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WEST VIRGINIA CONSTITUTION ARTICLE 6 § 46.

6-46. Manufacture and sale of liquor.

The Legislature shall by appropriate legislation regulate the manufacture and sale of intoxicating liquors within the limits of this state, and any law authorizing the sale of such liquors shall forbid and penalize the consumption and the sale thereof for consumption in a saloon or other public place.

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 11. HUMAN RIGHTS COMMISSION.

§5-11-19. Private club exemption.

Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or guests of members or from giving preference to its members or guests of members: Provided, That this exemption shall not apply to any private club not in fact open to the public which owns or operates residential subdivisions providing lodgings for rental, occupancy or sale, or which provides real estate for sale for the construction of single or multiunit dwellings

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 11A. WEST VIRGINIA FAIR HOUSING ACT.

§5-11A-8. Religious organization or private club exemption.

(a) Nothing in this article shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) (1) Nothing in this article limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this article regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing:

(A) Provided under any state or federal program that the secretary of the United States department of housing and urban development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or

(B) Intended for, and solely occupied by, persons sixty-two years of age or older; or

(C) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors: (i) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; (ii) that at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and (iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of: (A) Persons residing in such housing as of the date of enactment of this article who do not meet the age requirements of subdivision (2)(B) or (C) of this subsection: Provided, That new occupants of such housing meet the age requirements of such subdivisions; or (B) unoccupied units: Provided, however, That such units are reserved for occupancy by persons who meet the age requirements of subdivision (2)(B) or (C) of this subsection.

(4) Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act, Title 21, United States Code, Section 802.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of such officers.

(a) Beginning in the calendar year 2005, and for each calendar year after that, salaries for each of the state Constitutional officers are as follows:

(1) The salary of the Governor is \$95,000 per year;

(2) The salary of the Attorney General is \$80,000 per year;

(3) The salary of the Auditor is \$75,000 per year;

(4) The salary of the Secretary of State is \$70,000 per year;

(5) The salary of the Commissioner of Agriculture is \$75,000 per year; and

(6) The salary of the state Treasurer is \$75,000 per year;

(b) Notwithstanding the provisions of subsection (a) of this section, beginning in the calendar year 2009, and for each calendar year thereafter, salaries for each of the state Constitutional officers shall be as follows:

(1) The salary of the Governor shall be \$150,000 per year;

(2) The salary of the Attorney General shall be \$95,000 per year;

(3) The salary of the Auditor shall be \$95,000 per year;

(4) The salary of the Secretary of State shall be \$95,000 per year;

(5) The salary of the Commissioner of Agriculture shall be \$95,000 per year; and

(6) The salary of the state Treasurer shall be \$95,000 per year.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-7. Tax on purchases of intoxicating liquors in municipalities; private club fees.

(a) (1) Every municipality shall have plenary power and authority to levy and collect a tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail to the public under the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article: Provided, That no municipality shall have authority to levy or collect any such tax on the intoxicating liquors sold by or purchased from holders of a license issued under the provisions of article seven, chapter sixty of this code: Provided, however, That no municipality shall have authority to levy or collect any such tax on purchases within such municipality of intoxicating liquors or wine in the original sealed package for the purpose of resale in the original sealed package if the final purchase of such intoxicating liquors or wine is subject to the tax imposed under this section, under section nine-d, article

three, chapter sixty of this code, or under section twenty-one, article three-a of said chapter. This section shall not be interpreted to authorize a purchase for resale exemption in contravention of section nine-a, article fifteen, chapter eleven of this code. The tax shall be levied upon the purchaser and shall be added to and collected with the price of purchase. The tax shall not exceed five percent of the purchase price.

(2) A copy of any ordinance imposing the tax authorized by this section shall be certified by the mayor of the municipality to the West Virginia Alcohol Beverage Control Commissioner and to the Tax Commissioner. The West Virginia Alcohol Beverage Control Commissioner by appropriate rules and regulations shall provide for the collection of such tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail pursuant to the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article, and for distribution thereof to the respective municipalities for which the same shall be collected. Such rules and regulations shall provide that all such taxes shall be deposited with the State Treasurer and distributed quarterly by the Treasurer upon warrants of the Auditor payable to the municipality.

(3) Every municipality shall have plenary power and authority to levy and collect a fee from any private club licensee whose premises are situate therein as authorized in section seven, article seven, chapter sixty of this code.

(b) For purposes of this section:

(1) "Original sealed package" means an original package, as defined in this article, bearing an unbroken seal, as defined in this article. For purposes of this article, the term "original sealed package" does not mean or include a case, shipping box, carton, bottle caddy, cargo container, or any other packaging or container that is not in immediate physical contact with its liquid contents and which is not a "container" as defined in this article;

(2) "Original package" means that container, as defined in this article, into which the manufacturer or bottler of a given liquor or wine first placed a given wine or liquor immediately after it was produced, which is intended by the manufacturer or bottler to be the container in which such wine or liquor is to be sold;

(3) "Seal" means a piece of wax, foil, metal, plastic or paper affixed to a container of liquor or wine in such a way that the seal must be broken when the container is opened. The purpose of a seal is to show evidence of opening, tampering or alteration of the container. A seal bears some combination of embossed, printed, engraved or impressed emblems, figures, symbols, words, trademarks, stamps, medallions, marks, or letters for attestation or evidence of authenticity. A seal is typically affixed to a package or container by the manufacturer or bottler of a given wine or liquor. The term "seal" may include a seal provided by or specified by this state and required by law to be affixed to a container of liquor or wine; and

(4) "Container" means a bottle, boxed wine box (including the liner, bag or bladder thereof), cask, can, jug or other holder of liquor or wine, which is in immediate physical contact with the liquid contents, and which is the only means by which its liquid contents are prevented from flowing or leaking out of the holder, and which is intended to be the container in which such wine or liquor is to be sold to final consumers.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-12. Mission of the State Police; powers of superintendent, officers and members; patrol of turnpike.

(a) The West Virginia State Police shall have the mission of statewide enforcement of criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state and maintaining the safety of the state's public streets, roads and highways.

(b) The superintendent and each of the officers and members of the division are hereby empowered:

(1) To make arrests anywhere within the state of any persons charged with the violation of any law of this state, or of the United States, and when a witness to the perpetration of any offense or crime, or to the violation of any law of this state, or of the United States, to make arrests without warrant; to arrest and detain any persons suspected of the commission of any felony or misdemeanor whenever a complaint is made and a warrant is issued thereon for the arrest, and the person arrested shall be immediately brought before the proper tribunal for examination and trial in the county where the offense for which the arrest has been made was committed;

(2) To serve criminal process issued by any court or magistrate anywhere within this state: Provided, that they may not serve civil process; and

(3) To cooperate with local authorities in detecting crime and in apprehending any person or persons engaged in or suspected of the commission of any crime, misdemeanor or offense against the law of this state, or of the United States, or of any ordinance of any municipality in this state; and to take affidavits in connection with any application to the Division of Highways, Division of Motor Vehicles and of West Virginia State Police for any license, permit or certificate that may be lawfully issued by these divisions of state government.

(c) Members of the West Virginia State Police are hereby designated as forest patrolmen and natural resources police officers throughout the state to do and perform any duties and exercise any powers of forest patrolmen and natural resources police officers, and may apprehend and bring before any court or magistrate having jurisdiction of these matters, anyone violating any of the provisions of chapters twenty, sixty and sixty-one of this code. The West Virginia State Police is at any time subject to the call of the West Virginia Alcohol Beverage Control Commissioner to aid in apprehending any person violating any of the provisions of chapter sixty of this code. They shall serve and execute warrants for the arrest of any person and warrants for the search of any premises issued by any properly constituted authority, and shall exercise all of the powers conferred by law upon a sheriff. They may not serve any civil process or exercise any of the powers of an officer in civil matters.

(d) Any member of the West Virginia State Police knowing or having reason to believe that any person has violated the law may make complaint in writing before any court or officer having jurisdiction and procure a warrant for the offender, execute the warrant and bring the person before the proper tribunal having jurisdiction. The member shall make return on all warrants to the tribunals and his or her official title shall be "Member of the West Virginia State Police". Members of the West Virginia State Police may execute any summons or process issued by any tribunal having jurisdiction requiring the attendance of any person as a witness before the tribunal and make return thereon as provided by law. Any return by a member of the West Virginia State Police showing the manner of executing the warrant or process has the same force and effect as if made by a sheriff.

(e) Each member of the West Virginia State Police, when called by the sheriff of any county, or when directed by the Governor by proclamation, has full power and authority within the county, or within the territory defined by the Governor, to direct and command absolutely the assistance of any sheriff, deputy sheriff, chief of police, policeman, natural resources police officer and peace officer of the state, or of any county or municipality therein, or of any able-bodied citizen of the United States, to assist and aid in accomplishing the purposes expressed in this article. When called, any officer or person is, during the time his or her assistance is required, for all purposes a member of the West Virginia State Police and subject to all the provisions of this article.

(f) The superintendent may also assign members of the division to perform police duties on any turnpike or toll road, or any section of any turnpike or toll road, operated by the West Virginia Parkways, Economic Development and Tourism Authority: Provided, That the authority shall reimburse the West Virginia State Police for salaries paid to the members and shall either pay directly or reimburse the division for all other expenses of the group of members in accordance with actual or estimated costs determined by the superintendent.

(g) The West Virginia State Police may develop proposals for a comprehensive county or multicounty plan on the implementation of an enhanced emergency service telephone system and may cause a public meeting on the proposals, all as set forth in section six-a, article six, chapter twenty-four of this code.

(h) By July 1, 1993, the superintendent shall establish a network to implement reports of the disappearance of children by local law-enforcement agencies to local school division superintendents and the State Registrar of Vital Statistics. The network shall be designed to establish cooperative arrangements between local law-enforcement agencies and local school divisions concerning reports of missing children and notices to law-enforcement agencies of requests for copies of the cumulative records and birth certificates of missing children. The network shall also establish a mechanism for reporting the identities of all missing children to the State Registrar of Vital Statistics.

(i) The superintendent may at his or her discretion and upon the written request of the West Virginia Alcohol Beverage Control Commissioner assist the commissioner in the coordination and enforcement of article sixteen, chapter eleven of this code and chapter sixty of this code.

(j) Notwithstanding the provisions of article one-a, chapter twenty of this code, the Superintendent of the West Virginia State Police may sell any surplus real property to which the West Virginia State Police or its predecessors retain title, and deposit the net proceeds into a special revenue account to be utilized for the purchase of additional real property and for repairs to or construction of detachment offices or other

facilities required by the West Virginia State Police. There is hereby created a special revolving fund in the State Treasury which shall be designated as the "Surplus Real Property Proceeds Fund". The fund shall consist of all money received from the sale of surplus real property owned by the West Virginia State Police. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature: Provided, That amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.

(k) Notwithstanding any other provision of this code, the agency for surplus property is hereby empowered to transfer funds generated from the sale of vehicles, other equipment and commodities belonging to the West Virginia State Police to a special revenue account within the West Virginia State Police entitled the West Virginia State Police surplus transfer account. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature: Provided, That amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. Any funds transferred to this account may be utilized by the superintendent to defray the cost of normal operating needs of the division.

(l) If the State Police or any other law-enforcement agency in this state receives a report that a person who has Alzheimer's disease and related dementia is missing, the State Police or any other law-enforcement agency shall immediately open an investigation for the purpose of determining the whereabouts of that missing person. Any policy of the State Police or any other law-enforcement agency relating to a waiting period prior to initiation of an investigation of a missing person does not apply in the case of a person who has Alzheimer's disease or other related dementia of the type referred to in this subsection.

(m) Notwithstanding any provision of this code to the contrary, effective on and after July 1, 2007, the expenses and salaries paid to the members of the West Virginia State Police for the monitoring and enforcement duties defined in chapter seventeen-c of this code may not be paid from the State Road Fund or subject to reimbursement from the Division of Motor Vehicles but is subject to appropriation by the Legislature.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-23. Registration plates to state, county, municipal and other governmental vehicles; use for undercover activities.

(a) Any motor vehicle designed to carry passengers, owned or leased by the State of West Virginia, or any of its departments, bureaus, commissions, or institutions, except vehicles used by the Governor, Treasurer, not to exceed eight vehicles operated by investigators of the Office of the Attorney General, three vehicles per elected office of the Board of Public Works not otherwise specified, vehicles operated by the State Police, not to exceed five vehicles operated by the office of the Secretary of Military Affairs and Public Safety, not to exceed five vehicles operated by the Division of Homeland Security and Emergency Management, vehicles operated by natural resources police officers of the Division of Natural Resources, not to exceed 10 vehicles operated by the arson investigators of the Office of State Fire Marshal, not to

exceed two vehicles operated by the Division of Protective Services, not to exceed 16 vehicles operated by inspectors of the Office of the Alcohol Beverage Control Commissioner, vehicles operated by the West Virginia Wing of the Civil Air Patrol, and vehicles operated by probation officers employed under the Supreme Court of Appeals may not be operated or driven by any person unless it has displayed and attached to the front thereof, in the same manner as regular motor vehicle registration plates are attached, a plate of the same size as the regular registration plate, with white lettering on a green background bearing the words "West Virginia" in one line and the words "State Car" in another line, and the lettering for the words "State Car" shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight: Provided, That beginning January 1, 2019, state vehicle license plates shall be gold with blue lettering.

The vehicle shall also have attached to the rear a plate bearing a number and any other words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate shall also be green with the number in white: Provided, that beginning January 1, 2019, state vehicle license plates shall be gold with blue lettering.

(b) Registration plates issued to vehicles owned by counties shall be white on red with the word "County" on top of the plate and the words "West Virginia" on the bottom.

(c) Registration plates issued to a city or municipality shall be white on blue with the word "City" on top and the words "West Virginia" on the bottom.

(d) Registration plates issued to a city or municipality law-enforcement department shall include blue lettering on a white background with the words "West Virginia" on top of the plate and shall be further designed by the commissioner to include a law-enforcement shield together with other insignia or lettering sufficient to identify the motor vehicle as a municipal law-enforcement department motor vehicle. The colors may not be reversed and shall be of reflectorized material. The registration plates issued to counties, municipalities, and other governmental agencies authorized to receive colored plates hereunder shall be affixed to both the front and rear of the vehicles.

(e) (1) Registration plates issued to vehicles operated by county sheriffs shall be designed by the commissioner in cooperation with the sheriffs' association with the word "Sheriff" on top of the plate and the words "West Virginia" on the bottom. The plate shall contain a gold shield representing the sheriff's star and a number assigned to that plate by the commissioner. Every county sheriff shall provide the commissioner with a list of vehicles operated by the sheriff, unless otherwise provided in this section, and a fee of \$10 for each vehicle submitted by July 1, 2002.

(2) Registration plates issued to vehicles operated by the West Virginia Wing of the Civil Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol and include the words "Civil Air Patrol" on the plate. The Civil Air Patrol shall provide the commissioner with a list of vehicles operated by the Civil Air Patrol, unless otherwise provided in this section, and a fee of \$10 for each new vehicle for which a Civil Air Patrol license plate is requested.

(f) The commissioner is authorized to designate the colors and design of any other registration plates that are issued without charge to any other agency or nonstate government entity entitled to registration plates at no charge in accordance with the motor vehicle laws: Provided, That where the institutions of higher

education opt to have their logo displayed on the state license plate, such institution shall bear any additional costs of those added features: Provided, however, That no public service districts or designated nongovernmental organizations shall be issued a license plate designated for vehicles owned or leased by the State of West Virginia, or any of its departments, bureaus, commissions, or institutions.

(g) Upon application, the commissioner is authorized to issue a maximum of five Class A license plates per applicant to be used by county sheriffs and municipalities on law-enforcement vehicles while engaged in undercover investigations.

(h) The commissioner is authorized to issue a maximum of five Class A license plates to be used on vehicles assigned to the Division of Motor Vehicles investigators for commercial driver examination fraud investigation and driver's license issuance fraud detection and fraud prevention.

(i) The commissioner is authorized to issue an unlimited number of license plates per applicant to authorized drug and violent crime task forces in the State of West Virginia when the chairperson of the control group of a drug and violent crime task force signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used only for official undercover work conducted by a drug and violent crime task force.

(j) The commissioner is authorized to issue 20 Class A license plates to the Criminal Investigation Division of the Department of Revenue for use by its investigators.

(k) The commissioner may issue a maximum of 10 Class A license plates to the Division of Natural Resources for use by natural resources police officers. The commissioner shall designate the color and design of the registration plates to be displayed on the front and the rear of all other state-owned vehicles owned by the Division of Natural Resources and operated by natural resources police officers.

(l) The commissioner is authorized to issue an unlimited number of Class A license plates to the Commission on Special Investigations for state-owned vehicles used for official undercover work conducted by the Commission on Special Investigations.

(m) The commissioner is authorized to issue a maximum of two Class A plates to the Division of Protective Services for state-owned vehicles used by the Division of Protective Services in fulfilling its mission.

(n) The commissioner is authorized to issue Class A registration plates for vehicles used by the Medicaid Fraud Control Unit created by §9-7-7 of this code.

(o) The commissioner is authorized to issue Class A registration plates for vehicles used by the West Virginia Insurance Fraud Unit created by §33-41-8 of this code.

(p) No other registration plate may be issued for, or attached to, any state-owned vehicle.

(q) The Commissioner of Motor Vehicles shall have a sufficient number of both front and rear plates produced to attach to all state-owned or leased vehicles.

(r) The commissioner shall, after consultation with the Fleet Management Division established pursuant to §5A-12-1 et seq. of this code and the Enterprise Resource Planning Board established pursuant to §12-6D-1 et seq. of this code, develop and adopt a standardized naming convention for the title, registration, and licensing of state vehicles, pursuant to §17A-3-25 of this code. The naming convention adopted shall be consistent with the naming convention adopted for the centralized accounting system as maintained by the Enterprise Resource Planning Board for the purpose of creating and maintaining an accurate and up to date inventory of the state vehicle fleet.

(s) It is the duty of each office, department, bureau, commission, or institution furnished any vehicle to have plates as described herein affixed thereto prior to the operation of the vehicle by any official or employee.

(t) The commissioner may issue special registration plates for motor vehicles titled in the name of the Division of Public Transit or in the name of a public transit authority as defined in this subsection and operated by a public transit authority or a public transit provider to transport persons in the public interest. For purposes of this subsection, "public transit authority" means an urban mass transportation authority created pursuant to §8-27-1 et seq. of this code or a nonprofit entity exempt from federal and state income taxes under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large. The special registration plate shall be designed by the commissioner and shall display the words "public transit" or words or letters of similar effect to indicate the public purpose of the use of the vehicle. The special registration plate shall be issued without charge.

(u) Each green registration plate with white letters affixed to a state vehicle, and each corresponding title and registration certificate for all state vehicles, other than those vehicles with Class A registration plates as provided in this section, terminates at midnight on December 31, 2018. Each spending unit assigned a state vehicle that is required to display a state vehicle license plate and registration shall obtain a new title, new registration card, and new state vehicle license plate prior to January 1, 2019: Provided, That no state vehicle license plate shall be issued unless the spending unit has provided an affirmative statement that the vehicle is a state asset recorded in the central accounting system as maintained by the Enterprise Resource Planning Board, and the same has been verified by the commissioner, as required by §17A-3-25 of this code. When new registrations are issued pursuant to this article and for subsequent, non-Class A registrations of state owned or leased vehicles, the state vehicle registration plate and certificate shall be valid for a period of not more than 24 months and shall be required to be renewed every two years.

(v) The commissioner is authorized to prepare and promulgate emergency rules, pursuant to §29A-3-1 et seq. of this code in order to implement amendments to this section.

(w) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100. Magistrates have concurrent jurisdiction with circuit courts for the enforcement of this section.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-12. Mandatory suspension for fraudulent use of driver's license.

(a) The commissioner shall suspend for a period of ninety days the driver's license of any person upon receipt of a sworn affidavit from any law-enforcement officer, employee of the Alcohol Beverage Control Commission or employee of the Division of Motor Vehicles stating that the person committed any one of the following acts:

(1) Displayed or caused or permitted to be displayed to any law-enforcement officer or employee of the Division of Motor Vehicles or have in his or her possession any fictitious or fraudulently altered driver's license;

(2) Loaned or gave his or her driver's license to any other person or knowingly permitted the use thereof by another for an unlawful or fraudulent purpose;

(3) Displayed or represented as one's own any driver's license not issued to him or her; or

(4) Used a false or fictitious name or birth date on any application for a driver's license or knowingly made a false statement, knowingly concealed a material fact or otherwise committed a fraud in making application for a driver's license.

(b) For the purposes of this section, "driver's license" means any permit, camera card, identification card or driver's license issued by this state or any other state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon.

(c) No person shall have his or her driver's license suspended under any provision of this section unless he or she shall first be given written notice of such suspension sent by certified mail, return receipt requested, at least twenty days prior to the effective date of the suspension. Within ten days of the receipt of the notice of suspension, the person may submit a written request by certified mail for a hearing and request a stay of the suspension pending the results of the hearing. Upon receipt of the request for a hearing and request for a stay of the suspension, the commissioner shall grant a stay of the suspension pending the results of the hearing. If the commissioner shall after hearing make and enter an order affirming the earlier order of suspension, the person affected shall be entitled to judicial review as set forth in chapter twenty-nine-a of this code and, pending the appeal, the court may grant a stay or supersedeas of such order. If the person does not appeal the suspension or if the suspension is affirmed by the court, the order of suspension shall be effective and the period of suspension shall commence to run.

(d) The suspended driver's license shall be reinstated following the period of suspension and upon compliance with the conditions set forth in this chapter.

**WEST VIRGINIA CODE CHAPTER 47. REGULATION OF TRADE.
ARTICLE 11A. UNFAIR TRADE PRACTICES.**

§47-11A-1. Legislative findings; designation of article.

(a) The Legislature hereby finds that the sale of goods at prices below the cost thereof can result in economic maladjustments and tend toward the creation of monopolies, thereby destroying fair and healthy competition; therefore, the below-cost sale of goods with the intent to destroy or the effect of destroying competition is deemed an unlawful unfair trade practice.

(b) This article shall be known as and designated the Unfair Trade Practices Act.

§47-11A-3. When rebates and special privileges prohibited; penalty.

The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers purchasing upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is an unfair trade practice and any person, partnership, firm, corporation, joint-stock company, or other association resorting to such trade practice shall be deemed guilty of a misdemeanor and, on conviction thereof shall be subject to the penalties set out in section eleven of this article.

§47-11A-4. Personal responsibility of directors, officers or agents.

Any person who, either as director, officer or agent of any firm or corporation or as agent of any person violating the provisions of this article, assists or aids, directly or indirectly, in such violation shall be responsible therefor equally with the person, firm or corporation for whom or for which he acts.

§47-11A-5. "Retailer" and "wholesaler" defined; sales and transfers subject to article.

(a) The term "retailer" shall mean and include every person, partnership, firm, corporation, or other entity engaged in the business of making sales at retail within this state: Provided, however, That in the case of a person, partnership, firm, corporation, or other entity engaged in the business of making sales both at retail and at wholesale, such term shall be applied only to the retail portion of such business.

(b) The term "wholesaler" shall mean and include every person, partnership, firm, corporation, or other entity engaged in the business of making sales at wholesale within this state: Provided, That in the case of a person, partnership, firm, corporation, or other entity engaged in the business of making sales both at retail and wholesale, such term shall be applied only to the wholesale portion of such business.

(c) The provisions of this article shall be applicable to all sales at retail made by a retailer as herein defined, and shall be applicable to any transfer for a valuable consideration made in the ordinary course of trade, or the usual prosecution of the retailer's business, of title to tangible personal property to the purchaser for consumption or use other than resale or further proceedings or manufacturing, and shall be applicable also to any transfer of such property where title is retained by the retailer as security for the payment of such purchase price.

(d) The provisions of this article shall be applicable to all sales at wholesale, and shall be applicable to any transfer for a valuable consideration made in the ordinary course of trade or in the usual prosecution of the wholesaler's business, of title to tangible personal property to the purchaser for purposes of resale or further proceedings or manufacturing, and shall be applicable also to any such transfer of property where title is retained by the seller as security for the payment of the purchase price.

§47-11A-6. How cost determined.

(a) The term "cost" when applicable to the business of retailer shall mean bona fide cost and shall mean: (i) The invoice cost of the product or item of merchandise to the retailer or the replacement cost thereof to the retailer within thirty days prior to the date of sale, offer for sale or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts, except customary discounts for cash; and (ii) to either of which there shall be added the following items of expense:

(1) Freight charges not otherwise included in the cost of the article, product or item of merchandise, but which freight charges shall not be construed as including cartage to retail outlet if done or paid for by the retailer.

(2) A markup to cover, in part, the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be seven percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges: Provided, That such a markup to cover the cost of doing business as provided for in this subdivision shall be exclusive of any federal and state motor fuel taxes.

(b) The term "cost" when applicable to the business of a wholesaler shall mean bona fide cost and shall mean: (i) The invoice cost of the merchandise to the wholesaler to include applicable taxes, or the replacement cost of the merchandise to the wholesaler within thirty days prior to the date of sale, offer for sale or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts except customary discounts for cash; and (ii) to either of which there shall be added the following items of expense:

(1) Freight charges not otherwise included in the cost of the article, product or item of merchandise, but which freight charges shall not be construed as including cartage to the retail outlet if done or paid for by the wholesaler.

(2) A markup to cover, in part, the cost of doing business, which markup in the absence of proof of a lesser cost, shall be four percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges: Provided, That such a markup to cover the cost of doing business as provided for in this subdivision shall be exclusive of any federal and state motor fuel taxes.

§47-11A-7. When invoice cost of goods purchased at forced, etc., sale may be used.

In establishing the "cost" of a given article, product or item of merchandise to the vendor, the invoice cost of any article, product or item of merchandise purchased at a forced, bankrupt, close-out sale, or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost as of the date of said sale of said article, product or item of merchandise replaced through the ordinary channels of trade, unless said article, product or merchandise is kept separate from goods purchased in the ordinary channels of trade and unless said article, product or item of merchandise is advertised and sold as merchandise purchased at a forced, bankrupt, close-out sale, or by means other than through the ordinary channels of trade, and said advertising shall state the conditions under which said goods were so purchased, and the quantity of such merchandise to be sold or offered for sale.

§47-11A-8. Sales exempt.

The provisions of this article shall not apply to any sale, offer for sale, or advertisement to sell made:

- (a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing trade in any such stock or commodity;
- (b) When perishable merchandise must be sold promptly to avert loss to the retailer or wholesaler by spoilage or depreciation;
- (c) When the goods are damaged or deteriorated in quality or when merchandise is sold in bona fide clearance sales and, in each case, merchandise is advertised, marked and sold as such;
- (d) By an officer acting under the orders of any court;
- (e) To meet the price of a competitor;
- (f) Involving a discount or rebate earned by purchases through the use of a bonus, loyalty or rewards program or involving the redemption of credits, discounts or rebates through a bonus, loyalty or rewards program;
- (g) For charitable purposes or to relief agencies;
- (h) Where merchandise is sold on contract to departments of the government or governmental institutions; and
- (i) During and for fifteen days after a business grand opening as determined by the completion date.

§47-11A-9. Injunctions and damage suits.

(a) Any person, partnership, firm, corporation, or other entity injured by a violation of the provisions of this article may maintain an action to enjoin a continuance of any such violation in the circuit court of the county wherein said violation is alleged to have occurred. If a violation is established in such an action, the court shall enjoin, restrain or otherwise prohibit such violation. In such action, if damages are alleged and proven, the plaintiff in the action, in addition to injunctive relief, shall recover from the defendant the actual damages sustained and proven to be a result of the violation.

(b) In the event no injunctive relief is sought or required, any person, partnership, firm, corporation, or other entity injured by a violation of the provisions of this article may maintain an action for damages alone in the circuit court of the county wherein said violation is alleged to have occurred. If a violation is established in such an action and proven, a plaintiff shall recover from the defendant the actual damages sustained and proven to be a result of the violation.

(c) In any action under subsection (a) or (b) of this section it shall be an absolute defense that the sale price of any product or item of merchandise alleged to be in violation of this article is equal to or greater than the sales price of the same product or item being sold by a competitor of the defendant.

(d) A court may dismiss any action under subsection (a) or (b) of this section upon a motion for summary judgment if the court finds pursuant to Rule 56 of the West Virginia Rules of Civil Procedure that the provisions of subsection (c) of this section have been satisfied.

(e) The circuit courts of this state shall have jurisdiction of actions under this section.

§47-11A-10. Certifications to and duty of attorney general as to companies convicted or enjoined; suits to forfeit charters and privileges and enjoin business permanently; jurisdiction.

Repealed.

Acts, 2016 Reg. Sess., Ch. 217

§47-11A-11. Penalties for violations.

Any person, firm, partnership, corporation, joint-stock company or other association, whether as principal, agent, officer or director, for or itself, or for another person, or for any person, firm, partnership, corporation, joint- stock company or other association, who or which shall violate any of the provisions of this article, is guilty of a misdemeanor for each single violation and upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment not exceeding ninety days or by both said

§47-11A-12. Contracts violating article illegal and unenforceable.

Repealed.

Acts, 2016 Reg. Sess., Ch. 217

§47-11A-12a. Unsolicited goods.

No person, firm, partnership, association or corporation, or agent or employee thereof, shall, in any manner, or by any means, offer for sale goods, wares or merchandise, where the offer includes the voluntary and unsolicited sending of goods, wares or merchandise not actually ordered or requested by the recipient, either orally or in writing. The receipt of any such unsolicited goods, wares or merchandise shall for all purposes be deemed an unconditional gift to the recipient who may use or dispose of the same in any manner he sees fit without any obligation on his part to the sender.

§47-11A-13. Prima facie evidence of violation.

Repealed.

Acts, 2016 Reg. Sess., Ch. 217

§47-11A-14. Purpose and construction of article.

The Legislature declares that the purposes of this article are: (1) To safeguard consumers from the creation of monopolies by prohibiting predatory pricing; (2) to foster market efficiency; and (3) to protect market competition.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-5. Houses of ill fame and assignation; penalties; jurisdiction of courts.

(a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or who for another or others shall direct, take, or transport, or offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

(b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any of the acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period of not less than sixty days nor more than six months, and by a fine of not less than \$50 and not to exceed \$100; and upon conviction for the second offense under this section, be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for not less than one year nor more than three years.

The subsequent offense provision shall apply only to the pimp, panderer, solicitor, operator or any person benefiting financially or otherwise from the earnings of a prostitute.

(c) All leases and agreements, oral or written, for letting, subletting, or renting any house, place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution, lewdness, or assignation, shall be void from and after the date of any person who is a party to such an agreement shall be convicted of an offense hereunder. The term "tourist camp" shall include any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles which are maintained, offered, or used for dwelling or sleeping quarters for pay.

(d) In the trial of any person, charged with a violation of any of the provisions of this section, testimony concerning the reputation or character of any house, place, building, hotel, tourist camp, or other structure, and of the person or persons who reside in or frequent same, and of the defendant or defendants, shall be admissible in evidence in support of the charge. Justices of the peace shall have concurrent jurisdiction with circuit, intermediate, and criminal courts to try and determine the misdemeanors set forth and described in this section.

§61-8-8. Receiving support from prostitution; pimping; penalty; prostitute may testify.

Any person who, knowing another person to be a prostitute, shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of the prostitution of such prostitute, or from money loaned or advanced to or charged against such prostitution by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or shall tout or receive compensation for touting for such prostitution, shall be guilty of pimping, and, upon the first conviction for such offense, shall be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 nor more than \$500; and, upon a conviction for any subsequent offense hereunder, shall be punished by imprisonment in the penitentiary for a period of not less than one nor more than three years: Provided, That where the prostitute referred to in this section is a minor, any person violating the provisions of this section shall be guilty of a felony, and, upon conviction shall be confined in the penitentiary not less than two years or fined not more than \$5,000, or both. A prostitute shall be a competent witness in any prosecution hereunder to testify for or against the accused as to any transaction or conversation with the accused, or by the accused with another person or persons in the presence of the prostitute, even if the prostitute may have married the accused before or after the violation of any of the provisions of this section, whether called as a witness during the existence of the marriage or after its dissolution.

§61-8-9. Indecent exposure.

(a) A person is guilty of indecent exposure when such person intentionally exposes his or her sex organs or anus or the sex organs or anus of another person, or intentionally causes such exposure by another or engages in any overt act of sexual gratification, and does so under circumstances in which the person knows that the conduct is likely to cause affront or alarm: Provided, That it is not considered indecent exposure for a mother to breast feed a child in any location, public or private.

(b) Except as provided in subsection (c), any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than ninety days, or fined not more than \$250, or both fined and confined.

(c) Any person who violates the provisions of subsection (a) of this section by intentionally exposing himself or herself to another person and the exposure was done for the purpose of sexual gratification, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than twelve months, or both. For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail for not less than thirty days nor more than twelve months. For a third or subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility for not less than one year nor more than five years.

§61-8-25. Requiring children to beg, sing or play musical instruments in streets; penalty.

Any person, having the care, custody, or control, lawful or unlawful, of any minor child under the age of eighteen years, who shall use such minor, or apprentice, give away, let out, hire or otherwise dispose of, such minor child to any person, for the purposes of singing, playing on musical instruments, begging, or for any mendicant business whatsoever in the streets, roads, or other highways of this state, and any person who shall take, receive, hire, employ, use or have in custody, any minor for the vocation, occupation, calling, service or purpose of singing, playing upon musical instruments, or begging upon the streets, roads or other highways of this state, or for any mendicant business whatever, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$5 nor more than \$100.

§61-8-26. Permitting children to sing, dance or act in dance house, etc.; penalty.

Any person, having the care, custody, or control of any minor child under the age of fifteen years, who shall in any manner sell, apprentice, give away or permit such child to sing, dance, act, or in any manner exhibit it in any dance house, concert saloon, theater or place of entertainment where wines or spirituous or malt liquors are sold or given away, or with which any place for the sale of wines or spirituous or malt liquors is directly or indirectly connected by any passageway or entrance, and any proprietor of any dance house whatever, or any such concert saloon, theater, or place of entertainment, so employing any such child, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$5 nor more than \$100 for each offense.

§61-8-27. Unlawful admission of children to dance house, etc.; penalty.

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not exceeding \$200: Provided, That there is exemption from

this prohibition for: (a) A private hotel, private nine-hole golf course, private resort hotel, and private golf club licensed pursuant to §60-7-1 et seq. of this code and in compliance with §60-7-2(g)(8), §60-7-2(h)(7), §60-7-2(i)(7), and §60-7-2(j)(7) of this code; (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner and which has designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan; or (c) a private fair and festival that is in compliance with §60-7-2(f)(7) of this code, by utilizing a mandatory carding or identification program whereby all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and must provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer.

§61-8-27a. Use of false identification, etc., by person under age; penalty.

Any person who exhibits or displays a false or erroneous birth certificate, draft card, registration card or certificate, license, or identification card or certificate of any kind or character, or who exhibits or displays any certificate, card or license of any kind or character not his own, for the purpose of purchasing or drinking beer or liquor or gaining admittance to any establishment, from which he or she would otherwise be barred by reason of age, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than \$25 nor more than \$100, and, in the discretion of the court, may be imprisoned in the county jail not exceeding thirty days.

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-1. Keeping or exhibiting gaming table, machine, or device; penalty; seizure of table, machine or device; forfeiture of money used in such gaming.

Any person who shall keep or exhibit a gaming table, commonly called A.B.C. or E.O. table, or faro bank, or keno table, or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine, or any other gaming table or device of like kind, under any denomination, or which has no name, whether the game, table, bank, machine or device be played with cards, dice or otherwise, or shall be a partner, or concerned in interest, in keeping or exhibiting such table, bank, machine or gaming device of any character, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than two nor more than twelve months and be fined not less than \$100 nor more than \$1,000. Any such table, faro bank, machine or gaming device, and all money staked or exhibited to allure persons to bet at such table, or upon such gaming device, may be seized by order of a court, or under the warrant of a justice, and the money so seized shall be forfeited to the county and paid into the treasury of the county in which such seizure is made, and the table, faro bank, machine or gaming device shall be completely destroyed: Provided, however, That the provisions of this section shall not extend to coin-operated non-payout machines with free play feature or to automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value or services for each coin deposited therein and in which there is no element of chance.

§61-10-2. Permitting gaming table or device on premises; penalty.

If any person knowingly permit a gaming table, bank or device, such as is mentioned in the preceding section, to be kept or exhibited on any premises in his occupation, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year, and be fined not less than \$100 nor more than \$1,000.

§61-10-3. Unlawful to act as doorkeeper, guard or watch for keeper of gaming table or device; penalty.

If any person shall act as doorkeeper, guard or watch, or employ another person to act as such, for a keeper or exhibitor of any such gaming table, bank or device, or shall resist, or by any means or device, prevent, hinder or delay the lawful arrest of such keeper or exhibitor, or the seizure of the table, bank or device, or money exhibited or staked thereat, or shall unlawfully take the same from the person seizing it, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and be fined not exceeding \$1,000.

§61-10-4. Playing or betting at gaming tables and devices; playing or betting on games at hotels and public places; penalty.

If any person bet or play at any such gaming table, bank or device as is mentioned in the first section of this article, or if, at any hotel or tavern, or other public place, or place of public resort, he play at any game except bowls, chess or backgammon, draughts or a licensed game, or bet on the sides of those who play at any game, whether the game be permitted or licensed or not, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than five nor more than \$100, and shall, if required by the court, give security for his good behavior for one year, or, in default thereof, may be imprisoned in the county jail not more than three months.

§61-10-5. Betting on games of chance; furnishing money or thing of value therefor; penalty.

If any person at any place, public or private, bet or wage money or other thing of value on any game of chance, or shall knowingly furnish any money or other thing of value to any other person to bet or wage on any such game, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$5 nor more than \$300, and shall, if required by the court, give security for his good behavior for one year, and in default of the payment of such fine and the costs and the execution of such bond, if such bond be required, shall be imprisoned in the county jail not less than ten nor more than thirty days.

§61-10-6. Permitting gaming at hotels; penalty.

If the keeper of a hotel or tavern permit unlawful gaming at his house, or at any outhouse, booth, arbor, or other place appurtenant thereto or held therewith, he shall be guilty of a misdemeanor, and, upon conviction, be fined not less than \$20 nor more than \$100, and shall forfeit his license, and shall give security for his good behavior for one year, or, in default of such security, be imprisoned in the county jail not more than four months.

§61-10-7. Presumption against hotelkeeper.

In a prosecution under the preceding section, if the gaming be proved, it shall be presumed it was permitted by the keeper of the hotel, unless it appear that he did not know of or suspect such gaming, or that he endeavored to prevent it, and gave information of it, with the names of the players, to the next circuit court of the county in which such gaming occurred, or to the prosecuting attorney thereof.

§61-10-8. Gaming at outhouse of hotel; penalty.

If the keeper of a hotel or tavern let or hire to another person any outhouse or other place, which has been at any time appurtenant to or held with the house kept by him with intent that unlawful gaming be permitted thereat, he shall suffer the same punishment and incur the same forfeiture as if such unlawful gaming were permitted at his own principal house; and in a prosecution therefor, if the gaming be proved, it shall be

presumed that such outhouse or other place was let or hired with intent aforesaid, unless the presumption be repelled in the manner provided for in the preceding section.

§61-10-9. Cheating at gaming; penalty.

If any person playing at any game, or making a wager, or having a share in any stake or wager, or betting on the hands or sides of others playing at any game or making a wager, shall cheat, or by fraudulent means win or acquire for himself or another, money or other valuable thing, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and fined not less than five times the value of the money or thing won or acquired.

§61-10-10. Poolroom defined; selling tickets and chances in lottery; penalty.

The word “poolroom,” wherever the same is used in this section, shall be held and construed to mean any room where any pool ticket, chance voucher or certificate is sold entitling or purporting to entitle the holder or promisee thereof, or any other person, to money or other thing of value, contingent upon the result of any horse race, prizefight, game of chance, game of skill or science, or other sport or contest. Any person who shall set up or promote, or be connected with or interested in the management or operation of any poolroom, his agents, servants or employees, they, and each of them, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 for each offense, and may, in the discretion of the court, be confined in jail not to exceed one year. The buying, selling or transferring of tickets or chances in any lottery shall be and the same is hereby prohibited.

§61-10-11. Lotteries or raffles; penalty.

If any person shall set up or promote or be concerned in managing or drawing a lottery or raffle, for money or other thing of value, or knowingly permit such lottery in any house under his control, or knowingly permit money or other property to be raffled for in such house, or to be won therein, by throwing or using dice, or by any other game of chance, or knowingly permit the sale in such house of any chance or ticket, or share of a ticket, in a lottery, or any writing, certificate, bill, token or other device purporting or intended to guarantee or assure to any person, or to entitle him to a prize, or a share of, or interest in, a prize to be drawn in a lottery, or shall, for himself or any other person, buy, sell, or transfer, or have in his possession for the purpose of sale, or with intent to exchange, negotiate, or transfer, or shall aid in selling, exchanging, negotiating, or transferring a chance or ticket, or a share of a ticket, in a lottery, or any such writing, certificate, bill, token or device, he shall be guilty of a misdemeanor, and, upon conviction, shall, in the discretion of the court, be confined in jail not more than one year or be fined not exceeding \$1,000, or both: Provided, however, That this section shall not be deemed to apply to that certain type or form of lottery or raffle designated and familiarly known as “policy” or “numbers.”

**CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.
ARTICLE 1. DEFINITIONS.**

§60A-1-101. Definitions.

As used in this act:

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

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

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

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

(c) “Analogue” means a substance that, in relation to a controlled substance, has a substantially similar chemical structure.

(d) “Bureau” means the “Bureau of Narcotics and Dangerous Drugs, United States Department of Justice” or its successor agency.

(e) “Controlled substance” means a drug, substance or immediate precursor in Schedules I through V of article two of this chapter.

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

(g) “Imitation controlled substance” means: (1) A controlled substance which is falsely represented to be a different controlled substance; (2) a drug or substance which is not a controlled substance but which is falsely represented to be a controlled substance; or (3) a controlled substance or other drug or substance or a combination thereof which is shaped, sized, colored, marked, imprinted, numbered, labeled, packaged, distributed or priced so as to cause a reasonable person to believe that it is a controlled substance.

(h) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of: (1) A controlled substance, whether or not there is an agency relationship; (2) a counterfeit substance; or (3) an imitation controlled substance.

(i) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

(j) “Dispenser” means a practitioner who dispenses.

(k) “Distribute” means to deliver, other than by administering or dispensing, a controlled substance, a counterfeit substance or an imitation controlled substance.

(l) “Distributor” means a person who distributes.

(m) “Drug” means: (1) Substances recognized as drugs in the official “United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary”, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in subdivision (1), (2) or (3) of this subdivision. It does not include devices or their components, parts or accessories.

(n) “Fentanyl analog or derivative” means any substance which has a chemical structure which is substantially similar to the chemical structure of fentanyl, including any of its salts, isomers, or salts of isomers, including any chemical compound or mixture. For purposes of this chapter, the term “fentanyl derivative or analog” includes any fentanyl analog that is not otherwise scheduled in this chapter.

(o) “Immediate derivative” means a substance which is the principal compound or any analogue of the parent compound manufactured from a known controlled substance primarily for use and which has equal or similar pharmacologic activity as the parent compound which is necessary to prevent, curtail or limit manufacture.

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

(q) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of a controlled substance:

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

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

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

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

(1) Opium and opiate and any salt, compound, immediate derivative or preparation of opium or opiate.

(2) Any salt, compound, isomer, immediate derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) of this subdivision, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

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

(t) “Opiate” means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section two hundred one, article two of this chapter, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does not include its racemic and levorotatory forms.

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

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

(w) “Placebo” means an inert medicament or preparation administered or dispensed for its psychological effect, to satisfy a patient or research subject or to act as a control in experimental series.

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

(y) “Practitioner” means:

(1) A physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

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

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

(bb) “Ultimate user” means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

§60A-2-204. Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation.

(b) Opiates.

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

Acetylmethadol;

Allylprodine;

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

Alphameprodine;

Alphamethadol;

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

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

Benzethidine;

Betacetylmethadol;

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

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

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetyl butyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxidine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacymorphan;

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

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

Morpheridine;

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

Noracymethadol;

Norlevorphanol;

Normethadone;

Norpipanone;

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

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

Phenadoxone;

Phenampromide;

Phenomorphane;

Phenoperidine;

Piritramide;

Proheptazine;

Propiridine;

Propiram;

Racemoramide;

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

Tilidine;

Trimeperidine.

(c) Opium derivatives:

Acetorphine;

Acetyldihydrocodeine;

Benzylmorphine;

Codeine methylbromide;

Codeine-N-Oxide;

Cyprenorphine;

Desomorphine;

Dihydromorphine;

Drotebanol;

Etorphine (except HCl Salt);

Heroin;

Hydromorphanol;

Methyldesorphine;

Methyldihydromorphine;

Morphine methylbromide;

Morphine methylsulfonate;

Morphine-N-Oxide;

Myrophine;

Nicocodeine;

Nicomorphine;

Normorphine;

Pholcodine;

Thebacon.

(d) Hallucinogenic substances.

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

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

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

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

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

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

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

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

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

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

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

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

3,4-methylenedioxy amphetamine;

3,4-methylenedioxymethamphetamine (MDMA);

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

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

3,4,5-trimethoxy amphetamine;

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

Alpha-methyltryptamine (other name: AMT);

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

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

Dimethyltryptamine; some trade or other names: DMT;

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

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

Lysergic acid diethylamide;

Marihuana;

Mescaline;

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

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

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity such as the following:

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

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

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

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

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

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

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

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

4-methylmethcathinone (Mephedrone);

3,4-methylenedioxypropylvalerone (MDPV);

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

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

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

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

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

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

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

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

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

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

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

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

Alpha-methyltryptamine (other name: AMT)

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

Synthetic Cannabinoids as follows:

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

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

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

(dexamabinol);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Synthetic cannabinoids:

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

YL)phenol);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Tetrahydrocannabinols:

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

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

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

Synthetic Phenethylamines

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

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

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

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

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

furanyl fentanyl;

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

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

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

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

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

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

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

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

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

Opioid Receptor Agonist

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

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

JWH 015;

JWH 018;

JWH 019;

JWH 073;

JWH 081;

JWH 122;

JWH 200;

JWH 210;

JWH 398;

AM 2201;

WIN 55,212.

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

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

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

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

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

JWH 250;

JWH 203;

JWH 251;

JWH 302.

Cyclohexylphenols or any compound containing a 2-(3- hydroxycyclohexyl) phenol structure with a substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

CP 47,497 and its homologues and analogs;

Cannabicyclohexanol;

CP 55,940.

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

AM 694;

Pravadoline WIN 48,098;

RCS 4;

AM 679.

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

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

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

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

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

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

Tryptamines:

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

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

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

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

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

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

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

4-hydroxy Diethyltryptamine (4-HO-DET)

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

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

4-hydroxy Diethyltryptamine (4-HO-DET)

(e) Depressants.

Mecloqualone;

Methaqualone.

(f) Stimulants.

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

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

Fenethylamine;

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

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

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

N-ethylamphetamine;

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

Alpha-pyrrolidinopropylphenone, also known as alpha-PVP, optical isomers, salts and salts of isomers.

Substituted amphetamines:

2-Fluoroamphetamine

3-Fluoroamphetamine

4-Fluoroamphetamine

2-chloroamphetamine

3-chloroamphetamine

4-chloroamphetamine

2-Fluoromethamphetamine

3-Fluoromethamphetamine

4-Fluoromethamphetamine

4-chloromethamphetamine

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

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

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

N-benzylpiperazine, also known as BZP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 4. OFFENSES AND PENALTIES.

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

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

Any person who violates this subsection with respect to:

(i) A controlled substance classified in Schedule I or II, which is a narcotic drug, is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than fifteen years, or fined not more than twenty-five thousand dollars, or both;

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

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

(iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both: Provided, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.

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

Any person who violates this subsection with respect to:

(i) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than fifteen years, or fined not more than twenty-five thousand dollars, or both;

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

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

(iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both: Provided, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor and, disposition may be made under section four hundred seven of this article, subject to the limitations specified in said section, or upon conviction, such person may be confined in jail not less than ninety days nor more than six months, or fined not more than one thousand dollars, or both: Provided, That notwithstanding any other provision of this act to the contrary, any first offense for possession of Synthetic Cannabinoids as defined by subdivision (32) subsection, (d), section 101, article 1 of this chapter; 3,4-methylenedioxypropylone (MPVD) and 3,4-methylenedioxypropylone and/or mephedrone as defined in subsection (f), section 101, article 1 of this chapter; or less than 15 grams of marijuana, shall be disposed of under said section.

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

(1) To create, distribute or deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or

(2) To create, possess or sell or otherwise transfer any equipment with the intent that such equipment shall be used to apply a trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, upon a counterfeit substance, an imitation controlled substance, or the container or label of a counterfeit substance or an imitation controlled substance.

(3) Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be imprisoned in jail for not less than six months nor more than one year, or fined not more than five thousand dollars, or both. Any person being eighteen years old or more who violates subdivision (1) of this subsection and, in so doing, distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than such person is guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both.

(4) The provisions of subdivision (1) of this subsection shall not apply to a practitioner who administers or dispenses a placebo.