HOUSE BILL NO. HB0062

Wyoming Controlled Substances Act-amendments.

Sponsored by: Representative(s) Gingery and Senator(s) Perkins and Ross

A BILL

for

AN ACT relating to the Wyoming Controlled Substances Act; conforming punctuation and spelling in the act to terminology in federal law; adding and deleting substances in the various schedules of the act as specified; amending registration requirements as specified; amending methamphetamine precursor sales restrictions to match federal requirements; authorizing a person to sign a consent for a third party to receive prescription tracking reports; specifying applicability of new registration requirements; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-7-1014(d)(xxxii), (xxxiv), by creating new paragraphs (xxxv) and (xxxvi) and (f)(viii), 35-7-1016(b)(i) by creating a new subparagraph (T), (c) by

creating a new paragraph (xxix) and (d) by creating a new paragraph (v), 35-7-1018(e)(iii), (iv), (g)(xxiii), by creating new paragraphs (lx) through (lxii) and by renumbering (lx) as (lxiii), 35-7-1020(c)(xxix), by creating a new paragraph (lii) and (f) by creating new paragraphs (iii) and (iv), 35-7-1022(b)(intro) and by creating a new subsection (f), 35-7-1024(a), 35-7-1030(a) and (c), 35-7-1059(g)(intro), (i) and by creating a new paragraph (iii), (h) and (p) and 35-7-1060(c) by creating a new paragraph (iv) and by renumbering (iv) and (v) as (v) and (vi) are amended to read:

35-7-1014. Substances included in Schedule I.

(d) *Hallucinogenic substances*. - Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(xxxii) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7), its optical isomers, salts and salts of isomers;

(xxxiv) 5-methoxy-N,N-diisopropyltryptamine; (other name: 5-MeO-DIPT), its isomers, salts and salts of isomers;

(xxxv) Synthetic cannibinoid agonists, excluding synthetic cannabinoids that require a prescription, are approved by the United States food and drug administration, and are dispensed in accordance with state and federal law, but including:

(A) HU-211 - (dexanabinol, (6a*S* ,10a*S*)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);

(B) JWH-073 - 1-Butyl-3-(1-naphthoyl)indole;

(C) JWH-018 - 1-Pentyl-3-(1-naphthoyl)indole;

(D) CP 47,497 - 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol);

(xxxvi) Salvinorum A.

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

(viii) N-Benzylpiperazine; (some other names: BZP, 1-benzylpiperazine), its optical isomers, salts and salts of isomers.

35-7-1016. Substances included in Schedule II.

(b) *Substances, vegetable origin or chemical synthesis*. - Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of

chemical synthesis or by combination of extraction and chemical synthesis:

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

(T) Oripavine.

(c) *Opiates*. - Unless specifically excepted or unless in another schedule, any of the following opiates including their isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(xxix) Tapentadol.

(d) *Stimulants*. - Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the

following substances having a stimulant effect on the central nervous system:

(v) Lisdexamfetamine, its salts, isomers and salts of isomers.

35-7-1018. Substances included in Schedule III.

(e) Narcotic drugs. - Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraphs (i) through (viii) of this subsection:

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

(iv) Not more than three hundred (300) milligrams of dihydrocodeinone (hydrocodone) per one

hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Anabolic steroids. - For purposes of this subsection, "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids and dehydroepiandrosterone) and unless specifically excepted or unless listed in another schedule, includes any of the following or any ether, ester, salt or derivative of the following that acts in the same manner on the human body:

(xxiii) 13[beta]-ethyl-17[~~alpha~~beta]-hydroxygon-4-en-3-one);

(lx) Boldione (androsta-1,4-diene-3,17-dione);

(lxi) Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst- 2-en-17[beta]-ol)(also known as madol);

(lxii) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene- 3,17-dione);

~~(lx)~~(lxiii) Any salt, ester or ether of a drug or substance described or listed in this subsection, except the term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States secretary of health and humans services for such administration. If any person prescribes, dispenses or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection.

35-7-1020. Substances included in Schedule IV.

(c) *Depressants*. - Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(xxix) ~~Medaxepam~~ Medazepam;

(lii) Fospropofol.

(f) *Other substances*. - Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(iii) Carisoprodol;

(iv) Tramadol.

35-7-1022. Substances included in Schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. - Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraphs (i) through (vi) of this subsection which also contains one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer

upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(f) Depressants. - Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(i) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(ii) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

35-7-1024. Registration requirements.

(a) Every person who manufactures, distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state, must obtain ~~annually~~ every two (2) years, on or before July

1, a registration issued by the board in accordance with its rules. Any registrant who fails to renew his registration by ~~September 30~~ July 1 of each ~~calendar~~ renewal year shall be charged a late fee. ~~in the amount of forty dollars ($40.00).~~ If the failure to renew continues past ~~December 31~~ September 30 of the ~~calendar~~ renewal year, the registration shall be cancelled and the ~~bureau~~ United States drug enforcement administration notified for cancellation of the registrant's federal registration.

35-7-1030. Prescriptions required in certain instances.

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

(c) Except when dispensed directly by a practitioner other than a pharmacy to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under state or federal statute, shall not be dispensed without a written, ~~or~~ oral or electronic prescription of a practitioner. The

prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.

35-7-1059. Unlawful clandestine laboratory operations; methamphetamine precursors; presumptively illegal amount; methamphetamine precursor sales limitations; registration requirements; reports; penalties.

(g) The retail sale of ~~nonliquid~~ methamphetamine precursor drugs ~~or liquid products with ephedrine or pseudoephedrine as the sole active ingredient~~ shall be limited ~~to~~ as follows:

(i) ~~Sales in packages containing not more than three (3) grams~~ No person shall obtain more than a total of three and six-tenths (3.6) grams per calendar day, regardless of the number of transactions, of one (1) or more methamphetamine precursor drugs, calculated in terms of the active equivalent of ephedrine ~~hydrochloride and~~ base, pseudoephedrine base or phenylpropanolamine base;

(ii) All sales in blister packs~~, each blister containing~~ shall contain not more than two (2) dosage units

or, when the use of blister packs is not technically feasible, sales shall be in unit dose packets or pouches; ~~.~~

(iii) No person shall obtain more than nine (9) grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base, of which no more than seven and one-half (7.5) grams can be imported by private or commercial carrier or the United States postal service, during any thirty (30) day period.

(h) No person shall sell in a single retail transaction more than two (2) packages ~~as described in subsection (g) of this section~~ of a product containing methamphetamine precursor drugs. The seller shall maintain a written or electronic list of such sales in a logbook that identifies the products by name, the quantity sold, the names and addresses of purchasers, and the date and time of the sales except that such requirement does not apply to any purchase by an individual of a single sales package if that package contains not more than sixty (60) milligrams of pseudoephedrine. The seller shall maintain each entry in the logbook for not fewer than two (2) years after the date on which the entry is made. The regulated seller who in good faith releases logbook information to

federal, state or local law enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(p) For purposes of this section, "methamphetamine precursor drug" means ~~nonliquid~~ any product that contains ephedrine, pseudoephedrine or phenylpropanolamine or liquid products with ephedrine or pseudoephedrine as the sole active ingredient and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act as a nonprescription drug.

35-7-1060. Controlled substances prescription tracking program.

(c) The tracking program shall not be used to infringe on the legal use of a controlled substance. Information obtained through the controlled substance prescription tracking program is confidential and may not be released and is not admissible in any judicial or administrative proceeding, except as follows:

(iv) The board may release information to a third party if the patient has signed a consent specifically for the release of his controlled substance prescription information to the specific third party;

~~(iv)~~ (v) The board may release information that does not identify individual patients, practitioners, pharmacists or pharmacies, for educational, research or public information purposes; and

~~(v)~~ (vi) Subject to the rules of evidence, information obtained from the program is admissible in a criminal proceeding or an administrative proceeding involving professional licensing.

Section 2. W.S. 35-7-1002(a)(iii), 35-7-1016(c)(xxv), 35-7-1022(e) and 35-7-1059(m)(v) are repealed.

Section 3. The registration requirements for persons who manufacture, distribute or dispense controlled substances in Wyoming specified in W.S. 35-7-1024, as amended in section 1 of this act, shall apply to all registrations issued or renewed in calendar year 2011.

Section 4. This act is effective July 1, 2011.

(END)