Senate Engrossed

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1346

AN ACT

AMENDING SECTIONS 13-2301, 13-3401, 13-3407, 15-712 AND 32-1901, ARIZONA REVISED STATUTES; RELATING TO DANGEROUS DRUGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-2301, Arizona Revised Statutes, is amended to read:

13-2301. Definitions

A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

1. "Collect an extension of credit" means to induce in any way any person to make repayment of that extension.

2. "Creditor" means any person making an extension of credit or any person claiming by, under or through any person making an extension of credit.

3. "Debtor" means any person to whom an extension of credit is made or any person who guarantees the repayment of an extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom an extension is made to repay the extension.

4. "Extend credit" means to make or renew any loan or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

5. "Extortionate extension of credit" means any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person or the reputation or property of any person.

6. "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person or the reputation or property of any person.

7. "Repayment of any extension of credit" means the repayment, satisfaction or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

B. For the purposes of section 13-2305, 13-2306 or 13-2307:

1. "Dealer in property" means a person who buys and sells property as a business.

2. "Stolen property" means property of another as defined in section 13-1801 that has been the subject of any unlawful taking.

3. "Traffic" means to sell, transfer, distribute, dispense or otherwise dispose of stolen property to another person, or to buy, receive, possess or obtain control of stolen property, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the property to another person.

C. For the purposes of this chapter:

1. "Animal activity" means a commercial enterprise that uses animals for food, clothing or fiber production, agriculture or biotechnology.

2. "Animal facility" means a building or premises where a commercial activity in which the use of animals is essential takes place, ~~which may~~

~~include~~ INCLUDING a zoo, rodeo, circus, amusement park, hunting preserve and horse and dog event.

3. "Animal or ecological terrorism" means any felony in violation of section 13-2312, subsection B that involves at least three persons acting in concert, that involves the intentional or knowing infliction of property damage in an amount of more than ten thousand dollars to the property that is used by a person for the operation of a lawfully conducted animal activity or to a commercial enterprise that is engaged in a lawfully operated animal facility or research facility and that involves either:

(a) The use of a deadly weapon or dangerous instrument.

(b) The intentional or knowing infliction of serious physical injury on a person engaged in a lawfully conducted animal activity or participating in a lawfully conducted animal facility or research facility.

4. "Biological agent" means any microorganism, virus, infectious substance or biological product that may be engineered through biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance or biological product and that is capable of causing any of the following:

(a) Death, disease or physical injury in a human, animal, plant or other living organism.

(b) The deterioration or contamination of air, food, water, equipment, supplies or material of any kind.

5. "Combination" means persons who collaborate in carrying on or furthering the activities or purposes of a criminal syndicate even though such persons may not know each other's identity, membership in the combination changes from time to time or one or more members may stand in a wholesaler-retailer or other arm's length relationship with others as to activities or dealings between or among themselves in an illicit operation.

6. "Communication service provider" has the same meaning prescribed in section 13-3001.

7. "Criminal syndicate" means any combination of persons or enterprises engaging, or having the purpose of engaging, on a continuing basis in conduct that violates any one or more provisions of any felony statute of this state.

8. "Explosive agent" means an explosive as defined in section 13-3101 and flammable fuels or fire accelerants in amounts over fifty gallons but excludes:

(a) Fireworks as defined in section 36-1601.

(b) Firearms.

(c) A propellant actuated device or propellant actuated industrial tool.

(d) A device that is commercially manufactured primarily for the purpose of illumination.

(e) A rocket having a propellant charge of less than four ounces.

9. "Material support or resources" includes money or other financial securities, financial services, lodging, sustenance, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, disguises and other physical assets but does not include medical assistance, legal assistance or religious materials.

10. "Public establishment" means a structure that is owned, leased or operated by this state or a political subdivision of this state or a health care institution as defined in section 36-401.

11. "Research facility" means a laboratory, institution, medical care facility, government facility, public or private educational institution or nature preserve at which a scientific test, experiment or investigation involving the use of animals is lawfully carried out, conducted or attempted.

12. "Terrorism" means any felony, including any completed or preparatory offense, that involves the use of a deadly weapon or a weapon of mass destruction or the intentional or knowing infliction of serious physical injury with the intent to either:

(a) Influence the policy or affect the conduct of this state or any of the political subdivisions, agencies or instrumentalities of this state.

(b) Cause substantial damage to or substantial interruption of public communications, communication service providers, public transportation, common carriers, public utilities, public establishments or other public services.

13. "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances or a recombinant molecule, whatever its origin or method of reproduction, including:

(a) Any poisonous substance or biological product that may be engineered through biotechnology and that is produced by a living organism.

(b) Any poisonous isomer or biological product, homolog or derivative of such substance.

14. "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through biotechnology, that is capable of carrying a biological agent or toxin to a host.

15. "Weapon of mass destruction" means:

(a) Any device or object that is designed or that the person intends to use to cause multiple deaths or serious physical injuries through the use of an explosive agent or the release, dissemination or impact of a toxin, biological agent, poisonous chemical, or its precursor, or any vector.

(b) Except as authorized and used in accordance with a license, registration or exemption by the radiation regulatory agency pursuant to section 30-672, any device or object that is designed or that the person intends to use to release radiation or radioactivity at a level that is dangerous to human life.

D. For the purposes of sections 13-2312, 13-2313, 13-2314 and 13-2315, unless the context otherwise requires:

1. "Control", in relation to an enterprise, means the possession of sufficient means to permit substantial direction over the affairs of an enterprise and, in relation to property, means to acquire or possess.

2. "Enterprise" means any corporation, partnership, association, labor union or other legal entity or any group of persons associated in fact although not a legal entity.

3. "Financial institution" means any business under the jurisdiction of the department of financial institutions or a banking or securities regulatory agency of the United States, a business coming within the definition of a bank, financial agency or financial institution as prescribed by 31 United States Code section 5312 or 31 Code of Federal Regulations section 103.11 or a business under the jurisdiction of the securities division of the corporation commission, the state real estate department or the department of insurance.

4. "Racketeering" means any act, including any preparatory or completed offense, that is chargeable or indictable under the laws of the state or country in which the act occurred and, if the act occurred in a state or country other than this state, that would be chargeable or indictable under the laws of this state if the act had occurred in this state, and that would be punishable by imprisonment for more than one year under the laws of this state and, if the act occurred in a state or country other than this state, under the laws of the state or country in which the act occurred, regardless of whether the act is charged or indicted, and the act involves ~~either~~ ANY OF THE FOLLOWING:

(a) Terrorism, animal terrorism or ecological terrorism that results or is intended to result in a risk of serious physical injury or death.

(b) Any of the following acts if committed for financial gain:

(i) Homicide.

(ii) Robbery.

(iii) Kidnapping.

(iv) Forgery.

(v) Theft.

(vi) Bribery.

(vii) Gambling.

(viii) Usury.

(ix) Extortion.

(x) Extortionate extensions of credit.

(xi) Prohibited drugs, marijuana or other prohibited chemicals or substances.

(xii) Trafficking in explosives, weapons or stolen property.

(xiii) Participating in a criminal syndicate.

(xiv) Obstructing or hindering criminal investigations or prosecutions.

(xv) Asserting false claims including, but not limited to, false claims asserted through fraud or arson.

(xvi) Intentional or reckless false statements or publications concerning land for sale or lease or sale of subdivided lands or sale and mortgaging of unsubdivided lands.

(xvii) Resale of realty with intent to defraud.

(xviii) Intentional or reckless fraud in the purchase or sale of securities.

(xix) Intentional or reckless sale of unregistered securities or real property securities.

(xx) A scheme or artifice to defraud.

(xxi) Obscenity.

(xxii) Sexual exploitation of a minor.

(xxiii) Prostitution.

(xxiv) Restraint of trade or commerce in violation of section 34-252.

(xxv) Terrorism.

(xxvi) Money laundering.

(xxvii) Obscene or indecent telephone communications to minors for commercial purposes.

(xxviii) Counterfeiting marks as proscribed in section 44-1453.

(xxix) Animal terrorism or ecological terrorism.

(xxx) Smuggling of human beings.

(c) POSSESSING, USING, ADMINISTERING, ACQUISITIONING, SELLING, MANUFACTURING OR TRANSPORTING A DANGEROUS DRUG.

5. "Records" means any book, paper, writing, computer program, data, image or information that is collected, recorded, preserved or maintained in any form of storage medium.

6. "Remedy racketeering" means to enter a civil judgment pursuant to this chapter or chapter 39 of this title against property or a person who is subject to liability, including liability for injury to the state that is caused by racketeering or by actions in concert with racketeering.

E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:

1. "Access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or network.

2. "Access device" means any card, token, code, account number, electronic serial number, mobile or personal identification number, password, encryption key, biometric identifier or other means of account access, including a canceled or revoked access device, that can be used alone or in conjunction with another access device to obtain money, goods, services, computer or network access or any other thing of value or that can be used to initiate a transfer of any thing of value.

3. "Computer" means an electronic device that performs logic, arithmetic or memory functions by the manipulations of electronic or magnetic impulses and includes all input, output, processing, storage, software or

communication facilities that are connected or related to such a device in a system or network.

4. "Computer contaminant" means any set of computer instructions that is designed to modify, damage, destroy, record or transmit information within a computer, computer system or network without the intent or permission of the owner of the information, computer system or network. Computer contaminant includes a group of computer instructions, such as viruses or worms, that is self-replicating or self-propagating and that is designed to contaminate other computer programs or computer data, to consume computer resources, to modify, destroy, record or transmit data or in some other fashion to usurp the normal operation of the computer, computer system or network.

5. "Computer program" means a series of instructions or statements, in a form acceptable to a computer, that permits the functioning of a computer system in a manner designed to provide appropriate products from the computer system.

6. "Computer software" means a set of computer programs, procedures and associated documentation concerned with the operation of a computer system.

7. "Computer system" means a set of related, connected or unconnected computer equipment, devices and software, including storage, media and peripheral devices.

8. "Critical infrastructure resource" means any computer or communications system or network that is involved in providing services necessary to ensure or protect the public health, safety or welfare, including services that are provided by any of the following:

(a) Medical personnel and institutions.

(b) Emergency services agencies.

(c) Public and private utilities, including water, power, communications and transportation services.

(d) Fire departments, districts or volunteer organizations.

(e) Law enforcement agencies.

(f) Financial institutions.

(g) Public educational institutions.

(h) Government agencies.

9. "False or fraudulent pretense" means the unauthorized use of an access device or the use of an access device to exceed authorized access.

10. "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security or any other written instrument as defined in section 13-2001 that is transferable for value.

11. "Network" includes a complex of interconnected computer or communication systems of any type.

12. "Property" means financial instruments, information, including electronically produced data, computer software and programs in either

machine or human readable form, and anything of value, tangible or intangible.

13. "Proprietary or confidential computer security information" means information about a particular computer, computer system or network that relates to its access devices, security practices, methods and systems, architecture, communications facilities, encryption methods and system vulnerabilities and that is not made available to the public by its owner or operator.

14. "Services" includes computer time, data processing, storage functions and all types of communication functions.

Sec. 2. Section 13-3401, Arizona Revised Statutes, is amended to read:

13-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means to apply, inject or facilitate the inhalation or ingestion of a substance to the body of a person.

2. "Amidone" means any substance identified chemically as (4-4-diphenyl-6-dimethylamine-heptanone-3), or any salt of such substance, by whatever trade name designated.

3. "Board" means the Arizona state board of pharmacy.

4. "Cannabis" means the following substances under whatever names they may be designated:

(a) The resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or its resin. Cannabis does not include oil or cake made from the seeds of such plant, any fiber, compound, manufacture, salt, derivative, mixture or preparation of the mature stalks of such plant except the resin extracted from the stalks or any fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

(b) Every compound, manufacture, salt, derivative, mixture or preparation of such resin or tetrahydrocannabinol.

5. "Coca leaves" means cocaine, its optical isomers and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

6. "Dangerous drug" means the following by whatever official, common, usual, chemical or trade name designated:

(a) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances and their salts, isomers, whether optical, positional or geometric, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(i) Alpha-ethyltryptamine.

(ii) Aminorex.

(iii) 4-bromo-2, 5-dimethoxyphenethylamine.

(iv) 4-bromo-2, 5-dimethoxyamphetamine.

(v) Bufotenine.
(vi) Diethyltryptamine.
(vii) 2, 5-dimethoxyamphetamine.
(viii) Dimethyltryptamine.
(ix) 5-methoxy-3, 4-methylenedioxyamphetamine.
(x) 4-methyl-2, 5-dimethoxyamphetamine.
(xi) Ibogaine.
(xii) Lysergic acid amide.
(xiii) Lysergic acid diethylamide.
(xiv) Mescaline.
(xv) 4-methoxyamphetamine.
(xvi) Methoxymethylenedioxyamphetamine (MMDA).
(xvii) Methylenedioxyamphetamine (MDA).
(xviii) 3, 4-methylenedioxymethamphetamine.
(xix) 3, 4-methylenedioxy-N-ethylamphetamine.
(xx) N-ethyl-3-piperidyl benzilate (JB-318).
(xxi) N-hydroxy-3, 4-methylenedioxyamphetamine.
(xxii) N-methyl-3-piperidyl benzilate (JB-336).
(xxiii) N-(1-phenylcyclohexyl) ethylamine (PCE).
(xxiv) Nabilone.
(xxv) 1-(1-phenylcyclohexyl) pyrrolidine (PHP).
(xxvi) 1-(1-(2-thienyl)-cyclohexyl) piperidine (TCP).
(xxvii) 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine.
(xxviii) Para-methoxyamphetamine (PMA).
(xxix) Psilocybin.
(xxx) Psilocyn.
(xxxi) Synhexyl.
(xxxii) Trifluoromethylphenylpiperazine (TFMPP).
(xxxiii) Trimethoxyamphetamine (TMA).
(xxxiv) 1-pentyl-3-(naphthoyl)indole (JWH-018 and isomers).
(xxxv) 1-butyl-3-(naphthoyl)indole (JWH-073 and isomers).
(xxxvi) 1-hexyl-3-(naphthoyl)indole (JWH-019 and isomers).
(xxxvii) 1-pentyl-3-(4-chloro naphthoyl)indole (JWH-398 and isomers).
(xxxviii) 1-(2-(4-(morpholinyl)ethyl))-3-(naphthoyl)indole (JWH-200 and isomers).
(xxxix) 1-pentyl-3-(methoxyphenylacetyl)indole (JWH-250 and isomers).
(xl) (2-methyl-1-propyl-1H-indol-3-YL)-1-naphthalenyl-methanone (JWH-015 and isomers).
(xli) (6AR, 10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan2-YL)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol) (HU-210).
(xlii) 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol (CP 47,497 and isomers).
(xliii) 5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol (cannabicyclohexanol, CP-47,497 C8 homologue and isomers).

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers, and salts of optical isomers having a potential for abuse associated with a stimulant effect on the central nervous system:

(i) Amphetamine.

(ii) Benzphetamine.

(iii) Benzylpiperazine (BZP).

(iv) Butorphanol.

(v) Butylone.

(vi) Cathine ((+)-norpseudoephedrine).

(vii) Cathinone.

(viii) Chlorphentermine.

(ix) Clortermine.

(x) Diethylpropion.

(xi) Fencamfamin.

(xii) Fenethylline.

(xiii) Fenproporex.

(xiv) Fluoromethcathinone.

(xv) Mazindol.

(xvi) Mefenorex.

(xvii) Methamphetamine.

(xviii) Methcathinone.

(xix) Methoxymethcathinone.

(xx) 4-methylaminorex.

(xxi) Methylenedioxymethcathinone.

(xxii) Methylenedioxypyrovalerone.

(xxiii) Methylmethcathinone.

(xxiv) Methylphenidate.

(xxv) Modafinil.

(xxvi) Naphthylpyrovalerone.

(xxvii) N-ethylamphetamine.

(xxviii) N, N-dimethylamphetamine.

(xxix) Pemoline.

(xxx) Phendimetrazine.

(xxxi) Phenmetrazine.

(xxxii) Phentermine.

(xxxiii) Pipradol.

(xxxiv) Propylhexedrine.

(xxxv) Pyrovalerone.

(xxxvi) Sibutramine.

(xxxvii) Spa ((-)-1-dimethylamino-1,2-diphenylethane).

(c) Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(i) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted.

(ii) Alprazolam.

(iii) Bromazepam.

(iv) Camazepam.

(v) Carisoprodol.

(vi) Chloral betaine.

(vii) Chloral hydrate.

(viii) Chlordiazepoxide.

(ix) Chlorhexadol.

(x) Clobazam.

(xi) Clonazepam.

(xii) Clorazepate.

(xiii) Clotiazepam.

(xiv) Cloxazolam.

(xv) Delorazepam.

(xvi) Diazepam.

(xvii) Dichloralphenazone.

(xviii) Estazolam.

(xix) Ethchlorvynol.

(xx) Ethinamate.

(xxi) Ethyl loflazepate.

(xxii) Fenfluramine.

(xxiii) Fludiazepam.

(xxiv) Flunitrazepam.

(xxv) Flurazepam.

(xxvi) Gamma hydroxy butyrate.

(xxvii) Glutethimide.

(xxviii) Halazepam.

(xxix) Haloxazolam.

(xxx) Ketamine.

(xxxi) Ketazolam.

(xxxii) Loprazolam.

(xxxiii) Lorazepam.

(xxxiv) Lormetazepam.

(xxxv) Lysergic acid.

(xxxvi) Mebutamate.

(xxxvii) Mecloqualone.

(xxxviii) Medazepam.

(xxxix) Meprobamate.

(xl) Methaqualone.

(xli) Methohexital.

(xlii) Methyprylon.

(xliii) Midazolam.

(xliv) Nimetazepam.
(xlv) Nitrazepam.
(xlvi) Nordiazepam.
(xlvii) Oxazepam.
(xlviii) Oxazolam.
(xlix) Paraldehyde.
(l) Petrichloral.
(li) Phencyclidine.
(lii) Pinazepam.
(liii) Prazepam.
(liv) Scopolamine.
(lv) Sulfondiethylmethane.
(lvi) Sulfonethylmethane.
(lvii) Sulfonmethane.
(lviii) Quazepam.
(lix) Temazepam.
(lx) Tetrazepam.
(lxi) Tiletamine.
(lxii) Triazolam.
(lxiii) Zaleplon.
(lxiv) Zolazepam.
(lxv) Zolpidem.

(d) Any material, compound, mixture or preparation which contains any quantity of the following anabolic steroids and their salts, isomers or esters:

(i) Boldenone.
(ii) Clostebol (4-chlorotestosterone).
(iii) Dehydrochloromethyltestosterone.
(iv) Drostanolone.
(v) Ethylestrenol.
(vi) Fluoxymesterone.
(vii) Formebulone (formebolone).
(viii) Mesterolone.
(ix) Methandriol.
(x) Methandrostenolone (methandienone).
(xi) Methenolone.
(xii) Methyltestosterone.
(xiii) Mibolerone.
(xiv) Nandrolone.
(xv) Norethandrolon.
(xvi) Oxandrolone.
(xvii) Oxymesterone.
(xviii) Oxymetholone.
(xix) Stanolone (4-dihydrotestosterone).
(xx) Stanozolol.

(xxi) Testolactone.
(xxii) Testosterone.
(xxiii) Trenbolone.
(e) ANY SUBSTANCE THAT IS A DRUG ANALOGUE.
7. "Deliver" means the actual, constructive or attempted exchange from one person to another, whether or not there is an agency relationship.
8. "Director" means the director of the department of health services.
9. "Dispense" means distribute, leave with, give away, dispose of or deliver.
10. "DRUG ANALOGUE":
(a) MEANS A SUBSTANCE:
(i) THE CHEMICAL STRUCTURE OF WHICH IS SUBSTANTIALLY SIMILAR TO THE CHEMICAL SUBSTANCE OF A CONTROLLED SUBSTANCE LISTED IN SECTION 36-2512 OR 36-2513.
(ii) 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 SUBSTANCE LISTED IN SECTION 36-2512 OR 36-2513.
(iii) WITH RESPECT TO A PARTICULAR PERSON, THAT THE PERSON REPRESENTS OR INTENDS TO HAVE A STIMULANT, DEPRESSANT OR HALLUCINOGENIC EFFECT THAT IS SUBSTANTIALLY SIMILAR TO OR GREATER THAN THE STIMULANT, DEPRESSANT OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS SYSTEM OF A CONTROLLED SUBSTANCE LISTED IN SECTION 36-2512 OR 36-2513.
(b) DOES NOT INCLUDE:
(i) A CONTROLLED SUBSTANCE.
(ii) ANY SUBSTANCE FOR WHICH THERE IS AN APPROVED NEW DRUG APPLICATION.
(iii) WITH RESPECT TO A PARTICULAR PERSON, ANY SUBSTANCE, IF AN EXEMPTION IS IN EFFECT FOR INVESTIGATIONAL USE, FOR THAT PERSON, UNDER FEDERAL LAW TO THE EXTENT CONDUCT WITH RESPECT TO THE SUBSTANCE IS PURSUANT TO THE EXEMPTION.
(iv) ANY SUBSTANCE TO THE EXTENT NOT INTENDED FOR HUMAN CONSUMPTION BEFORE AN EXEMPTION TAKES EFFECT WITH RESPECT TO THAT SUBSTANCE.
~~10.~~ 11. "Drug court program" means a program that is established pursuant to section 13-3422 by the presiding judge of the superior court in cooperation with the county attorney in a county for the purpose of prosecuting, adjudicating and treating drug dependent persons who meet the criteria and guidelines for entry into the program that are developed and agreed on by the presiding judge and the prosecutor.
~~11.~~ 12. "Drug dependent person" means a person who is using a substance that is listed in paragraph 6, 19, 20, 21 or 28 of this section and who is in a state of psychological or physical dependence, or both, arising from the use of that substance.
~~12.~~ 13. "Federal act" has the same meaning prescribed in section 32-1901.

~~13.~~ 14. "Isoamidone" means any substance identified chemically as (4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3), or any salt of such substance, by whatever trade name designated.

~~14.~~ 15. "Isonipecaine" means any substance identified chemically as (1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester), or any salt of such substance, by whatever trade name designated.

~~15.~~ 16. "Ketobemidone" means any substance identified chemically as (4-(3-hydroxyphenyl)-1-methyl-4-piperidylethyl ketone hydrochloride), or any salt of such substance, by whatever trade name designated.

~~16.~~ 17. "Licensed" or "permitted" means authorized by the laws of this state to do certain things.

~~17.~~ 18. "Manufacture" means produce, prepare, propagate, compound, mix or process, directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture includes any packaging or repackaging or labeling or relabeling of containers. Manufacture does not include any producing, preparing, propagating, compounding, mixing, processing, packaging or labeling done in conformity with applicable state and local laws and rules by a licensed practitioner incident to and in the course of his licensed practice.

~~18.~~ 19. "Manufacturer" means a person who manufactures a narcotic or dangerous drug or other substance controlled by this chapter.

~~19.~~ 20. "Marijuana" means all parts of any plant of the genus cannabis, from which the resin has not been extracted, whether growing or not, and the seeds of such plant. Marijuana does not include the mature stalks of such plant or the sterilized seed of such plant which is incapable of germination.

~~20.~~ 21. "Narcotic drugs" means the following, whether of natural or synthetic origin and any substance neither chemically nor physically distinguishable from them:

(a) Acetyl-alpha-methylfentanyl.
(b) Acetylmethadol.
(c) Alfentanil.
(d) Allylprodine.
(e) Alphacetylmethadol.
(f) Alphameprodine.
(g) Alphamethadol.
(h) Alpha-methylfentanyl.
(i) Alpha-methylthiofentanyl.
(j) Alphaprodine.
(k) Amidone (methadone).
(l) Anileridine.
(m) Benzethidine.
(n) Benzylfentanyl.
(o) Betacetylmethadol.

(p) Beta-hydroxyfentanyl.
(q) Beta-hydroxy-3-methylfentanyl.
(r) Betameprodine.
(s) Betamethadol.
(t) Betaprodine.
(u) Bezitramide.
(v) Buprenorphine and its salts.
(w) Cannabis.
(x) Carfentanil.
(y) Clonitazene.
(z) Coca leaves.
(aa) Dextromoramide.
(bb) Dextropropoxyphene.
(cc) Diampromide.
(dd) Diethylthiambutene.
(ee) Difenoxin.
(ff) Dihydrocodeine.
(gg) Dimenoxadol.
(hh) Dimepheptanol.
(ii) Dimethylthiambutene.
(jj) Dioxaphetyl butyrate.
(kk) Diphenoxylate.
(ll) Dipipanone.
(mm) Ethylmethylthiambutene.
(nn) Etonitazene.
(oo) Etoxeridine.
(pp) Fentanyl.
(qq) Furethidine.
(rr) Hydroxypethidine.
(ss) Isoamidone (isomethadone).
(tt) Pethidine (meperidine).
(uu) Ketobemidone.
(vv) Levomethorphan.
(ww) Levomoramide.
(xx) Levophenacylmorphan.
(yy) Levorphanol.
(zz) Metazocine.
(aaa) 3-methylfentanyl.
(bbb) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP).
(ccc) 3-methylthiofentanyl.
(ddd) Morpheridine.
(eee) Noracymethadol.
(fff) Norlevorphanol.
(ggg) Normethadone.
(hhh) Norpipanone.

(iii) Opium.
(jjj) Para-fluorofentanyl.
(kkk) Pentazocine.
(lll) Phenadoxone.
(mmm) Phenampromide.
(nnn) Phenazocine.
(ooo) 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP).
(ppp) Phenomorphan.
(qqq) Phenoperidine.
(rrr) Piminodine.
(sss) Piritramide.
(ttt) Proheptazine.
(uuu) Properidine.
(vvv) Propiram.
(www) Racemethorphan.
(xxx) Racemoramide.
(yyy) Racemorphan.
(zzz) Remifentanil.
(aaaa) Sufentanil.
(bbbb) Thenylfentanyl.
(cccc) Thiofentanyl.
(dddd) Tilidine.
(eeee) Trimeperidine.

~~21.~~ 22. "Opium" means any compound, manufacture, salt, isomer, salt of isomer, derivative, mixture or preparation of the following, but does not include apomorphine or any of its salts:

(a) Acetorphine.
(b) Acetyldihydrocodeine.
(c) Benzylmorphine.
(d) Codeine.
(e) Codeine methylbromide.
(f) Codeine-N-oxide.
(g) Cyprenorphine.
(h) Desomorphine.
(i) Dihydromorphine.
(j) Drotebanol.
(k) Ethylmorphine.
(l) Etorphine.
(m) Heroin.
(n) Hydrocodone.
(o) Hydromorphinol.
(p) Hydromorphone.
(q) Levo-alphacetylmethadol.
(r) Methyldesorphine.
(s) Methyldihydromorphine.

(t) Metopon.
(u) Morphine.
(v) Morphine methylbromide.
(w) Morphine methylsulfonate.
(x) Morphine-N-oxide.
(y) Myrophine.
(z) Nalorphine.
(aa) Nicocodeine.
(bb) Nicomorphine.
(cc) Normorphine.
(dd) Oxycodone.
(ee) Oxymorphone.
(ff) Pholcodine.
(gg) Thebacon.
(hh) Thebaine.

~~22.~~ 23. "Ordinary ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product" means a product that contains ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine and that is all of the following:

(a) Approved for sale under the federal act.

(b) Labeled, advertised and marketed only for an indication that is approved by the federal food and drug administration.

(c) Either:

(i) A nonliquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenlypropanolamine and that is packaged in blister packs containing not more than two dosage units or, if the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches.

(ii) A liquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine.

~~23.~~ 24. "Peyote" means any part of a plant of the genus lophophora, known as the mescal button.

~~24.~~ 25. "Pharmacy" means a licensed business where drugs are compounded or dispensed by a licensed pharmacist.

~~25.~~ 26. "Practitioner" means a person licensed to prescribe and administer drugs.

~~26.~~ 27. "Precursor chemical I" means any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) N-acetylanthranilic acid.
(b) Anthranilic acid.
(c) Ephedrine.
(d) Ergotamine.
(e) Isosafrole.

(f) Lysergic acid.
(g) Methylamine.
(h) N-ethylephedrine.
(i) N-ethylpseudoephedrine.
(j) N-methylephedrine.
(k) N-methylpseudoephedrine.
(l) Norephedrine.
(m) (-)-Norpseudoephedrine.
(n) Phenylacetic acid.
(o) Phenylpropanolamine.
(p) Piperidine.
(q) Pseudoephedrine.

~~27.~~ 28. "Precursor chemical II" means any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
(b) 4-cyano-1-methyl-4-phenylpiperidine.
(c) Chlorephedrine.
(d) Chlorpseudoephedrine.
(e) Ethyl-4-phenylpiperidine-4-carboxylate.
(f) 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(g) 1-methyl-4-phenylpiperidine-4-carboxylic acid.
(h) N-formyl amphetamine.
(i) N-formyl methamphetamine.
(j) Phenyl-2-propanone.
(k) 1-piperidinocyclohexane carbonitrile.
(l) 1-pyrrolidinocyclohexane carbonitrile.

~~28.~~ 29. "Prescription-only drug" does not include a dangerous drug or narcotic drug but means:

(a) Any drug which because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug required by the federal act to bear on its label the legend "Caution: Federal law prohibits dispensing without prescription" or "Rx only".

~~29.~~ 30. "Produce" means grow, plant, cultivate, harvest, dry, process or prepare for sale.

~~30.~~ 31. "Regulated chemical" means the following substances in bulk form that are not a useful part of an otherwise lawful product:

(a) Acetic anhydride.

(b) Hypophosphorous acid.

(c) Iodine.

(d) Sodium acetate.

(e) Red phosphorus.

(f) Gamma butyrolactone (GBL).

(g) 1, 4-butanediol.

(h) Butyrolactone.

(i) 1, 2 butanolide.

(j) 2-oxanalone.

(k) Tetrahydro-2-furanone.

(l) Dihydro-2(3H)-furanone.

(m) Tetramethylene glycol.

~~31.~~ 32. "Retailer" means either:

(a) A person other than a practitioner who sells any precursor chemical or regulated chemical to another person for purposes of consumption and not resale, whether or not the person possesses a permit issued pursuant to title 32, chapter 18.

(b) A person other than a manufacturer or wholesaler who purchases, receives or acquires more than twenty-four grams of a precursor chemical.

~~32.~~ 33. "Sale" or "sell" means an exchange for anything of value or advantage, present or prospective.

~~33.~~ 34. "Sale for personal use" means the retail sale for a legitimate medical use in a single transaction to an individual customer, to an employer for dispensing to employees from first aid kits or medicine chests or to a school for administration pursuant to section 15-344.

~~34.~~ 35. "Scientific purpose" means research, teaching or chemical analysis.

~~35.~~ 36. "Suspicious transaction" means a transaction to which any of the following applies:

(a) A report is required under the federal act.

(b) The circumstances would lead a reasonable person to believe that any person is attempting to possess a precursor chemical or regulated chemical for the purpose of unlawful manufacture of a dangerous drug or narcotic drug, based on such factors as the amount involved, the method of payment, the method of delivery and any past dealings with any participant.

(c) The transaction involves payment for precursor or regulated chemicals in cash or money orders in a total amount of more than two hundred dollars.

(d) The transaction involves a sale, a transfer or furnishing to a retailer for resale without a prescription of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine that is not an ordinary

ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product.

~~36.~~ 37. "Threshold amount" means a weight, market value or other form of measurement of an unlawful substance as follows:

(a) One gram of heroin.

(b) Nine grams of cocaine.

(c) Seven hundred fifty milligrams of cocaine base or hydrolyzed cocaine.

(d) Four grams or 50 milliliters of PCP.

(e) Nine grams of methamphetamine, including methamphetamine in liquid suspension.

(f) Nine grams of amphetamine, including amphetamine in liquid suspension.

(g) One-half milliliter of lysergic acid diethylamide, or in the case of blotter dosage units fifty dosage units.

(h) Two pounds of marijuana.

(i) For any combination consisting solely of those unlawful substances listed in subdivisions (a) through (h) of this paragraph, an amount equal to or in excess of the threshold amount, as determined by the application of section 13-3420.

(j) For any unlawful substance not listed in subdivisions (a) through (h) of this paragraph or any combination involving any unlawful substance not listed in subdivisions (a) through (h) of this paragraph, a value of at least one thousand dollars.

~~37.~~ 38. "Transfer" means furnish, deliver or give away.

~~38.~~ 39. "Vapor-releasing substance containing a toxic substance" means a material which releases vapors or fumes containing any of the following:

(a) Ketones, including acetone, methyl ethyl ketone, mibk, miak, isophorone and mesityl oxide.

(b) Hydrocarbons, including propane, butane, pentane, hexane, heptane and halogenated hydrocarbons.

(c) Ethylene dichloride.

(d) Pentachlorophenol.

(e) Chloroform.

(f) Methylene chloride.

(g) Trichloroethylene.

(h) Difluoroethane.

(i) Tetrafluoroethane.

(j) Aldehydes, including formaldehyde.

(k) Acetates, including ethyl acetate and butyl acetate.

(l) Aromatics, including benzene, toluene, xylene, ethylbenzene and cumene.

(m) Alcohols, including methyl alcohol, ethyl alcohol, isopropyl alcohol, butyl alcohol and diacetone alcohol.

(n) Ether, including Diethyl ether and petroleum ether.

(o) Nitrous oxide.
(p) Amyl nitrite.
(q) Isobutyl nitrite.

~~39.~~ 40. "Weight" unless otherwise specified includes the entire weight of any mixture or substance that contains a detectable amount of an unlawful substance. If a mixture or substance contains more than one unlawful substance, the weight of the entire mixture or substance is assigned to the unlawful substance that results in the greater offense. If a mixture or substance contains lysergic acid diethylamide, the offense that results from the unlawful substance shall be based on the greater offense as determined by the entire weight of the mixture or substance or the number of blotter dosage units. For the purposes of this paragraph, "mixture" means any combination of substances from which the unlawful substance cannot be removed without a chemical process.

~~40.~~ 41. "Wholesaler" means a person who in the usual course of business lawfully supplies narcotic drugs, dangerous drugs, precursor chemicals or regulated chemicals that he himself has not produced or prepared, but not to a person for the purpose of consumption by the person, whether or not the wholesaler has a permit that is issued pursuant to title 32, chapter 18. Wholesaler includes a person who sells, delivers or dispenses a precursor chemical in an amount or under circumstances that would require registration as a distributor of precursor chemicals under the federal act.

Sec. 3. Section 13-3407, Arizona Revised Statutes, is amended to read:

13-3407. Possession, use, administration, acquisition, sale, manufacture or transportation of dangerous drugs; classification

A. A person shall not knowingly:

1. Possess or use a dangerous drug.

2. Possess a dangerous drug for sale.

3. Possess equipment or chemicals, or both, for the purpose of manufacturing a dangerous drug.

4. Manufacture a dangerous drug.

5. Administer a dangerous drug to another person.

6. Obtain or procure the administration of a dangerous drug by fraud, deceit, misrepresentation or subterfuge.

7. Transport for sale, import into this state or offer to transport for sale or import into this state, sell, transfer or offer to sell or transfer a dangerous drug.

B. A person who violates:

1. Subsection A, paragraph 1 of this section is guilty of a class 4 felony. Unless the drug involved is lysergic acid diethylamide, methamphetamine, amphetamine or phencyclidine or the person was previously convicted of a felony offense or a violation of this section or section 13-3408, the court on motion of the state, considering the nature and circumstances of the offense, for a person not previously convicted of any

felony offense or a violation of this section or section 13-3408 may enter judgment of conviction for a class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with chapter 9 of this title and refrain from designating the offense as a felony or misdemeanor until the probation is successfully terminated. The offense shall be treated as a felony for all purposes until the court enters an order designating the offense a misdemeanor.

2. Subsection A, paragraph 2 of this section is guilty of a class 2 felony.

3. Subsection A, paragraph 3 of this section is guilty of a class 3 felony, except that if the offense involved methamphetamine, the person is guilty of a class 2 felony.

4. Subsection A, paragraph 4 of this section is guilty of a class 2 felony.

5. Subsection A, paragraph 5 of this section is guilty of a class 2 felony.

6. Subsection A, paragraph 6 of this section is guilty of a class 3 felony.

7. Subsection A, paragraph 7 of this section is guilty of a class 2 felony.

C. Except as provided in subsection E of this section, a person who is convicted of a violation of subsection A, paragraph 1, 3 or 6 and who has not previously been convicted of any felony or who has not been sentenced pursuant to section 13-703, section 13-704, section 13-706, subsection A, section 13-708, subsection D or any other law making the convicted person ineligible for probation is eligible for probation.

D. Except as provided in subsection E of this section, if the aggregate amount of dangerous drugs involved in one offense or all of the offenses that are consolidated for trial equals or exceeds the statutory threshold amount, a person who is convicted of a violation of subsection A, paragraph 2, 5 or 7 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

E. If the person is convicted of a violation of subsection A, paragraph 2, 3, 4 or 7 of this section and the drug involved is methamphetamine, the person shall be sentenced as follows:

Minimum	Presumptive	Maximum
5 calendar years	10 calendar years	15 calendar years

A person who has previously been convicted of a violation of subsection A, paragraph 2, 3, 4 or 7 of this section involving methamphetamine or section 13-3407.01 shall be sentenced as follows:

Minimum	Presumptive	Maximum
10 calendar years	15 calendar years	20 calendar years

F. A person who is convicted of a violation of subsection A, paragraph 4 of this section or subsection A, paragraph 2, 3 or 7 of this section involving methamphetamine is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

G. If a person is convicted of a violation of subsection A, paragraph 5 of this section, if the drug is administered without the other person's consent, if the other person is under eighteen years of age and if the drug is flunitrazepam, gamma hydroxy butrate or ketamine hydrochloride, the convicted person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

H. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of SUBSECTION A, PARAGRAPH 1 OF this section to pay a fine of not less than ~~one~~ TWO thousand dollars or three times the value as determined by the court of the dangerous drugs involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. THE COURT SHALL ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2, 3, 4, 5, 6 OR 7 OF THIS SECTION TO PAY A FINE OF NOT LESS THAN TWENTY-FIVE THOUSAND DOLLARS OR THREE TIMES THE VALUE AS DETERMINED BY THE COURT OF THE DANGEROUS DRUGS INVOLVED IN OR GIVING RISE TO THE CHARGE, WHICHEVER IS GREATER. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

I. A person who is convicted of a violation of this section for which probation or release before the expiration of the sentence imposed by the court is authorized is prohibited from using any marijuana, dangerous drug, narcotic drug or prescription-only drug except as lawfully administered by a health care practitioner and as a condition of any probation or release shall be required to submit to drug testing administered under the supervision of the probation department of the county or the state department of corrections, as appropriate, during the duration of the term of probation or before the expiration of the sentence imposed.

J. If a person who is convicted of a violation of this section is granted probation, the court shall order that as a condition of probation the person perform not less than three hundred sixty hours of community restitution with an agency or organization that provides counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crime or any other appropriate agency or organization.

K. The presumptive term imposed pursuant to subsection E of this section may be mitigated or aggravated pursuant to section 13-701, subsections D and E.

Sec. 4. Section 15-712, Arizona Revised Statutes, is amended to read:

15-712. Instruction on alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs; chemical abuse prevention programs; definitions

A. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs on the human system and instruction on the laws related to the control of these substances and the nonuse and prevention of use and abuse of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs may be included in the courses of study in common and high schools, with emphasis on grades four through nine. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, date rape drugs and other dangerous drugs on a human fetus may be included in the courses of study in grades six through twelve. The instruction may be integrated into existing health, science, citizenship or similar studies and shall meet the criteria for chemical abuse prevention education programs developed pursuant to subsection C of this section.

B. At the request of a school district, the department of education shall provide technical assistance to school districts that choose to implement programs to prevent chemical abuse.

C. The department of education and the department of health services~~, in consultation with the committee established pursuant to section 41-617,~~ shall establish an interagency committee to coordinate their assistance to school districts.

D. The state board of education may accept gifts and grants and shall distribute them and monies appropriated for chemical abuse prevention programs to school districts to assist with the costs of programs designed to prevent chemical abuse by pupils in kindergarten programs and grades one through twelve. School districts which have approved chemical abuse prevention policies and procedures as prescribed in section 15-345 are eligible for a maximum of one dollar for each pupil or one thousand dollars, whichever is more. If sufficient monies are not available to meet all requests, the state board shall determine which school districts to fund based on need, availability of other programs or sources of revenue and the likelihood of the school district's proposed program successfully meeting needs identified by the school district. A school district shall include the monies it receives for chemical abuse prevention programs under this section in the special projects section of the budget as provided in section 15-903, subsection F.

E. For the purpose of this section:

1. "Date rape drug" means a drug ~~prescribed~~ LISTED in section 13-3401, paragraph ~~30~~ 31, subdivisions (f) through (m).

2. "Narcotic drug", "marijuana" and "dangerous drug" have the same meaning prescribed in section 13-3401.

Sec. 5. Section 32-1901, Arizona Revised Statutes, is amended to read:

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Advisory letter" means a nondisciplinary letter to notify a licensee or permittee that either:

(a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee or permittee.

(b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

(c) While the licensee or permittee has demonstrated substantial compliance through rehabilitation, remediation or reeducation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee or permittee.

4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the state board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

6. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.

7. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

8. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes the preparation of drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of commercially available products from bulk compounds or the preparation of drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

9. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

10. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

11. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

12. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

13. "Controlled substance" means a drug, substance or immediate precursor identified, defined or listed in title 36, chapter 27, article 2.

14. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of tissue by chemical action.

15. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

16. "Dangerous drug" has the same meaning prescribed in section 13-3401.

17. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

18. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

19. "Deputy director" means a pharmacist employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

20. "Device", except as used in paragraph 15 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, apparatus and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

21. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

22. "Director" means the director of the division of narcotics enforcement and criminal ~~investigation~~ INTELLIGENCE of the department of public safety.

23. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

24. "Dispenser" means a practitioner who dispenses.

25. "Distribute" means to deliver, other than by administering or dispensing.

26. "Distributor" means a person who distributes.

27. "Drug" means:

(a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food intended to affect the structure or any function of the human body or other animals.

(d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

28. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

29. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly,

by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.

30. "Economic poison" means any substance that alone, in chemical combination or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage or transportation of raw agricultural commodities.

31. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, then the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, then the common or usual name of such drug.

32. "Executive director" means the executive director of the board of pharmacy.

33. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.

34. "Full service wholesale permittee" means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

35. "Graduate intern" means a person who has graduated from a college, school or program of pharmacy approved by the board and who meets the qualifications and experience for a pharmacy intern as provided in section 32-1923.

36. "Highly toxic" means any substance that falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less.

If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

37. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.

38. "Intern" means a pharmacy intern and a graduate intern.

39. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

40. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

41. "Jurisprudence examination" means a board approved pharmacy law examination that is written and administered in cooperation with the national association of boards of pharmacy or another board approved pharmacy law examination.

42. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

43. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

44. "Letter of reprimand" means a disciplinary letter that is a public document issued by the board and that informs a licensee or permittee that the licensee's or permittee's conduct violates state or federal law and may require the board to monitor the licensee or permittee.

45. "Limited service pharmacy" means a pharmacy approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

46. "Manufacture" or "manufacturer" means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, devoted to manufacturing the drug.

47. "Marijuana" has the same meaning prescribed in section 13-3401.

48. "Medical practitioner" means any medical doctor, doctor of osteopathy, dentist, podiatrist, veterinarian or other person licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention

of sickness in human beings or animals in this state or any state, territory or district of the United States.

49. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

50. "Narcotic drug" has the same meaning prescribed in section 13-3401.

51. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

52. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only."

(d) A drug intended for human use by hypodermic injection.

53. "Nonprescription drug wholesale permittee" means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

54. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

55. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

56. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

57. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

58. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

59. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

60. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

61. "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

62. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

63. "Pharmacist licensure examination" means a board approved examination that is written and administered in cooperation with the national association of boards of pharmacy or any other board approved pharmacist licensure examination.

64. "Pharmacy" means any place:

(a) Where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(b) In which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(c) That has displayed on it or in it the words, "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drugstore," "drugs," "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(d) Where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(e) Or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

65. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

66. "Pharmacy technician" means a person licensed pursuant to this chapter.

67. "Pharmacy technician trainee" means a person licensed pursuant to this chapter.

68. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.
(d) A corrosive substance.
(e) An irritant.
(f) A strong sensitizer.
(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.
(h) A substance designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.
69. "Practice of pharmacy" means:
(a) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.
(b) Compounding drugs pursuant to or in anticipation of a prescription order.
(c) Labeling of drugs and devices in compliance with state and federal requirements.
(d) Participating in drug selection and drug utilization reviews, drug administration, drug or drug related research and drug therapy monitoring or management.
(e) Providing patient counseling necessary to provide pharmaceutical care.
(f) Properly and safely storing drugs and devices in anticipation of dispensing.
(g) Maintaining required records of drugs and devices.
(h) Offering or performing of acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.
70. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct

research with respect to or administer a controlled substance in the course of professional practice or research in this state.

71. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and WHO complies with section 32-1923.

72. "Precursor chemical" means a substance that is:

(a) The principal compound that is commonly used or that is produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(b) Listed in section 13-3401, paragraph ~~26 or~~ 27 OR 28.

73. "Prescription" means either a prescription order or a prescription medication.

74. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

75. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

76. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

77. "Prescription order" means either:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964 and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This

paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

78. "Professionally incompetent" means:

(a) Incompetence based on a variety of factors including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist, pharmacy intern or graduate intern who fails to obtain a passing score on a board approved pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a board approved pharmacy technician licensure examination.

79. "Radioactive substance" means a substance that emits ionizing radiation.

80. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

81. "Symbol" means the characteristic symbols that have historically identified pharmacy, including "show globes", "mortar and pestle" and the sign "Rx".

82. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

83. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.