3169.19; C46, 50, 54, 58, 62, §204.20, 204.26; C66, 71, §204.19; C73, 75, 77, 79, 81, §204.501; 82 Acts, ch 1147, §10]

C93, §124.501

[P] Imitation controlled substances, chapter 124A

**124.502 Administrative inspections and warrants.**

1. Issuance and execution of administrative inspection warrants shall be as follows:

a. A district judge or district associate judge, within the court’s jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections under this chapter or a related rule or under chapter 124A. The warrant may also permit seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of the statute or related rules, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

b. A warrant shall issue only upon sworn testimony of an officer or employee of the board duly designated and having knowledge of the facts alleged, before the judicial officer, 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, the officer shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any.

c. The warrant shall:

(1) State the grounds for its issuance and the name of each person whose testimony has been taken in support thereof.

(2) Be directed to a person authorized by section 124.501 to execute it.

(3) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.

(4) Identify the item or types of property to be seized, if any.

(5) Direct that it be served during normal business hours, if appropriate, and designate the judge to whom it shall be returned.

d. A warrant issued pursuant to this section must be executed and returned within ten days after its date unless, upon a showing of a need for additional time, the court so instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a copy of the warrant and a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property seized. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was seized and to the applicant for the warrant.

e. The judicial officer who has issued a warrant under this section shall require that there be attached to the warrant a copy of the return, and of all papers filed in connection with the return, and shall file them with the clerk of the district court for the county in which the inspection was made.

2. The department may make administrative inspections of controlled premises in accordance with the following provisions:

a. For purposes of this section only, “*controlled premises*” means:

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

(2) Places including factories, warehouse establishments, and conveyances where persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

b. Whenever authorized by an administrative inspection warrant issued pursuant to subsection 1 of this section an officer or employee of the board, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.

c. Whenever authorized by an administrative inspection warrant, an officer or employee of the board has the right:

(1) To inspect and copy records required by this chapter to be kept;

(2) To 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 “e” of this subsection, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

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

d. This section shall not be construed to prevent the inspection without a warrant of books and records pursuant to a subpoena issued in accordance with section 622.65, nor shall this section be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

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

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

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

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

(5) In all other situations where a warrant is not constitutionally required.

e. Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to financial data; sales data, other than shipment data; or pricing data.

[C73, 75, 77, 79, 81, §204.502; 82 Acts, ch 1147, §11]

83 Acts, ch 186, §10051, 10052, 10201

C93, §124.502

99 Acts, ch 96, §10; 2009 Acts, ch 41, §183

#### **124.503 Injunctions.**

1. The district court may exercise jurisdiction to enjoin violations of this chapter.

2. In case of an alleged violation of an injunction or restraining order issued under this section, upon demand of the defendant, trial shall be by a jury.

[C73, 75, 77, 79, 81, §204.503]

C93, §124.503

#### **124.504 Cooperative arrangements and confidentiality.**

1. The department and board, subject to approval and direction of the governor, 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, they may jointly:

a. Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances.

b. Coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels.

c. Cooperate with the bureau by establishing a centralized unit which will accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state and local law enforcement purposes; except that they shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under subsection 3.

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

2. Results, information, and evidence received from the bureau relating to the regulatory functions of this chapter, including results of inspections conducted by that agency may be relied upon and acted upon by the board or the department in the exercise of their regulatory functions under this chapter.

3. A practitioner engaged in medical practice or research or the Iowa drug abuse authority or any program which is licensed by the authority shall not be required to furnish the name or identity of a patient or research subject to the board or the department, nor shall the practitioner or the authority or any program which is licensed by the authority be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner or the authority or any of its licensed programs is obligated to keep confidential.

[C73, 75, 77, 79, 81, §204.504]

C93, §124.504

**124.505** Reserved.

#### **124.506 Controlled substances — disposal.**

All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, or excess or undesired controlled substances, which have come

into the custody of the board, the department, or any peace officer, shall be disposed of as follows:

1. Except as otherwise provided in this section, the court having jurisdiction shall order such controlled substances forfeited and destroyed. A record of the place where the controlled substances were seized, of the kinds and quantities of controlled substances so destroyed, and of the time, place, and manner of destruction, shall be kept for not less than ten years after destruction, and a return under oath, reporting said destruction, shall be made to the court.

2. Upon written application by the board, the court by whom the forfeiture of controlled substances has been decreed may order the delivery of any of them, except controlled substances listed in schedule I, to the board for distribution or destruction, as provided by this section.

3. Upon a request of any law enforcement agency, the court may order that a portion of a controlled substance subject to forfeiture and destruction pursuant to this section becomes the possession of the requesting law enforcement agency for the sole purpose of canine controlled substance detection training. A law enforcement agency receiving a controlled substance pursuant to this subsection shall do the following:

a. Establish a policy that includes reasonable controls regarding the possession, storage, use, and destruction of the controlled substance.

b. Retain a record of the following for at least ten years from the date the controlled substance is destroyed:

(1) The court order granting the law enforcement agency possession of the controlled substance.

(2) The name of each peace officer who takes possession of the controlled substance.

(3) The time, place, and manner of the destruction of the controlled substance.

4. Upon application by any hospital within this state, not operated for private gain, the board may in its discretion deliver any controlled substances that have come into its custody by authority of this section to the applicant for medicinal use. The board may from time to time deliver excess stocks of controlled substances to the bureau for disposition, or may destroy the excess controlled substances.

5. The board shall keep a full and complete record of all controlled substances received and disposed of, showing the exact kinds, quantities, and forms of controlled substances, the persons from whom received and to whom delivered, by whose authority received, delivered, and destroyed and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state laws relating to any controlled substance.

[C39, §3169.14; C46, 50, 54, 58, 62, §204.15; C66, 71, §204.14; C73, 75, 77, 79, 81, §204.506] C93, §124.506

2009 Acts, ch 24, §2, 3

#### **124.506A Large seizure of a controlled substance — evidence and disposal.**

1. Notwithstanding the provisions of section 124.506, if more than ten pounds of marijuana or more than one pound of any other controlled substance is seized as a result of a violation of this chapter, the law enforcement agency responsible for retaining the seized controlled substance may destroy the seized controlled substance if the law enforcement agency retains at least ten pounds of the marijuana seized or at least one pound of any other controlled substance seized for evidence purposes.

2. Prior to the destruction of any controlled substance under this section, the law enforcement agency shall photograph the controlled substance to be destroyed with identifying case numbers or any other case identifiers and prepare a written report detailing any relevant information about the destruction of the controlled substance. At least thirty days prior to any destruction of a controlled substance, the law enforcement agency destroying the controlled substance shall notify in writing any person arrested in connection with the seizure, the attorney of the person if represented, and any other attorney of record including the prosecuting attorney, and the law enforcement agency that made the arrest if the agency is different than the law enforcement agency responsible for retaining the

seized controlled substance, that the law enforcement agency is planning to photograph and destroy part of the controlled substance seized, and any person or agency notified may be present at the photographing of the controlled substance to be destroyed.

3. Any person or agency notified about the destruction of part of the controlled substance seized, or any other interested party, may file an application with the district court resisting the destruction of any of the controlled substance.

4. A rebuttable presumption is created that the portion of any controlled substance retained for representation purposes as evidence and all photographs and records made under this section and properly identified are admissible in any court proceeding for any purpose for which the destroyed controlled substance would have been admissible.

2006 Acts, ch 1027, §1; 2006 Acts, ch 1185, §119

#### **124.507 Burden of proof — liabilities.**

1. It is not necessary for the state to negate any exemption or exception set forth in this chapter in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this chapter. The proof of entitlement to any exemption or exception by the person claiming its benefit shall be a valid defense.

2. The absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter creates a rebuttable presumption that the person is not the holder of such registration or form.

3. No liability shall be imposed by virtue of this chapter upon any authorized state, county or municipal officer, engaged in the lawful performance of the officer's duties.

[C24, 27, 31, 35, §3156; C39, §3169.18; C46, 50, 54, 58, 62, §204.19; C66, 71, §204.18; C73, 75, 77, 79, 81, §204.507]

C93, §124.507

#### **124.508 Judicial review.**

Judicial review of actions of board or department may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C73, 75, 77, 79, 81, §204.508]

C93, §124.508

2003 Acts, ch 44, §114

#### **124.509 Education and research.**

1. The board and the department, subject to approval and direction of the governor, shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. They shall consult with each other and coordinate their programs so as to avoid duplication of effort. In connection with these programs they may:

a. Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

b. Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

c. Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

d. Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

e. Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and,

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

2. The board and the department, subject to approval and direction of the governor, shall encourage research on misuse and abuse of controlled substances. In connection with such research, and in furtherance of the enforcement of this chapter, they may in such manner as will best insure coordination and avoid duplication of effort:

- a. Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;
  - b. Make studies and undertake programs of research to:
    - (1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter;
    - (2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,
    - (3) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,
  - c. Enter into contracts 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.
3. The board or department, subject to approval and direction of the governor, may enter into contracts for educational and research activities without performance bonds.
4. The board and department, subject to approval and direction of the governor, may jointly 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 shall not 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.
5. The board and department, subject to approval and direction of the governor, may jointly 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.

[C73, 75, 77, 79, 81, §204.509]

C93, §124.509

**124.510 Reports of arrests and analyses to department.**

Any peace officer who arrests for any crime, any known unlawful user of the drugs described in Schedule I, II, III, or IV, or who arrests any person for a violation of this chapter, or charges any person with a violation of this chapter subsequent to the person's arrest, shall within five days after the arrest or the filing of the charge, whichever is later, report the arrest and the charge filed to the department. The peace officer or any other peace officer or law enforcement agency which makes or obtains any quantitative or qualitative analysis of any substance seized in connection with the arrest of the person charged, shall report to the department the results of the analysis at the time the arrest is reported or at such later time as the results of the analysis become available.

This information is for the exclusive use of the division of narcotics enforcement in the department of public safety, and shall not be a matter of public record.

[C73, 75, 77, 79, 81, §204.510]

C93, §124.510

2005 Acts, ch 35, §29

DIVISION VI

DRUG PRESCRIBING AND DISPENSING  
— INFORMATION PROGRAM

[SP] For future repeal of sections 124.551 – 124.558  
effective June 30, 2011,  
see 2009 Acts, ch 36, §3

**124.551 Information program for drug prescribing and dispensing.**

Contingent upon the receipt of funds pursuant to section 124.557 sufficient to carry out the purposes of this division, the board, in conjunction with the advisory council created in section 124.555, shall establish and maintain an information program for drug prescribing and dispensing. The program shall collect from pharmacies dispensing

information for controlled substances identified pursuant to section 124.554, subsection 1, paragraph “g”. The information collected shall be used by prescribing practitioners and pharmacists on a need-to-know basis for purposes of improving patient health care by facilitating early identification of patients who may be at risk for addiction, or who may be using, abusing, or diverting drugs for unlawful or otherwise unauthorized purposes at risk to themselves and others, or who may be appropriately using controlled substances lawfully prescribed for them but unknown to the practitioner. For purposes of this division, “*prescribing practitioner*” means a practitioner who has prescribed or is contemplating the authorization of a prescription for the patient about whom information is requested, and “*pharmacist*” means a practicing pharmacist who is actively engaged in and responsible for the pharmaceutical care of the patient about whom information is requested. The board shall collect, store, and disseminate program information consistent with security criteria established by rule, including use of appropriate encryption or other industry-recognized security technology. The board shall seek any federal waiver necessary to implement the provisions of the program.

2006 Acts, ch 1147, §2, 11

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

#### **124.552 Information reporting.**

1. Each licensed pharmacy that dispenses controlled substances identified pursuant to section 124.554, subsection 1, paragraph “g”, to patients in the state, and each licensed pharmacy located in the state that dispenses such controlled substances identified pursuant to section 124.554, subsection 1, paragraph “g”, to patients inside or outside the state, unless specifically excepted in this section or by rule, shall submit the following prescription information to the program:

- a. Pharmacy identification.
- b. Patient identification.
- c. Prescribing practitioner identification.
- d. The date the prescription was issued by the prescribing practitioner.
- e. The date the prescription was dispensed.
- f. An indication of whether the prescription dispensed is new or a refill.
- g. Identification of the drug dispensed.
- h. Quantity of the drug dispensed.
- i. The number of days’ supply of the drug dispensed.
- j. Serial or prescription number assigned by the pharmacy.
- k. Type of payment for the prescription.
- l. Other information identified by the board and advisory council by rule.

2. Information shall be submitted electronically in a secure format specified by the board unless the board has granted a waiver and approved an alternate secure format.

3. Information shall be timely transmitted as designated by the board and advisory council by rule, unless the board grants an extension. The board may grant an extension if either of the following occurs:

- a. The pharmacy suffers a mechanical or electronic failure, or cannot meet the deadline established by the board for other reasons beyond the pharmacy’s control.
- b. The board is unable to receive electronic submissions.

4. This section shall not apply to a prescribing practitioner furnishing, dispensing, supplying, or administering drugs to the prescribing practitioner’s patient, or to dispensing by a licensed pharmacy for the purposes of inpatient hospital care, inpatient hospice care, or long-term residential facility patient care.

2006 Acts, ch 1147, §3, 11; 2007 Acts, ch 126, §25, 26

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

#### **124.553 Information access.**

1. The board may provide information from the program to the following:

- a. (1) A pharmacist or prescribing practitioner who requests the information and certifies in a form specified by the board that it is for the purpose of providing medical

or pharmaceutical care to a patient of the pharmacist or prescribing practitioner. Neither a pharmacist nor a prescribing practitioner may delegate program information access to another individual.

(2) Notwithstanding subparagraph (1), a prescribing practitioner may delegate program information access to another licensed health care professional only in emergency situations where the patient would be placed in greater jeopardy if the prescribing practitioner was required to access the information personally.

b. An individual who requests the individual's own program information in accordance with the procedure established in rules of the board and advisory council adopted under section 124.554.

c. Pursuant to an order, subpoena, or other means of legal compulsion for access to or release of program information that is issued based upon a determination of probable cause in the course of a specific investigation of a specific individual.

2. The board shall maintain a record of each person that requests information from the program. Pursuant to rules adopted by the board and advisory council under section 124.554, the board may use the records to document and report statistical information.

3. Information contained in the program and any information obtained from it, and information contained in the records of requests for information from the program, is privileged and strictly confidential information. Such information is a confidential public record pursuant to section 22.7, and is not subject to discovery, subpoena, or other means of legal compulsion for release except as provided in this division. Information from the program shall not be released, shared with an agency or institution, or made public except as provided in this division.

4. Information collected for the program shall be retained in the program for four years from the date of dispensing. The information shall then be destroyed.

5. A pharmacist or other dispenser making a report to the program reasonably and in good faith pursuant to this division is immune from any liability, civil, criminal, or administrative, which might otherwise be incurred or imposed as a result of the report.

6. Nothing in this section shall require a pharmacist or prescribing practitioner to obtain information about a patient from the program. A pharmacist or prescribing practitioner does not have a duty and shall not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or prescribing practitioner did or did not seek or obtain or use information from the program. A pharmacist or prescribing practitioner acting reasonably and in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving or using information from the program.

7. The board shall not charge a fee to a pharmacy, pharmacist, or prescribing practitioner for the establishment, maintenance, or administration of the program, including costs for forms required to submit information to or access information from the program, except that the board may charge a fee to an individual who requests the individual's own program information. A fee charged pursuant to this subsection shall not exceed the actual cost of providing the requested information and shall be considered a repayment receipt as defined in section 8.2.

2006 Acts, ch 1147, §4, 11; 2007 Acts, ch 8, §19; 2007 Acts, ch 126, §27, 28

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

#### **124.554 Rules and reporting.**

1. The board and advisory council shall jointly adopt rules in accordance with chapter 17A to carry out the purposes of, and to enforce the provisions of, this division. The rules shall include but not be limited to the development of procedures relating to:

- a. Identifying each patient about whom information is entered into the program.
- b. An electronic format for the submission of information from pharmacies.
- c. A waiver to submit information in another format for a pharmacy unable to submit information electronically.
- d. An application by a pharmacy for an extension of time for transmitting information to the program.

e. The submission by an authorized requestor of a request for information and a procedure for the verification of the identity of the requestor.

f. Use by the board or advisory council of the program request records required by section 124.553, subsection 2, to document and report statistical information.

g. Including all schedule II controlled substances and those substances in schedules III and IV that the advisory council and board determine can be addictive or fatal if not taken under the proper care and direction of a prescribing practitioner.

h. Access by a pharmacist or prescribing practitioner to information in the program pursuant to a written agreement with the board and advisory council.

i. The correction or deletion of erroneous information in the program.

2. Beginning January 1, 2007, and annually by January 1 thereafter, the board and advisory council shall present to the general assembly and the governor a report prepared consistent with section 124.555, subsection 3, paragraph “d”, which shall include but not be limited to the following:

a. The cost to the state of implementing and maintaining the program.

b. Information from pharmacies, prescribing practitioners, the board, the advisory council, and others regarding the benefits or detriments of the program.

c. Information from pharmacies, prescribing practitioners, the board, the advisory council, and others regarding the board’s effectiveness in providing information from the program.

2006 Acts, ch 1147, §5, 11; 2007 Acts, ch 126, §29, 30

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

#### **124.555 Advisory council established.**

An advisory council shall be established to provide oversight to the board and the program and to comanage program activities. The board and advisory council shall jointly adopt rules specifying the duties and activities of the advisory council and related matters.

1. The council shall consist of eight members appointed by the governor. The members shall include three licensed pharmacists, four physicians licensed under chapter 148, and one licensed prescribing practitioner who is not a physician. The governor shall solicit recommendations for council members from Iowa health professional licensing boards, associations, and societies. The license of each member appointed to and serving on the advisory council shall be current and in good standing with the professional’s licensing board.

2. The council shall advance the goals of the program, which include identification of misuse and diversion of controlled substances identified pursuant to section 124.554, subsection 1, paragraph “g”, and enhancement of the quality of health care delivery in this state.

3. Duties of the council shall include but not be limited to the following:

a. Ensuring the confidentiality of the patient, prescribing practitioner, and dispensing pharmacist and pharmacy.

b. Respecting and preserving the integrity of the patient’s treatment relationship with the patient’s health care providers.

c. Encouraging and facilitating cooperative efforts among health care practitioners and other interested and knowledgeable persons in developing best practices for prescribing and dispensing controlled substances and in educating health care practitioners and patients regarding controlled substance use and abuse.

d. Making recommendations regarding the continued benefits of maintaining the program in relationship to cost and other burdens to the patient, prescribing practitioner, pharmacist, and the board. The council’s recommendations shall be included in reports required by section 124.554, subsection 2.

e. One physician and one pharmacist member of the council shall include in their duties the responsibility for monitoring and ensuring that patient confidentiality, best interests, and civil liberties are at all times protected and preserved during the existence of the program.

4. Members of the advisory council shall be eligible to request and receive actual expenses for their duties as members of the advisory council, subject to reimbursement limits imposed

by the department of administrative services, and shall also be eligible to receive a per diem compensation as provided in section 7E.6, subsection 1.

2006 Acts, ch 1147, §6, 11; 2007 Acts, ch 126, §31, 32; 2008 Acts, ch 1088, §82

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

**124.556 Education and treatment.**

The program for drug prescribing and dispensing shall include education initiatives and outreach to consumers, prescribing practitioners, and pharmacists, and shall also include assistance for identifying substance abuse treatment programs and providers. The board and advisory council shall adopt rules, as provided under section 124.554, to implement this section.

2006 Acts, ch 1147, §7, 11; 2007 Acts, ch 126, §33

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

**124.557 Drug information program fund.**

The drug information program fund is established to be used by the board to fund or assist in funding the program. The board may make deposits into the fund from any source, public or private, including grants or contributions of money or other items of value, which it determines necessary to carry out the purposes of this division. Moneys received by the board to establish and maintain the program must be used for the expenses of administering this division. Notwithstanding section 8.33, amounts contained in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated in future years.

2006 Acts, ch 1147, §8, 11

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

**124.558 Prohibited acts — penalties.**

1. *Failure to comply with requirements.* A pharmacist, pharmacy, or prescribing practitioner who knowingly fails to comply with the confidentiality requirements of this division or who delegates program information access to another individual is subject to disciplinary action by the appropriate professional licensing board. A pharmacist or pharmacy that knowingly fails to comply with other requirements of this division is subject to disciplinary action by the board. Each licensing board may adopt rules in accordance with chapter 17A to implement the provisions of this section.

2. *Unlawful access, disclosure, or use of information.* A person who intentionally or knowingly accesses, uses, or discloses program information in violation of this division, unless otherwise authorized by law, is guilty of a class “D” felony. This section shall not preclude a pharmacist or prescribing practitioner who requests and receives information from the program consistent with the requirements of this chapter from otherwise lawfully providing that information to any other person for medical or pharmaceutical care purposes.

2006 Acts, ch 1147, §9, 11; 2007 Acts, ch 126, §34

[SP] For future repeal of this section effective June 30, 2011, see 2009 Acts, ch 36, §3

DIVISION VII

MISCELLANEOUS

**124.601 Uniformity of interpretation.**

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[C24, 27, 31, 35, §3167; C39, §3169.23; C46, 50, 54, 58, 62, §204.24; C66, 71, §204.22; C73, 75, 77, 79, 81, §204.601]

C93, §124.601

**124.602 Short title.**

This chapter may be cited as the “*Uniform Controlled Substances Act*”.

[C39, §3169.24; C46, 50, 54, 58, 62, §204.25; C66, 71, §204.23; C73, 75, 77, 79, 81, §204.602]  
C93, §124.602