

CRIMINAL LAW
TITLE 5. CONTROLLED DANGEROUS SUBSTANCES, PRESCRIPTIONS, AND OTHER
SUBSTANCES
SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS

Md. CRIMINAL LAW Code Ann. § 5-101 (2014)

§ 5-101. Definitions

(a) In general. -- In this title the following words have the meanings indicated.

**** REVISOR'S NOTE**

This subsection is new language derived without substantive change from the introductory language of former Art. 27, § 277.

**** REVISOR'S NOTE**

The former reference to "phrases" is deleted as implicit in the reference to "words".

**** REVISOR'S NOTE**

The former qualification "unless the context otherwise requires" is deleted as an unnecessary statement of a standard rule of statutory construction that applies to all definitions.

(b) Administer. -- "Administer" means to introduce a substance into the system of a human or animal by injection, inhalation, ingestion, application to the skin, or any combination of those methods or by any other means.

**** REVISOR'S NOTE**

This subsection formerly was Art. 27, § 277(a).

**** REVISOR'S NOTE**

The only changes are in style.

(c) Agent. --

(1) "Agent" means an employee or other authorized person who acts for or at the direction of a manufacturer, distributor, or authorized provider.

(2) "Agent" does not include:

(i) a common carrier, contract carrier, or public warehouseman; or

(ii) an employee of a common carrier, contract carrier, or public warehouseman.

** REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(b).

** REVISOR'S NOTE

In paragraph (1) of this subsection, the reference to acting "for" or at the direction of a manufacturer is substituted for the former reference to acting "on behalf of or at the direction of a manufacturer" for brevity.

** DEFINED TERM:

(d) Authorized provider. -- **

(1) "Authorized provider" means: **

(i) a person licensed, registered, or otherwise allowed to administer, distribute, dispense, or conduct research on a controlled dangerous substance in the State in the course of professional practice or research; or **

(ii) a pharmacy, laboratory, hospital, or other institution licensed, registered, or otherwise allowed to administer, distribute, dispense, or conduct research on a controlled dangerous substance in the State in the course of professional practice or research. **

(2) "Authorized provider" includes: **

(i) a scientific investigator; **

(ii) an individual authorized by the State to practice medicine, dentistry, or veterinary medicine; and **

(iii) an animal control facility licensed under § 2-305 of the Agriculture Article.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(t)(1) and the first sentence of (2).

REVISOR'S NOTE

The term "authorized provider" is substituted for the former term "practitioner" to clarify that the term refers both to individuals and to facilities that are authorized to administer, dispense, distribute, or conduct research about a controlled dangerous substance.

REVISOR'S NOTE

The second sentence of former Art. 27, § 277(t)(2), which defined "hospital" as "an institution for the care and treatment of the sick and injured approved by the Department, as proper to be entrusted with the custody of controlled dangerous substances under the direction of a physician, dentist, or veterinarian" is deleted as redundant in light of paragraph (1)(ii) of this subsection, because the entities to which the term "hospital" referred are included in the defined term "person", and because it did not add anything to the ordinary meaning of the word "hospital". No substantive change is intended.

REVISOR'S NOTE

In paragraph (2) of this subsection, the former references to a physician, dentist, and veterinarian authorized "by law" to practice in this State are deleted as included in the reference to being "authorized by the State" to practice. **

(e) Cannabimimetic agents. -- **

(1) "Cannabimimetic agents" means substances that are cannabinoid receptor type 1 (CB1 receptor) agonists as demonstrated by binding studies and functional assays within one of the following structural classes: **

(i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent; **

(ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthoyl or naphthyl ring to any extent; **

(iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted on the naphthoyl ring to any extent; **

(iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent and whether or not substituted on the naphthyl ring to any extent; or **

(v) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted on the phenyl ring to any extent. **

(2) "Cannabimimetic agents" includes: **

(i) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497); **

(ii) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog); **

(iii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678); **

(iv) 1-butyl-3-(1-naphthoyl)indole (JWH-073); **

(v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019); **

(vi) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200); **

(vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250); **

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

(ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122); **

(x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398); **

(xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201); **

(xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694); **

(xiii) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4); **

(xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8); and **

(xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203). **

(f) Coca leaf. -- **

(1) "Coca leaf" includes a leaf containing cocaine, the optical and geometric isomers of cocaine, and any compound, manufactured substance, salt, derivative, mixture, or preparation of a coca leaf. **

(2) "Coca leaf" does not include a derivative of a coca leaf that does not contain cocaine, ecgonine, or a substance from which cocaine or ecgonine may be synthesized or made.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(q)(1) as it defined "coca leaves".

REVISOR'S NOTE

In paragraph (1) of this subsection, the term "includes" is substituted for the former term

"means" to clarify that the definition is broader than the commonly understood meaning of a leaf. See Art. 1, § 30. **

(g) Controlled dangerous substance. -- **

(1) "Controlled dangerous substance" means: **

(i) a drug or substance listed in Schedule I through Schedule V; or **

(ii) an immediate precursor to a drug or substance listed in Schedule I through Schedule V that: **

1. by regulation the Department designates as being the principal compound commonly used or produced primarily for use to manufacture a drug or substance listed in Schedule I through Schedule V; **

2. is an immediate chemical intermediary used or likely to be used to manufacture a drug or substance listed in Schedule I through Schedule V; and **

3. must be controlled to prevent or limit the manufacture of a drug or substance listed in Schedule I through Schedule V. **

(2) "Controlled dangerous substance" does not include distilled spirits, wine, malt beverages, or tobacco.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(f) and (v).

REVISOR'S NOTE

In paragraph (1)(ii)1 of this subsection, the former phrase "found to be" a specified kind of substance is deleted as implicit in the reference to a designation as that kind of substance.

REVISOR'S NOTE

In paragraph (1)(ii)3 of this subsection, the former reference to "curtail[ing]" manufacture is deleted in light of the references to "prevent[ing] or limit[ing]" manufacture.

REVISOR'S NOTE

In paragraph (2) of this subsection, the former reference to substances "as ... set in Article 2B of the Code" is deleted as unnecessary and to clarify that none of the listed substances is a "controlled dangerous substance". **

(h) Controlled paraphernalia. -- "Controlled paraphernalia" means: **

(1) a hypodermic syringe, needle, or any other object or combination of objects adapted to administer a controlled dangerous substance by hypodermic injection; **

(2) a gelatin capsule, glassine envelope, or other container suitable for packaging individual quantities of a controlled dangerous substance; or **

(3) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine hydrochloride, or any other substance suitable as a diluent or adulterant.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 287(d), as it defined controlled paraphernalia.

REVISOR'S NOTE

As to the balance of former Art. 27, § 287(d), relating to evidence of controlled paraphernalia, see § 5-620(b).

REVISOR'S NOTE

In item (1) of this subsection, the reference to an "object" is substituted for the former reference to an "instrument or implement" for brevity. **

(i) Deliver. -- "Deliver" means to make an actual, constructive, or attempted transfer or exchange from one person to another whether or not remuneration is paid or an agency relationship exists.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(i).

REVISOR'S NOTE

The former defined term "delivery" is deleted as unnecessary in light of the defined term "deliver".

REVISOR'S NOTE

The former reference to "a controlled dangerous substance" is deleted as misleading because the term "deliver" in this title is not used solely in connection with controlled dangerous substances.

(j) Department. -- "Department" means the Department of Health and Mental Hygiene.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(h).

REVISOR'S NOTE

The former reference to the Department being "of this State" is deleted as unnecessary. **

(k) Depressant or stimulant drug. -- "Depressant or stimulant drug" means a drug that contains any quantity of a substance that the Attorney General of the United States by regulation designates as having a potential for abuse because of: **

(1) a depressant or stimulant effect on the central nervous system; or **

(2) a hallucinogenic effect.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(j)(4).

REVISOR'S NOTE

The former reference to the Attorney General "after investigation, ha[ving] found to have, and by regulation" designated as having a potential for abuse is deleted as included in the reference to "designat[ing]" the substance as a "depressant or stimulant drug". **

(l) Dispense. -- **

(1) "Dispense" means to deliver to the ultimate user or the human research subject by or in accordance with the lawful order of an authorized provider. **

(2) "Dispense" includes to prescribe, administer, package, label, or compound a substance for delivery.

REVISOR'S NOTE

This subsection is new language derived without substantive change from the first sentence of former Art. 27, § 277(k).

REVISOR'S NOTE

In paragraph (1) of this subsection, the former reference to "a controlled dangerous substance" is deleted as misleading because the term "dispense" in this title is not used solely in connection with controlled dangerous substances.

REVISOR'S NOTE

The second sentence of former Art. 27, § 277(k), which defined "dispenser" as "a practitioner who dispenses", is deleted as unnecessary. **

(m) Distribute. -- "Distribute" means, with respect to a controlled dangerous substance, to deliver other than by dispensing.

REVISOR'S NOTE

This subsection is new language derived without substantive change from the first sentence of former Art. 27, § 277(l).

REVISOR'S NOTE

The phrase "with respect to a controlled dangerous substance" is added because the term "distribute" is used in this title not only in connection with controlled dangerous substances but with other items as well.

REVISOR'S NOTE

The second sentence of former Art. 27, § 277(l), which defined "distributor" as "a person who distributes", is deleted as unnecessary. **

(n) Drug. -- **

(1) "Drug" means: **

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary; **

(ii) a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; **

(iii) except for food, a substance intended to affect the structure or function of the body of humans or other animals; or **

(iv) a substance intended for use as a component of any substance specified in item (i), (ii), or (iii) of this paragraph. **

(2) "Drug" does not include a device or an accessory, part, or component of a device.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(m).

REVISOR'S NOTE

In paragraph (1)(i) of this subsection, the former reference to a "supplement" to books that are the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or the official National Formulary is deleted as implicit in the references to those books. See Art. 1, § 21 (reference in statute or other law includes amendments).

REVISOR'S NOTE

In paragraph (1)(iv) of this subsection, the term "substance" is substituted for the former term "article" for consistency within this subsection. **

(o) Drug dependent person. -- "Drug dependent person" means a person who: **

(1) is using a controlled dangerous substance; and **

(2) is in a state of psychological or physical dependence, or both, that: **

(i) arises from administration of that controlled dangerous substance on a continuous basis; and **

(ii) is characterized by behavioral and other responses that include a strong compulsion to take the substance on a continuous basis in order to experience its psychological effects or to avoid the discomfort of its absence.

REVISOR'S NOTE

This subsection is new language derived without substantive change from former Art. 27, § 277(n).

REVISOR'S NOTE

In item (2) of this subsection, the references to "psychological" dependence are substituted for the former references to "psychic" dependence for clarity.

(p) Drug paraphernalia. -- **

(1) "Drug paraphernalia" means equipment, a product, or material that is used, intended for use, or designed for use, in: **

(i) planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing a controlled dangerous substance in violation of this title; or **

(ii) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of this title.**

(2) "Drug paraphernalia" includes: **

(i) a kit used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled dangerous substance or from which a controlled dangerous substance can be derived; **

(ii) a kit used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled dangerous substance; **

(iii) an isomerization device used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled dangerous substance; **

(iv) testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled dangerous substance; **

(v) a scale or balance used, intended for use, or designed for use in weighing or measuring a controlled dangerous substance; **

(vi) a diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used, intended for use, or designed for use in cutting a controlled dangerous substance; **

(vii) a separation gin or sifter used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; **

(viii) a blender, bowl, container, spoon, or mixing device used, intended for use, or designed for use in compounding a controlled dangerous substance; **

(ix) a capsule, balloon, envelope, or other container used, intended for use, or designed for use in packaging small quantities of a controlled dangerous substance; **

(x) a container or other object used, intended for use, or designed for use in storing or concealing a controlled dangerous substance; **

(xi) a hypodermic syringe, needle, or other object used, intended for use, or designed for use in parenterally injecting a controlled dangerous substance into the human body; and

(xii) an object used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body such as:

1. a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without screen, permanent screen, hashish head, or punctured metal bowl; **

2. a water pipe; **

3. a carburetion tube or device; **

4. a smoking or carburetion mask; **

5. an object known as a roach clip used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand; **

6. a miniature spoon used for cocaine and cocaine vials; **

7. a chamber pipe; **

8. a carburetor pipe; **

9. an electric pipe; **

10. an air-driven pipe; **

11. a chillum; **

12. a bong; and **

13. an ice pipe or chiller.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-619(a). However, Ch. 39, Acts of 2002, repealed § 5-619(a) and added identical text as § 5-101(o), renumbering the following subsections accordingly. Essentially, Ch. 39 transferred this subsection intact to § 5-101(o) from § 5-619(a).

SPECIAL REVISOR'S NOTE

In paragraph (1) of this subsection, the former reference to "all" equipment, products, and materials "of any kind" was deleted by Ch. 26 as unnecessary.

SPECIAL REVISOR'S NOTE

Also in paragraph (1) of this subsection, the former phrase "but not limited to" was deleted by Ch. 26 as unnecessary. Art. 1, § 30, provides that "includes" is used "by way of illustration and not by way of limitation".

SPECIAL REVISOR'S NOTE

In paragraph (2)(xii)6 of this subsection, the reference to a miniature "spoon used for cocaine" was substituted by Ch. 26 for the former reference to miniature "cocaine spoons" for clarity. The Criminal Law Article Review Committee called this substitution to the attention of the General Assembly.

DEFINED TERMS:

"Controlled dangerous substance"	§ 5-101
"Manufacture"	§ 5-101
"Marijuana"	§ 5-101
"Produce"	§ 5-101

(q) Manufacture. -- **

(1) "Manufacture", with respect to a controlled dangerous substance, means to produce, prepare, propagate, compound, convert, or process a controlled dangerous substance: **

(i) directly or indirectly by extraction from substances of natural origin; **

(ii) independently by chemical synthesis; or **

(iii) by a combination of extraction and chemical synthesis. **

(2) "Manufacture" includes to package and repackage a controlled dangerous substance and label and relabel its containers. **

(3) "Manufacture" does not include: **

(i) to prepare or compound a controlled dangerous substance by an individual for the individual's own use; or **

(ii) to prepare, compound, package, or label a controlled dangerous substance: **

1. by an authorized provider incidental to administering or dispensing a controlled dangerous substance in the course of professional practice; or **

2. if the controlled dangerous substance is not for sale by an authorized provider, or

by the authorized provider's agent under the authorized provider's supervision, for or incidental to research, teaching, or chemical analysis.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(o), which was new language derived without substantive change from former Art. 27, § 277(p). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(p).

SPECIAL REVISOR'S NOTE

In paragraph (1) of this subsection, the phrase "with respect to a controlled dangerous substance" was added by Ch. 26 for clarity because the term "manufacture" is used in this title not only in connection with controlled dangerous substances but with other items as well. *See, e.g.*, §§ 5-604(c) ("to manufacture ... equipment") and 5-619(d) ("to manufacture ... drug paraphernalia"). **

(r) Marijuana. -- **

(1) "Marijuana" means: **

(i) all parts of any plant of the genus *Cannabis*, whether or not the plant is growing; **

(ii) the seeds of the plant; **

(iii) the resin extracted from the plant; and **

(iv) each compound, manufactured product, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. **

(2) "Marijuana" does not include: **

(i) the mature stalks of the plant; **

(ii) fiber produced from the mature stalks; **

(iii) oil or cake made from the seeds of the plant; **

(iv) except for resin, any other compound, manufactured product, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or **

(v) the sterilized seed of the plant that is incapable of germination.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(p), which was new language

derived without substantive change from former Art. 27, § 277(o). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(q). **

(s) Narcotic drug. -- **

(1) "Narcotic drug" means a substance: **

(i) that has been found to present an extreme danger to the health and welfare of the community because of addiction-forming and addiction-sustaining qualities; **

(ii) that is: **

1. an opiate; **

2. a compound, manufactured substance, salt, derivative, or preparation of opium, coca leaf, or an opiate; or **

3. a substance and any compound, manufactured substance, salt, derivative, or preparation that is chemically identical with a substance listed in items 1 and 2 of this item; and **

(iii) that is produced: **

1. directly or indirectly by extraction from substances of vegetable origin; **

2. independently by chemical synthesis; or **

3. by a combination of extraction and chemical synthesis. **

(2) "Narcotic drug" includes decocainized coca leaf or an extract of coca leaf that does not contain cocaine or ecgonine.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(q), which was new language derived without substantive change from the introductory language of former Art. 27, § 277(q), (q)(2) and (3) and the first word of (1). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(r).

SPECIAL REVISOR'S NOTE

In paragraph (1)(i) of this subsection, the reference to "qualities" was substituted by Ch. 26 for the former reference to "liabilities" for clarity. **

(t) Noncontrolled substance. -- "Noncontrolled substance" means a substance that is not classified as a controlled dangerous substance under Subtitle 4 of this title.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(r), which was new language derived without substantive change from former Art. 27, §§ 286B(a)(1) and 287B(a). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(s).

SPECIAL REVISOR'S NOTE

The specific reference to "Subtitle 4 of this title" was substituted by Ch. 26 for the former reference to "State law or regulation" for clarity.

SPECIAL REVISOR'S NOTE

The former references to "this section" were deleted by Ch. 26 as unnecessary in light of the reorganization of material concerning noncontrolled substances in this revision. **

(u) Opiate. -- **

(1) "Opiate" means a substance that has an addiction-forming or addiction-sustaining quality similar to morphine or that can be converted into a drug that has this addiction-forming or addiction-sustaining quality. **

(2) "Opiate" includes: **

(i) the racemic and levorotatory forms of an opiate; **

(ii) except for seeds, the opium poppy, the plant of the species *Papaver somniferum* L.; **

(iii) the poppy straw consisting of the opium poppy after mowing except the seeds; and **

(iv) coca leaf. **

(3) "Opiate" does not include, unless specifically designated as controlled under § 5-202 of this title, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan).

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(s), which was new language derived without substantive change from former Art. 27, § 277(q)(1) except as it defined "coca leaves". However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(t).

SPECIAL REVISOR'S NOTE

In paragraph (1) of this subsection, the reference to "quality" was substituted by Ch. 26 for the former reference to "liability" for clarity. **

(v) Possess. -- "Possess" means to exercise actual or constructive dominion or control over a thing by one or more persons.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(t), which was new language derived without substantive change from former Art. 27, § 277(s). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(u).

DEFINED TERM:

(w) Prescription drug. -- **

(1) "Prescription drug" means a drug that: **

(i) is intended to be used by an individual; and **

(ii) because of its toxicity, other potentiality for harmful effect, method of use, or collateral measures necessary for its use: **

1. bears a cautionary label warning a person that under federal law the drug may not be dispensed without a prescription; or **

2. is designated by the Department as not safe for use except under the supervision of a person licensed by the State to administer a prescription drug. **

(2) "Prescription drug" does not include a controlled dangerous substance.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(u), which was new language derived without substantive change from former Art. 27, § 300(a). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(v).

SPECIAL REVISOR'S NOTE

In the introductory language to paragraph (1) of this subsection, the former reference to "includ[ing]" was deleted by Ch. 26 as unnecessary in light of the reference to "mean[ing]".

SPECIAL REVISOR'S NOTE

In paragraph (1)(ii)2 of this subsection, the reference to a "person licensed by the State"

to administer a prescription drug was substituted by Ch. 26 for the former reference to a "practitioner licensed by law" to administer the drug for clarity.

SPECIAL REVISOR'S NOTE

In paragraph (2) of this subsection, the former reference to a controlled dangerous substance "as defined in this subheading" was deleted by Ch. 26 in light of subsection (a) of this section to the same effect.

SPECIAL REVISOR'S NOTE

Former Art. 27, § 305(a), which provided that the definition in this subsection applied to former Art. 27, § 305, was deleted by Ch. 26 as unnecessary in light of the reorganization of material relating to prescription drugs in this revision.

(x) Produce. -- "Produce", with respect to a controlled dangerous substance, includes to manufacture, plant, cultivate, grow, and harvest.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(v), which was new language derived without substantive change from former Art. 27, § 277(u). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(w). **

(y) Registrant. -- "Registrant" means a person who is registered by the Department to manufacture, distribute, or dispense a controlled dangerous substance in the State.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(w), which was new language added to create a convenient reference to a person who is registered by the Department under this title. However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(x).

(z) Schedule I. -- "Schedule I" means a list of controlled dangerous substances that appears in § 5-402 of this title.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(x), which was new language added to create a convenient reference to the list of controlled dangerous substances in § 5-402 of this title. However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(y). **

(aa) Schedule II. -- "Schedule II" means a list of controlled dangerous substances that appears in § 5-403 of this title.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(y), which was new language added to create a convenient reference to the list of controlled dangerous substances in § 5-403 of this title. However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(z). **

(bb) Schedule III. -- "Schedule III" means a list of controlled dangerous substances that appears in § 5-404 of this title.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(z), which was new language added to create a convenient reference to the list of controlled dangerous substances in § 5-404 of this title. However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(aa). **

(cc) Schedule IV. -- "Schedule IV" means a list of controlled dangerous substances that appears in § 5-405 of this title.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(aa), which was new language added to create a convenient reference to the list of controlled dangerous substances in § 5-405 of this title. However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(bb). **

(dd) Schedule V. -- "Schedule V" means a list of controlled dangerous substances that appears in § 5-406 of this title.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(bb), which was new language added to create a convenient reference to the list of controlled dangerous substances in § 5-406 of this title. However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(cc). **

(ee) Secretary. -- "Secretary" means the Secretary of the Department.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(cc), which was new language added to allow concise reference to the Secretary of the Department of Health and Mental Hygiene. However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(dd). **

(ff) Ultimate user. -- "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or by a member of the person's household.

SPECIAL REVISOR'S NOTE

Chapter 26, Acts of 2002, enacted this subsection as § 5-101(dd), which was new language derived without substantive change from former Art. 27, § 277(x). However, Ch. 39, Acts of 2002, renumbered this subsection to be § 5-101(ee).

§ 5-102. Legislative findings and purpose of title

(a) Findings. -- The General Assembly finds that:

(1) many of the substances listed in this title have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the people of the State; but

(2) the illegal manufacture, distribution, possession, and administration of controlled dangerous substances have a substantial and detrimental effect on the health and general welfare of the people of the State.

(b) Purpose. --

(1) The purpose of this title is to establish a uniform law to control the manufacture, distribution, possession, and administration of controlled dangerous substances and related paraphernalia to:

(i) ensure their availability for legitimate medical and scientific purposes; but

(ii) prevent their abuse, which results in a serious health problem to the individual and represents a serious danger to the welfare of the people of the State.

(2) This title shall be liberally construed to accomplish this purpose.

§ 5-103. Scope of title

(a) Sales of prescription drug. --

(1) Subject to paragraph (2) of this subsection, this title does not apply to the sale of a prescription drug:

(i) made to an authorized provider; or

(ii) made by a manufacturer, wholesale distributor, or pharmacist licensed by the State to:

1. another manufacturer, wholesale distributor, or pharmacist licensed by the State; or

2. a hospital or institution that operates a dispensary in which an authorized provider licensed to administer prescription drugs is in charge.

(2) A sale is exempt from this title only if a record of the sale:

(i) is maintained and available for inspection; and

(ii) shows the date of sale, the name and address of the purchaser, and the quantity purchased.

(b) Drug for farm use; certain drugs previously available without prescription. -- This title does not apply to:

(1) the distribution of a prescription drug, device, or supply for the treatment, care, or cure of farm animals, poultry, fowl, or other animals used in furtherance of farming activities;

(2) the sale or offering for sale, or the distribution of seeds, feed for livestock and poultry, fertilizers, lime, land plaster, fungicides, and insecticides; or

(3) a drug that on June 1, 1961, could be sold without a prescription.

§ 5-201. Enforcement of title

(a) In general. -- The Department, those of its officers, agents, inspectors, and representatives whom the Secretary designates, and each police officer and State's Attorney in the State shall:

(1) enforce the provisions of this title that are not specifically delegated; and

(2) cooperate with each unit that enforces any federal, state, or local law relating to controlled dangerous substances.

(b) Optional programs. -- The Department may:

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

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

(3) eradicate wild or unlawfully grown plants from which controlled dangerous substances may be extracted; and

(4) cooperate with the federal Drug Enforcement Administration by establishing a centralized unit that will:

(i) accept, catalogue, file, and collect statistics obtained from law-enforcement units, including records of drug dependent persons convicted of drug crimes and of other offenders who violate dangerous substance laws in the State; and

(ii) make the statistics available for federal, State, and local law-enforcement purposes.

§ 5-202. Control of substances

(a) In general. -- The Department shall control all substances listed in Subtitle 4 of this title.

(b) Additional substances. -- In accordance with the Administrative Procedure Act, the Department may add a substance as a controlled dangerous substance on its own initiative or on the petition of an interested party.

(c) Factors for consideration. -- To determine whether to add a substance as a controlled dangerous substance, the Department shall consider:

(1) the actual or relative potential for abuse of the substance;

(2) if known, scientific evidence of the pharmacological effect of the substance;

(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of abuse of the substance;

(5) the scope, duration, and significance of abuse of the substance;

(6) any risk that the substance poses to the public health;

(7) the ability of the substance to cause psychological or physiological dependence; and

(8) whether the substance is an immediate precursor of a controlled dangerous substance.

(d) Findings and order. -- After considering the factors listed in subsection (c) of this section, the Department shall:

(1) make findings with respect to those factors; and

(2) issue an order to control the substance if the Department finds that the substance has a potential for abuse.

(e) Precursors. -- If the Department designates a substance as an immediate precursor of a controlled dangerous substance, a substance that is a precursor of the immediate precursor is not subject to control solely because it is a precursor of the immediate precursor.

(f) Objection to inclusion. --

(1) A new substance that is designated as a controlled substance under federal law is a similarly controlled dangerous substance under this title unless the Department objects to the inclusion.

(2) If the Department objects, it shall publish the reasons for the objection and give each interested party an opportunity to be heard.

(3) After the hearing, the Department shall publish its decision, which is final.

(4) An action for judicial review of a final decision made in accordance with this section does not stay the effect of the decision.

(g) Schedule update and republication. -- The Department annually shall update and republish a schedule.

§ 5-203. Regulations

The Department may adopt regulations to implement this title.

§ 5-204. Fees

The Department may charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances in the State.

§ 5-301. Registration required

(a) In general. --

(1) Except as otherwise provided in this section, a person shall be registered by the Department before the person manufactures, distributes, or dispenses a controlled dangerous substance in the State.

(2) The Department shall adopt regulations to carry out this subsection.

(b) Separate registration for each location. -- An applicant must register separately each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses a controlled dangerous substance.

(c) Scope of registration. -- To the extent authorized by the registration and subject to subsection (b) of this section and this subtitle, a person registered by the Department under this subtitle may:

- (1) possess, manufacture, distribute, or dispense controlled dangerous substances; and
- (2) perform any activity listed in item (1) of this subsection to conduct research.

(d) Exceptions. -- A person need not register with the Department to possess a controlled dangerous substance while acting in the course of the person's business or profession if the person is:

- (1) an agent or agent's employee of a registered manufacturer, distributor, or dispenser of a controlled dangerous substance;
- (2) a common or contract carrier or warehouseman, or an employee of a common or contract carrier or warehouseman; or
- (3) an ultimate user or person in possession of a controlled dangerous substance acting in good faith in accordance with a lawful order of an authorized provider.

(e) Waiver. -- If the Department finds that a waiver is consistent with public health and safety, by regulation, the Department may waive the registration requirement for a manufacturer, distributor, or dispenser.

§ 5-302. Term of registration

(a) In general. -- A registration expires on the date set by the Department unless it is renewed for an additional term as provided in this section.

(b) Limitation on renewal term. -- A registration may not be renewed for more than 2 years.

§ 5-303. Manufacturers and distributors

(a) Department to register applicants. -- Unless the Department determines that the issuance of the registration is inconsistent with the public interest, the Department shall register an applicant to manufacture or distribute controlled dangerous substances included in Schedule I through Schedule V.

(b) Factors to determine public interest. -- To determine the public interest, the Department shall consider:

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

(2) compliance with applicable federal, State, and local law;

(3) any convictions of the applicant under federal, State, and local laws relating to the manufacture, distribution, or dispensing of controlled dangerous substances;

(4) the applicant's experience in the manufacture and distribution of controlled dangerous substances and the effectiveness of the applicant's controls against diversion; and

(5) any other factor that is relevant to and consistent with public health and safety.

(c) Scope of registration. --

(1) A registrant may manufacture or distribute only a controlled dangerous substance that is specified in the registration.

(2) A manufacturer or distributor who complies with federal law on registration, other than fees, is deemed to have complied with this section.

(d) Order forms. --

(1) A registrant may distribute controlled dangerous substances in Schedule I and Schedule II only in accordance with an order form.

(2) A registrant who complies with federal law on order forms for Schedule I and Schedule II is deemed to have complied with this subsection.

§ 5-304. Authorized providers

(a) Registration required. -- If an authorized provider is authorized to dispense or conduct research under State law, the Department shall register the authorized provider to dispense a controlled dangerous substance or to conduct research with a controlled dangerous substance listed in Schedule II through Schedule V.

(b) Separate registration not required. -- The Department need not require separate registration under this section for an authorized provider who is:

(1) engaged in research with a nonnarcotic controlled dangerous substance in Schedule II through Schedule V; and

(2) already registered under this subtitle in another capacity.

(c) Federal registration. -- An authorized provider may conduct research in the State with a controlled dangerous substance listed in Schedule I if the authorized provider is registered under federal law to conduct research with a controlled dangerous substance listed in Schedule I and gives evidence of the registration to the Department.

§ 5-305. Inspections

In accordance with regulations that the Department adopts, the Department may inspect the establishment of a registrant or applicant for registration.

§ 5-306. Required record keeping

(a) Scope of section. -- This section does not apply to an authorized provider who lawfully prescribes or administers, but does not otherwise dispense, a controlled dangerous substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V.

(b) Records required. --

(1) A registrant shall make a complete and accurate record of all stocks of controlled dangerous substances on hand every 2 years during the regular fiscal inventory.

(2) The registrant shall keep the record for 2 years.

(c) Contents of records and inventories. -- Records shall contain the information required by regulations that the Department adopts.

(d) Compliance with federal law. -- A registrant who complies with federal law on records and reports is deemed to have complied with this section.

§ 5-307. Suspensions, revocations, and denials -- Grounds

(a) In general. -- Subject to the notice and hearing provisions of § 5-308 of this subtitle, the Department may deny a registration to any applicant, suspend or revoke a registration, or refuse to renew a registration if the Department finds that the applicant or registrant:

(1) has materially falsified an application filed in accordance with or required by this title;

(2) has been convicted of a crime under federal law or the law of any state relating to a controlled dangerous substance;

(3) has had federal registration suspended or revoked and may no longer manufacture, distribute, or dispense a controlled dangerous substance; or

(4) has violated this title.

(b) Limits on revocation or suspension. -- The Department may limit revocation or suspension of a registration to the particular controlled dangerous substance for which grounds for revocation or suspension exist.

§ 5-308. Suspensions, revocations, and denials -- Notice and hearing

(a) Order to show cause required. --

(1) Before the Department takes action under § 5-307 of this subtitle, the Department shall serve on the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended or its renewal refused.

(2) The order to show cause shall:

(i) contain a statement of the basis of the proposed denial, revocation, suspension, or refusal; and

(ii) order the applicant or registrant to appear before the Department at a time and place stated in the order, but not less than 30 days after the date of receipt of the order.

(3) If the Department proposes to deny a renewal of registration, the order to show cause shall be served at least 30 days before the registration expires.

(b) Conduct of proceedings. -- Proceedings to deny, revoke, or suspend a registration or renewal of a registration shall be conducted in accordance with the Administrative Procedure Act.

(c) Proceedings independent of criminal prosecution. --

(1) The proceedings under this section shall be independent of and not instead of any criminal prosecution or other proceeding under State law.

(2) Except as provided in subsection (d) of this section, an existing registration:

(i) is not abated by proceedings to refuse renewal of registration; and

(ii) shall remain in effect pending the outcome of the proceedings under this section.

(d) Suspensions during imminent public danger. --

(1) The Department may suspend a registration simultaneously with the institution of proceedings under this section if the Department finds that an imminent danger exists to public health or safety.

(2) The suspension shall continue until the earliest of:

(i) the end of all proceedings, including any judicial review;

(ii) withdrawal by the Department of the suspension; or

(iii) dissolution of the suspension by the appropriate circuit court.

§ 5-309. Placing under seal and disposing of controlled dangerous substances

(a) Placing under seal. -- If the Department suspends or revokes a registration, the Department may place under seal all controlled dangerous substances that the registrant owns or possesses at the time of the suspension or revocation in accordance with the registration.

(b) Disposition after time for appeals. -- Unless the court on request orders the sale of perishable substances and the deposit of the proceeds of the sale with the court, a disposition may not be made of controlled dangerous substances under seal until the time for taking an appeal has elapsed or until all appeals end.

(c) Forfeiture of controlled dangerous substances. -- When a revocation order becomes final, all controlled dangerous substances placed under seal in accordance with this section shall be forfeited to the State.

§ 5-310. Notice to Drug Enforcement Administration

The Department shall notify promptly the federal Drug Enforcement Administration of each order that suspends or revokes registration and each forfeiture of a controlled dangerous substance under this subtitle.

§ 5-401. In general

(a) Names of controlled dangerous substances. -- The substances included in the schedules in this subtitle are controlled dangerous substances whether designated by official name, common or usual name, chemical name, or trade name.

(b) Depressant or stimulant drug -- Construction. -- For purposes of this subtitle, a drug is a depressant or stimulant drug if:

(1) it is lysergic acid diethylamide; or

(2) it contains any quantity of:

(i) barbituric acid or a salt of barbituric acid;

(ii) a derivative of barbituric acid that is designated as habit forming under the Federal Food, Drug, and Cosmetic Act;

(iii) amphetamine or its optical isomers;

(iv) a salt of amphetamine or a salt of an optical isomer of amphetamine;

(v) a substance that the Attorney General of the United States designates as habit-forming because of its stimulant effect on the central nervous system; or

(vi) a substance that the Attorney General of the United States designates as having a potential for abuse because of:

1. a depressant or stimulant effect on the central nervous system; or
2. a hallucinogenic effect.

§ 5-402. Schedule I

(a) In general. -- Schedule I consists of each controlled dangerous substance:

(1) listed in this section;

(2) added to Schedule I by the Department under § 5-202(b) of this title; or

(3) designated as a Schedule I controlled dangerous substance by the federal government unless the Department objects under § 5-202(f) of this title.

(b) Core substances. --

(1) These substances are listed in Schedule I:

(i) acetylmethadol;

(ii) alfentanil;

(iii) allylprodine;

(iv) alphacetylmethadol, except levoalphacetylmethadol;

(v) alphameprodine;

(vi) alphasmethadol;

(vii) benzethidine;

(viii) betacetylmethadol;

(ix) betameprodine;

(x) betamethadol;

(xi) betaprodine;

(xii) clonitazene;

- (xiii) dextromoramide;
- (xiv) dextrorphan;
- (xv) diampromide;
- (xvi) diethylthiambutene;
- (xvii) dimenoxadol;
- (xviii) difenoxin;
- (xix) dimepheptanol;
- (xx) dimethylthiambutene;
- (xxi) dioxaphetyl butyrate;
- (xxii) dipipanone;
- (xxiii) ethylmethylthiambutene;
- (xxiv) etonitazene;
- (xxv) etoxeridine;
- (xxvi) furethidine;
- (xxvii) hydroxypethidine;
- (xxviii) ketobemidone;
- (xxix) levomoramide;
- (xxx) levophenacymorphan;
- (xxxi) morpheridine;
- (xxxii) noracymethadol;
- (xxxiii) norlevorphanol;
- (xxxiv) normethadone;
- (xxxv) norpipanone;

- (xxxvi) phenadoxone;
- (xxxvii) phenampromide;
- (xxxviii) phenomorphan;
- (xxxix) phenoperidine;
- (xl) piritramide;
- (xli) proheptazine;
- (xlii) properidine;
- (xliii) propiram;
- (xliv) racemoramide; and
- (xlv) trimeperidine.

(2) Unless specifically excepted under this subtitle, an isomer, ester, ether, or salt of a substance listed in this subsection or a salt of the isomer, ester, or ether is a substance listed in Schedule I if the existence of the isomer, ester, ether, or salt is possible within the specific chemical designation.

(c) Opium derivatives. --

(1) These opium derivatives are substances listed in Schedule I:

- (i) acetorphine;
- (ii) acetyldihydrocodeine;
- (iii) acetylcodeine;
- (iv) benzylmorphine;
- (v) codeine methylbromide;
- (vi) codeine-N-oxide;
- (vii) codoxime;
- (viii) cyprenorphine;
- (ix) desomorphine;

- (x) dihydromorphine;
- (xi) drotebanol;
- (xii) ethylmorphine methyl iodide;
- (xiii) etorphine;
- (xiv) etorphine 3-methylether;
- (xv) heroin;
- (xvi) hydromorphanol;
- (xvii) methyl desorphine;
- (xviii) methyl dihydromorphinone;
- (xix) methyl hydromorphine;
- (xx) morphine methyl bromide;
- (xxi) morphine methyl chloride;
- (xxii) morphine methyl sulfonate;
- (xxiii) morphine-N-oxide;
- (xxiv) myrophine;
- (xxv) nicocodeine;
- (xxvi) nicodicodine;
- (xxvii) nicomorphine;
- (xxviii) norcodeine;
- (xxix) normorphine;
- (xxx) pholcodine; and
- (xxxi) thebacon.

(2) Unless specifically excepted under this subtitle, a salt, isomer, or salt of an isomer of a

substance listed in this subsection is a Schedule I substance if the existence of the salt, isomer, or salt of an isomer is possible within the specific chemical designation.

(d) Hallucinogens. --

(1) A material, compound, mixture, or preparation that contains any of the following hallucinogenic or hallucinogenic-like substances is a substance listed in Schedule I:

- (i) bufotenine;
- (ii) diethyltryptamine;
- (iii) dimethyltryptamine;
- (iv) 4-methyl-2, 5-dimethoxyamphetamine;
- (v) ibogaine;
- (vi) lysergic acid diethylamide;
- (vii) marijuana;
- (viii) mescaline;
- (ix) peyote;
- (x) psilocybin;
- (xi) psilocyn;
- (xii) tetrahydrocannabinol;
- (xiii) thiophene analog of phencyclidine;
- (xiv) 2, 5-dimethoxyamphetamine;
- (xv) 4-bromo-2, 5-dimethoxyamphetamine;
- (xvi) 4-methoxyamphetamine;
- (xvii) 3, 4-methylenedioxyamphetamine;
- (xviii) 3, 4-methylenedioxymethamphetamine (MDMA);
- (xix) 5-methoxy-3, 4-methylenedioxyamphetamine;

- (xx) 3, 4, 5-trimethoxyamphetamine;
- (xxi) N-methyl-3-piperidyl benzilate;
- (xxii) N-ethyl-3-piperidyl benzilate;
- (xxiii) N-ethyl-1-phenylcyclohexylamine;
- (xxiv) 1-(1-phenylcyclohexyl)-pyrrolidine;
- (xxv) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- (xxvi) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);
- (xxvii) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP);
- (xxviii) 3, 4-methylenedioxymethcathinone (methylone);
- (xxix) 3, 4-methylenedioxypyrovalerone (MDPV);
- (xxx) 4-methylmethcathinone (mephedrone);
- (xxxi) 4-methoxymethcathinone (methedrone);
- (xxxii) 4-fluoromethcathinone (flephedrone);
- (xxxiii) 3-fluoromethcathinone (3-FMC); and
- (xxxiv) cannabimimetic agents.

(2) Unless specifically excepted under this subtitle, a salt, isomer, or salt of an isomer of a substance listed in this subsection is a substance listed in Schedule I if the existence of the salt, isomer, or salt of an isomer is possible within the specific chemical designation.

(e) Depressants. --

(1) Unless specifically excepted under this subtitle or listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system is a substance listed in Schedule I:

- (i) mecloqualone;
- (ii) methaqualone; and
- (iii) a salt, isomer, or salt of an isomer of a substance listed in this paragraph if the

existence of the salt, isomer, or salt of an isomer is possible within the specific chemical designation.

(2) Any material, compound, mixture, or preparation that contains any of the following substances is a substance listed in Schedule I:

(i) 3-methylfentanyl (N-3-methyl-1-(2-phenylethyl)-4-piperidyl-1-N-phenylpropanamide), its optical and geometric isomers, salts, and salts of isomers;

(ii) acetyl-alpha-methylfentanyl;

(iii) alpha-methylthiofentanyl;

(iv) benzylfentanyl;

(v) beta-hydroxy-3-methylfentanyl;

(vi) beta-hydroxyfentanyl;

(vii) thenylfentanyl;

(viii) thiofentanyl; and

(ix) 3-methylthiofentanyl.

(f) Analogues. --

(1) In this subsection:

(i) "controlled dangerous substance analogue" means a substance:

1. that has a chemical structure substantially similar to the chemical structure of a controlled dangerous substance listed in Schedule I or Schedule II; and

2. that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance listed in Schedule I or Schedule II; but

(ii) "controlled dangerous substance analogue" does not include:

1. a controlled dangerous substance;

2. a substance for which there is an approved new drug application; or

3. a substance exempted for investigational use under § 506 of the Federal Food,

Drug, and Cosmetic Act.

(2) To the extent intended for human consumption, each controlled dangerous substance analogue is a substance listed in Schedule I.

(g) Required factors for adding substance. -- The Department may not add a substance to Schedule I under § 5-202 of this title unless the Department finds:

- (1) a high potential for abuse of the substance;
- (2) no accepted medical use in the United States for the substance; and
- (3) a lack of accepted safety for use of the substance under medical supervision.

§ 5-403. Schedule II

(a) In general. -- Schedule II consists of each controlled dangerous substance:

- (1) listed in this section;
- (2) added to Schedule II by the Department under § 5-202(b) of this title; or

(3) designated as a Schedule II controlled dangerous substance by the federal government unless the Department objects under § 5-202(f) of this title.

(b) Core substances. --

(1) Unless the substance is listed in another schedule and except as provided in paragraph (2) of this subsection, opium and opiate, and a salt, compound, derivative, or preparation of opium or opiate is a substance listed in Schedule II, including:

- (i) raw opium;
- (ii) opium extracts;
- (iii) opium fluid;
- (iv) powdered opium;
- (v) granulated opium;
- (vi) tincture of opium;
- (vii) codeine;
- (viii) ethylmorphine;

(ix) etorphine hydrochloride;

(x) hydrocodone;

(xi) hydromorphone;

(xii) metopon;

(xiii) morphine;

(xiv) oxycodone;

(xv) oxymorphone; and

(xvi) thebaine.

(2) Apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, are not substances listed in Schedule II.

(3) Substances listed in Schedule II also include:

(i) except for the isoquinoline alkaloids of opium, a salt, compound, derivative, or preparation that is chemically equivalent or identical to a substance listed in paragraph (1) of this subsection;

(ii) opium poppy and poppy straw;

(iii) coca leaf;

(iv) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(v) ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(vi) a compound, mixture, or preparation that contains any of the substances listed in this section.

(4) A substance that is listed in Schedule II is included whether produced:

(i) directly or indirectly by extraction from substances of vegetable origin;

(ii) independently by chemical synthesis; or

(iii) by a combination of extraction and chemical synthesis.

(c) Certain opiates. --

(1) These opiates are substances listed in Schedule II:

- (i) alphaprodine;
- (ii) anileridine;
- (iii) bezitramide;
- (iv) dihydrocodeine;
- (v) diphenoxylate;
- (vi) fentanyl;
- (vii) isomethadone;
- (viii) levoalphacetylmethadol;
- (ix) levomethorphan;
- (x) levorphanol;
- (xi) metazocine;
- (xii) methadone;
- (xiii) methadone -- intermediate,
4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (xiv) moramide -- intermediate,
2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (xv) pethidine;
- (xvi) pethidine -- intermediate -- A,
4-cyano-1-methyl-4-phenylpiperidine;
- (xvii) pethidine -- intermediate -- B,
ethyl-4-phenylpiperidine-4-carboxylate;
- (xviii) pethidine -- intermediate -- C,
1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (xix) phenazocine;

- (xx) piminodine;
- (xxi) racemethorphan;
- (xxii) racemorphan; and
- (xxiii) sulfentanil.

(2) Unless specifically excepted under this subtitle, an isomer, ester, ether, or salt of an opiate and a salt of an isomer, ester, or ether is a substance listed in Schedule II if the existence of the isomer, ester, ether, or salt is possible within the specific chemical designation.

(d) Stimulants. -- A substance is listed in Schedule II if the substance includes a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) phenmetrazine and its salts;
- (3) a substance that contains any methamphetamine, including salts, optical isomers, and salts of its optical isomers, in combination with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
- (4) methylphenidate; and
- (5) methamphetamine, its salts, optical isomers, and salts of optical isomers.

(e) Depressants. --

(1) Unless specifically excepted under this subtitle or listed in another schedule, a substance is listed in Schedule II if the substance includes a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:

- (i) amobarbital;
- (ii) secobarbital;
- (iii) pentobarbital;
- (iv) phencyclidine;
- (v) 1-(1-phenylcyclohexyl) piperidine;

(vi) 1-phenylcyclohexylamine; and

(vii) 1-piperidinocyclohexanecarbonitrile.

(2) Unless specifically excepted under this subtitle or listed in another schedule, a salt, isomer, or salt of an isomer of a substance listed in this subsection is included in Schedule II if the existence of the salt, isomer, or salt of an isomer is possible within the specific chemical designation.

(f) Required factors for adding substance. -- The Department may not add a substance to Schedule II under § 5-202 of this title unless the Department finds:

(1) a high potential for abuse of the substance;

(2) currently accepted medical use of the substance in the United States, or currently accepted medical use with severe restrictions; and

(3) evidence that abuse of the substance may lead to severe psychological or physical dependence.

§ 5-404. Schedule III

(a) In general. -- Schedule III consists of each controlled dangerous substance:

(1) listed in this section;

(2) added to Schedule III by the Department under § 5-202(b) of this title; or

(3) designated as a Schedule III controlled dangerous substance by the federal government unless the Department objects under § 5-202(f) of this title.

(b) Nalorphine and anabolic steroid. --

(1) Substances listed in Schedule III include:

(i) nalorphine; and

(ii) except as provided in paragraph (2) of this subsection, an anabolic steroid consisting of a material, compound, or preparation that includes:

1. boldenone;

2. chlorotestosterone;

3. clostebol;

4. dehydrochlormethyltestosterone;
5. dihydrotestosterone;
6. drostanolone;
7. ethylestroenol;
8. fluoxymesterone;
9. formobulone;
10. mesterolone;
11. methandienone;
12. methandranone;
13. methandriol;
14. methandrostenolone;
15. methenolone;
16. methyltestosterone;
17. mibolerone;
18. nandrolone;
19. norethandrolone;
20. oxandrolone;
21. oxymesterone;
22. oxymetholone;
23. stanolone;
24. stanozolol;
25. testolactone;
26. testosterone;

27. trenbolone; and

28. any isomer, ester, salt, or derivative of a substance listed in this paragraph.

(2) The following substances are not included in Schedule III:

(i) an estrogen, progestin, or corticosteroid; or

(ii) a substance covered by paragraph (1) of this subsection if:

1. expressly intended for administration through implants to cattle or other nonhuman species; and

2. approved for that use by the Food and Drug Administration.

(c) Stimulants. --

(1) Unless listed in another schedule, a substance is listed in Schedule III if the substance includes a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system:

(i) benzphetamine;

(ii) chlorphentermine;

(iii) clortermine;

(iv) mazindol; and

(v) phendimetrazine.

(2) Subject to paragraph (3) of this subsection, substances in Schedule III include:

(i) a salt of a substance listed in this subsection;

(ii) an optical, position, or geometric isomer of a substance listed in this subsection; or

(iii) a salt of an isomer of a substance listed in this subsection.

(3) Unless listed in another schedule, a salt, isomer, or salt of an isomer described in paragraph (2) of this subsection may be included in Schedule III only if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation.

(d) Depressants. -- Unless listed in another schedule, a substance is listed in Schedule III if the substance includes a material, compound, mixture, or preparation that contains any

quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) except those substances that are specifically listed in other schedules, a substance that contains any quantity of a derivative of barbituric acid, or a salt of a derivative of a barbituric acid;

(2) chlorhexadol;

(3) glutethimide;

(4) lysergic acid;

(5) lysergic acid amide;

(6) methyprylon;

(7) pentazocine;

(8) sulfondiethylmethane;

(9) sulfonethylmethane; and

(10) sulfonmethane.

(e) Narcotic drugs. --

(1) Substances listed in Schedule III include a material, compound, mixture, or preparation that contains limited quantities of any of these narcotic drugs or their salts:

(i) not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(ii) not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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

(v) not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

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

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

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

(2) Substances listed in Schedule III include a compound, mixture, or preparation or salt of a compound, mixture, or preparation and another active medicinal ingredient that is not listed in another schedule and that contains:

(i) amobarbital;

(ii) secobarbital; or

(iii) pentobarbital.

(3) If not combined with one or more active medicinal ingredients that are listed in another schedule, substances listed in Schedule III include a suppository dosage form or salt of a suppository dosage that contains:

(i) amobarbital;

(ii) secobarbital; or

(iii) pentobarbital.

(f) Other drugs. -- Substances listed in Schedule III include:

(1) dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration-approved product; and

(2) ketamine, its salts, isomers, and salts of isomers.

(g) Required factors for adding substance. -- The Department may not add a substance to

Schedule III under § 5-202 of this title unless the Department finds:

(1) a potential for abuse of the substance that is less than that for the substances listed in Schedule I and Schedule II;

(2) well documented and approved medical use of the substance in the United States; and

(3) evidence that abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

§ 5-405. Schedule IV

(a) In general. -- Schedule IV consists of each controlled dangerous substance:

(1) listed in this section;

(2) added to Schedule IV by the Department under § 5-202(b) of this title; or

(3) designated as a Schedule IV controlled dangerous substance by the federal government unless the Department objects under § 5-202(f) of this title.

(b) Core substances. -- Substances listed in Schedule IV include a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) barbital;

(2) bromazepam;

(3) camazepam;

(4) chloral betaine;

(5) chloral hydrate;

(6) ethchlorvynol;

(7) chlordiazepoxide;

(8) clobazam;

(9) clonazepam;

(10) clorazepate;

(11) clotiazepam;

- (12) cloxazolam;
- (13) delorazepam;
- (14) diazepam;
- (15) estazolam;
- (16) ethinamate;
- (17) ethylloflazepate;
- (18) fludiazepam;
- (19) flunitrazepam;
- (20) flurazepam;
- (21) halazepam;
- (22) haloxazolam;
- (23) ketazolam;
- (24) loprazolam;
- (25) lorazepam;
- (26) lormetazepam;
- (27) mebutamate;
- (28) medazepam;
- (29) methohexital;
- (30) meprobamate;
- (31) methylphenobarbital;
- (32) nimetazepam;
- (33) nitrozepam;
- (34) nordiazepam;

- (35) oxazepam;
- (36) oxazolam;
- (37) paraldehyde;
- (38) petrichloral;
- (39) phenobarbital;
- (40) pinazepam;
- (41) prazepam;
- (42) temazepam;
- (43) tetrazepam; and
- (44) triazolam.

(c) Fenfluramine. -- Substances listed in Schedule IV include:

- (1) a material, compound, mixture, or preparation that contains fenfluramine; and
- (2) if its existence is possible:
 - (i) a salt of fenfluramine;
 - (ii) an optical, position, or geometric isomer of fenfluramine; and
 - (iii) a salt of an isomer of fenfluramine.

(d) Stimulants. -- Substances listed in Schedule IV include a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) diethylpropion;
- (2) pemoline, including organometallic complexes and their chelates; and
- (3) phentermine.

(e) Exemptions. -- By regulation, the Department may exempt from this section a compound, mixture, or preparation that contains a depressant substance listed in subsection (b) of this section if:

(1) the compound, mixture, or preparation contains an active medicinal ingredient that does not have a depressant effect on the central nervous system; and

(2) the admixtures are included in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances that have a depressant effect on the central nervous system.

(f) Required factors for adding substance. -- The Department may not add a substance to Schedule IV under § 5-202 of this title unless the Department finds that:

(1) the substance has a low potential for abuse relative to the substances listed in Schedule III;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

§ 5-406. Schedule V

(a) In general. -- Schedule V consists of each controlled dangerous substance:

(1) listed in this section;

(2) added to Schedule V by the Department under § 5-202(b) of this title; or

(3) designated as a Schedule V controlled dangerous substance by the federal government unless the Department objects under § 5-202(f) of this title.

(b) Core substances. -- A substance is listed in Schedule V if the substance includes a compound, mixture, or preparation that contains the following quantities of narcotic drugs or their salts:

(1) (i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(iii) not more than 50 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

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

(v) unless specifically excepted under this subtitle, or unless listed in another schedule,

any material, compound, mixture, or preparation containing buprenorphine or its salt; and

(2) nonnarcotic active medicinal ingredients in sufficient proportion to confer on the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone.

(c) Required factors for adding substance. -- The Department may not add a substance to Schedule V under § 5-202 of this title unless the Department finds:

(1) the substance has a low potential for abuse relative to the substances listed in Schedule IV;

(2) the substance has currently accepted medical use in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence liability relative to the substances listed in Schedule IV.

§ 5-501. Dispensing of certain substances listed in Schedule II

(a) Written prescription required. -- Except as provided in subsection (b) of this section, a person may not dispense a controlled dangerous substance without a written prescription from an authorized provider if the substance is:

(1) listed in Schedule II; and

(2) a drug to which § 21-220 of the Health - General Article applies.

(b) Exceptions. -- A controlled dangerous substance to which subsection (a) of this section applies may be dispensed without a written prescription by:

(1) an authorized provider who:

(i) is not a pharmacist; and

(ii) dispenses the controlled dangerous substance directly to an ultimate user; or

(2) a pharmacist if:

(i) an emergency exists;

(ii) the pharmacist dispenses the drug under regulations of the Department on an oral prescription that the pharmacist reduces promptly to writing and keeps on file; and

(iii) federal law authorizes the oral prescription.

(c) Records and inventories. -- A prescription for a controlled dangerous substance listed in

Schedule II shall be kept on file in conformity with the requirements for records and inventories under § 5-306 of this title.

(d) Refill prohibited. -- A person may not refill a prescription for a controlled dangerous substance listed in Schedule II.

§ 5-502. Methadone

An authorized provider may not dispense methadone, directly or by prescription, unless:

(1) the authorized provider is associated with a controlled drug therapy program authorized by the Department; or

(2) an emergency or medical situation exists under regulations that the Department adopts in cooperation with the Medical and Chirurgical Faculty of Maryland.

§ 5-503. Opium

(a) "Opium" defined. -- In this section, "opium" includes:

(1) codeine; and

(2) a natural or synthetic compound, manufactured substance, salt, derivative, mixture, or preparation of opium.

(b) Prescription required; exceptions. --

(1) Except on a valid prescription of an authorized prescriber as defined in § 12-101 of the Health Occupations Article, a person may not dispense, give, or sell a preparation containing opium or any of its derivatives.

(2) This subsection does not apply to:

(i) a sale made to an authorized provider; or

(ii) a sale made by a manufacturer, distributor, or licensed pharmacy to a hospital or institution that operates a dispensary in which an authorized provider is in charge.

(c) Possession of opium. --

(1) Except on a prescription from an authorized prescriber as defined in § 12-101 of the Health Occupations Article, a person may not possess or control a preparation containing opium or its derivatives.

(2) A person may possess or control a preparation containing opium or its derivatives if the possession or control is in the regular course of lawful business, occupation, profession, employment, or duty of the person.

(d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

- (1) for a first violation, a fine not exceeding \$ 1,000;
- (2) for a second violation, a fine not exceeding \$ 2,000; or
- (3) for each subsequent violation, imprisonment not exceeding 18 months.

§ 5-504. Substance listed in Schedule III or Schedule IV

(a) Dispensing of substance without prescription. -- Except when dispensed directly to an ultimate user by an authorized provider who is not a pharmacist, a controlled dangerous substance listed in Schedule III or Schedule IV that is a drug to which § 21-220 of the Health - General Article applies may not be dispensed without a written or oral prescription.

(b) Prescription fills and refills. -- Unless renewed by the authorized provider, the prescription may not be:

- (1) filled or refilled more than 6 months after the date of prescription; or
- (2) refilled more than five times.

§ 5-505. Substance listed in Schedule V

(a) Distribution or dispensing only for medical purposes. -- A controlled dangerous substance listed in Schedule V may not be distributed or dispensed except for a medical purpose.

(b) Required labels. -- When dispensing the controlled dangerous substance, an authorized provider shall securely affix to the container, in addition to any other label already there, a label with:

- (1) the dispenser's name, signature, and registry number;
- (2) the date on which the controlled dangerous substance is dispensed; and
- (3) the purchaser's name.

§ 5-601. Possessing or administering controlled dangerous substance.

(a) In general. -- Except as otherwise provided in this title, a person may not:

(1) possess or administer to another a controlled dangerous substance, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

(2) obtain or attempt to obtain a controlled dangerous substance, or procure or attempt to procure the administration of a controlled dangerous substance by:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) the counterfeiting or alteration of a prescription or a written order;

(iii) the concealment of a material fact;

(iv) the use of a false name or address;

(v) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or

(vi) making, issuing, or presenting a false or counterfeit prescription or written order.

(b) Information not privileged. -- Information that is communicated to a physician in an effort to obtain a controlled dangerous substance in violation of this section is not a privileged communication.

(c) Penalty; mitigating factors; substance abuse programs. --

(1) Except as provided in paragraphs (2) and (3) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding \$ 25,000 or both.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a person whose violation of this section involves the use or possession of marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both.

(ii) 1. A first violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding \$ 100.

2. A second violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding \$ 250.

3. A third or subsequent violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding \$ 500.

4. A. In addition to a fine, a court shall order a person under the age of 21 years who commits a violation punishable under subparagraph 1, 2, or 3 of this subparagraph to attend a drug education program approved by the Department of Health and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

B. In addition to a fine, a court shall order a person at least 21 years old who commits a violation punishable under subsubparagraph 3 of this subparagraph to attend a drug education program approved by the Department of Health and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

(3) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Bona fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "Caregiver" means an individual designated by a patient with a debilitating medical condition to provide physical or medical assistance to the patient, including assisting with the medical use of marijuana, who:

A. is a resident of the State;

B. is at least 21 years old;

C. is an immediate family member, a spouse, or a domestic partner of the patient;

D. has not been convicted of a crime of violence as defined in § 14-101 of this article;

E. has not been convicted of a violation of a State or federal controlled dangerous substances law;

F. has not been convicted of a crime of moral turpitude;

G. has been designated as caregiver by the patient in writing that has been placed in the patient's medical record prior to arrest;

H. is the only individual designated by the patient to serve as caregiver; and

I. is not serving as caregiver for any other patient.

4. "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician-patient relationship:

A. cachexia or wasting syndrome;

B. severe or chronic pain;

- C. severe nausea;
- D. seizures;
- E. severe and persistent muscle spasms; or
- F. any other condition that is severe and resistant to conventional medicine.

(ii) 1. In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed marijuana because of medical necessity, on conviction of a violation of this section, the maximum penalty that the court may impose on the person is a fine not exceeding \$ 100.

(iii) 1. In a prosecution for the use or possession of marijuana under this section, it is an affirmative defense that the defendant used or possessed marijuana because:

A. the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician-patient relationship;

B. the debilitating medical condition is severe and resistant to conventional medicine; and

C. marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

2. A. In a prosecution for the possession of marijuana under this section, it is an affirmative defense that the defendant possessed marijuana because the marijuana was intended for medical use by an individual with a debilitating medical condition for whom the defendant is a caregiver.

B. A defendant may not assert the affirmative defense under this subsubparagraph unless the defendant notifies the State's Attorney of the defendant's intention to assert the affirmative defense and provides the State's Attorney with all documentation in support of the affirmative defense in accordance with the rules of discovery provided in Maryland Rules 4-262 and 4-263.

3. An affirmative defense under this subparagraph may not be used if the defendant was:

A. using marijuana in a public place or assisting the individual for whom the defendant is a caregiver in using the marijuana in a public place; or

B. in possession of more than 1 ounce of marijuana.

(d) Effect of (c)(2)(ii) on other laws. -- The provisions of subsection (c)(2)(ii) of this section making the possession of marijuana a civil offense may not be construed to affect the laws relating to:

(1) operating a vehicle or vessel while under the influence of or while impaired by a controlled dangerous substance; or

(2) seizure and forfeiture.

§ 5-601.1. Citation for possession of less than 10 grams of marijuana.

(a) In general. -- A police officer shall issue a citation to a person who the police officer has probable cause to believe has committed a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana.

(b) Civil offense. --

(1) A violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana is a civil offense.

(2) Adjudication of a violation under § 5-601 of this part involving the use or possession of less than 10 grams of marijuana:

(i) is not a criminal conviction for any purpose; and

(ii) does not impose any of the civil disabilities that may result from a criminal conviction.

(c) Contents. --

(1) A citation issued for a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana shall be signed by the police officer who issues the citation and shall contain:

(i) the name and address of the person charged;

(ii) the date and time that the violation occurred;

(iii) the location at which the violation occurred;

(iv) the fine that may be imposed;

(v) a notice stating that prepayment of the fine is allowed, except as provided in paragraph (2) of this subsection; and

(vi) a notice in boldface type that states that the person shall:

1. pay the full amount of the preset fine; or

2. request a trial date at the date, time, and place established by the District Court by writ or trial notice.

(2) (i) If a citation for a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana is issued to a person under the age of 21 years, the court shall summon the person for trial.

(ii) If the court finds that a person at least 21 years old has committed a third or subsequent violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana, the court shall summon the person for trial.

(d) Form. -- The form of the citation shall be uniform throughout the State and shall be prescribed by the District Court.

(e) Schedule for prepayment of fine. -- The Chief Judge of the District Court shall establish a schedule for the prepayment of the fine.

(f) Applicability of procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article. -- A person issued a citation for a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana who is under the age of 18 years shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

(g) Confidentiality. -- A citation for a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana and the official record of a court regarding the citation are not subject to public inspection and may not be included on the public Web site maintained by the Maryland Judiciary.

§ 5-602. Distributing, possessing with intent to distribute, or dispensing controlled dangerous substance

Except as otherwise provided in this title, a person may not:

(1) distribute or dispense a controlled dangerous substance; or

(2) possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense a controlled dangerous substance.

§ 5-603. Equipment to produce controlled dangerous substance

Except as otherwise provided in this title, a person may not manufacture a controlled

dangerous substance, or manufacture, distribute, or possess a machine, equipment, instrument, implement, device, or a combination of them that is adapted to produce a controlled dangerous substance under circumstances that reasonably indicate an intent to use it to produce, sell, or dispense a controlled dangerous substance in violation of this title.

§ 5-604. Counterfeit substance

(a) "Counterfeit substance" defined. -- In this section, "counterfeit substance" means a controlled dangerous substance, or its container or labeling, that:

(1) without authorization, bears a likeness of the trademark, trade name, or other identifying mark, imprint, number, or device of a manufacturer, distributor, or dispenser other than the actual manufacturer, distributor, or dispenser; and

(2) thereby falsely purports or is represented to be the product of, or to have been distributed by, the other manufacturer, distributor, or dispenser.

(b) Prohibited -- Creating or possessing counterfeit substance. -- Except as otherwise provided in this title, a person may not:

(1) create or distribute a counterfeit substance; or

(2) possess a counterfeit substance with intent to distribute it.

(c) Prohibited -- Equipment to create counterfeit substance. -- Except as otherwise provided in this title, a person may not manufacture, distribute, or possess equipment that is designed to print, imprint, or reproduce an authentic or imitation trademark, trade name, other identifying mark, imprint, number, or device of another onto a drug or the container or label of a drug, rendering the drug a counterfeit substance.

§ 5-605. Keeping common nuisance

(a) "Common nuisance" defined. -- "Common nuisance" means a dwelling, building, vehicle, vessel, aircraft, or other place:

(1) resorted to by individuals for the purpose of administering illegally controlled dangerous substances; or

(2) where controlled dangerous substances or controlled paraphernalia are manufactured, distributed, dispensed, stored, or concealed illegally.

(b) Prohibited. -- A person may not keep a common nuisance.

§ 5-606. False prescription

(a) Prohibited. -- Except as otherwise provided in this title, a person may not pass, issue, make, or possess a false, counterfeit, or altered prescription for a controlled dangerous

substance with intent to distribute the controlled dangerous substance.

(b) Information not privileged. -- Information that is communicated to an authorized prescriber in an effort to obtain a controlled dangerous substance in violation of subsection (a) of this section is not a privileged communication.

§ 5-607. Penalties -- Certain crimes

(a) In general. -- Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 15,000 or both.

(b) Repeat offender. --

(1) A person who has been convicted previously under subsection (a) of this section shall be sentenced to imprisonment for not less than 2 years.

(2) The court may not suspend the mandatory minimum sentence to less than 2 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

§ 5-608. Penalties -- Narcotic drug

(a) In general. -- Except as otherwise provided in this section, a person who violates a provision of §§ 5-602 through 5-606 of this subtitle with respect to a Schedule I or Schedule II narcotic drug is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$ 25,000 or both.

(b) Second time offender. --

(1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding \$ 100,000 if the person previously has been convicted once:

(i) under subsection (a) of this section or § 5-609 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle; or

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State.

(2) The court may not suspend the mandatory minimum sentence to less than 10 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8-507 of the Health - General Article because of the length of the sentence.

(c) Third time offender. --

(1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding \$ 100,000 if the person previously:

(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction:

1. under subsection (a) of this section or § 5-609 or § 5-614 of this subtitle;
2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle; or
3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; and

(ii) has been convicted twice, if the convictions arise from separate occasions:

1. under subsection (a) of this section or § 5-609 of this subtitle;
2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle;
3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; or
4. of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 25 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A separate occasion is one in which the second or succeeding crime is committed after

there has been a charging document filed for the preceding crime.

(d) Fourth time offender. --

(1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$ 100,000 if the person previously has served three or more separate terms of confinement as a result of three or more separate convictions:

(i) under subsection (a) of this section or § 5-609 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

§ 5-609. Penalties -- Selected Schedule I and II hallucinogenic substances

(a) In general. -- Except as otherwise provided in this section, a person who violates a provision of §§ 5-602 through 5-606 of this subtitle with respect to any of the following controlled dangerous substances is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$ 20,000 or both:

(1) phencyclidine;

(2) 1-(1-phenylcyclohexyl) piperidine;

(3) 1-phenylcyclohexylamine;

(4) 1-piperidinocyclohexanecarbonitrile;

(5) N-ethyl-1-phenylcyclohexylamine;

(6) 1-(1-phenylcyclohexyl)-pyrrolidine;

(7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;

(8) lysergic acid diethylamide; or

(9) 750 grams or more of 3, 4-methylenedioxyamphetamine (MDMA).

(b) Second time offender. --

(1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding \$ 100,000 if the person previously has been convicted once:

(i) under subsection (a) of this section or § 5-608 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend the mandatory minimum sentence to less than 10 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8-507 of the Health - General Article because of the length of the sentence.

(c) Third time offender. --

(1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding \$ 100,000 if the person previously:

(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction under subsection (a) of this section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and

(ii) if the convictions do not arise from a single incident, has been convicted twice:

1. under subsection (a) of this section or § 5-608 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or

4. of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 25 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.

(d) Fourth time offender. --

(1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$ 100,000 if the person previously has served three separate terms of confinement as a result of three separate convictions:

(i) under subsection (a) of this section or § 5-608 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

§ 5-610. Payment of restitution.

(a) In general. -- In addition to any other penalty provided by law, a person who is convicted or found to have committed a delinquent act under § 5-602, § 5-603, § 5-604, §

5-605, or § 5-606 of this subtitle may be ordered by the court to pay restitution for actual costs reasonably incurred in cleaning up or remediating laboratories or other facilities operated for the illegal manufacture of a controlled dangerous substance.

(b) Minors. -- If the person convicted or found to have committed a delinquent act is a minor, the court may order the minor, the minor's parent, or both to pay the restitution described in subsection (a) of this section.

§ 5-611.

Reserved.