

SENATE BILL 300

Introduced by Pinsoneault, et al.

2/06	Introduced
2/07	Referred to Judiciary
2/07	First Reading
2/22	Hearing
2/23	Tabled in Committee
4/03	Taken From Table
4/04	Committee Report==Bill Passed as Amended
4/05	2nd Reading Passed
4/06	3rd Reading Passed
	Transmitted to House
4/19	Motion Failed to Suspend Rules to Accept Bill From Senate After the Transmittal Deadline Died in Process (Failed to Meet Transmittal Deadline)

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1 INTRODUCED BY *Senate* BILL NO. *300*
2 *Richard A. Rice*
3 *Bob Brown NAT'L MERITOR Va. Vetterling*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 LAWS GOVERNING DANGEROUS DRUGS TO CONFORM TO THE UNIFORM
6 CONTROLLED SUBSTANCES ACT; UPDATING THE SCHEDULES OF
7 CONTROLLED SUBSTANCES; REVISING THE REGULATION OF THE
8 MANUFACTURE AND DISTRIBUTION OF CONTROLLED SUBSTANCES;
9 CREATING CRIMINAL PENALTIES FOR VIOLATING PROVISIONS
10 REGULATING THE MANUFACTURE AND DISTRIBUTION OF CONTROLLED
11 SUBSTANCES; INCREASING CRIMINAL PENALTIES FOR VIOLATIONS
12 INVOLVING MINORS OR OCCURRING NEAR A SCHOOL; CREATING THE
13 OFFENSE OF MONEY LAUNDERING; PROVIDING AN APPROPRIATION OF
14 AN ASSESSMENT FOR VIOLATION OF CONTROLLED SUBSTANCES LAWS
15 FOR FUNDING EDUCATION AND TREATMENT PROGRAMS; AUTHORIZING
16 CIVIL ACTIONS FOR VIOLATIONS OF CONTROLLED SUBSTANCES LAWS
17 AND CONTINUING CRIMINAL ENTERPRISES INVOLVING CONTROLLED
18 SUBSTANCES; AMENDING SECTIONS 15-25-102, 15-25-111,
19 17-7-502, 37-20-404, 41-5-206, 45-7-307, 45-9-101, 45-9-102,
20 45-9-103, 45-9-104, 45-9-105, 45-9-106, 45-9-112, 45-9-114,
21 45-9-115, 45-9-116, 45-9-202, 45-10-101, 45-10-107,
22 50-32-101, 50-32-105, 50-32-106, 50-32-201, 50-32-202,
23 50-32-203, 50-32-206, 50-32-207, 50-32-208, 50-32-209,
24 50-32-221, 50-32-222, 50-32-223, 50-32-224, 50-32-225,
25 50-32-226, 50-32-228, 50-32-229, 50-32-231, 50-32-232,

1 50-32-301, 50-32-302, 50-32-305, 50-32-306, 50-32-307,
2 50-32-308, 50-32-309, 50-32-310, 50-32-311, 50-32-312,
3 50-32-401, 77-6-210, AND 77-6-212, MCA; AND REPEALING
4 SECTIONS 45-9-107, 45-9-108, 45-9-111, 45-9-113, 50-32-102,
5 50-32-103, 50-32-104, 50-32-204, 50-32-205, 50-32-227, AND
6 50-32-230, MCA."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 **Section 1.** Section 15-25-102, MCA, is amended to read:

10 "15-25-102. Definitions. As used in this chapter,
11 unless the context requires otherwise, the following
12 definitions apply:

13 (1) "Dangerous drug" ~~has the meaning provided~~ means a
14 controlled substance as defined in 50-32-101.

15 (2) "Department" means the department of revenue
16 provided for in 2-15-1301.

17 (3) "Person" means an individual, firm, association,
18 corporation, partnership, or any other group or combination
19 acting as a unit."

20 **Section 2.** Section 15-25-111, MCA, is amended to read:

21 "15-25-111. Tax on dangerous drugs. (1) There is a tax
22 on the possession and storage of dangerous drugs. Except as
23 provided in 15-25-112, each person possessing or storing
24 dangerous drugs is liable for the tax. The tax imposed is
25 determined pursuant to subsection (2). The tax is due and



1 payable on the date of assessment. The department shall add
 2 an administration fee of 5% of the tax imposed pursuant to
 3 subsection (2) to offset costs incurred in assessing value,
 4 in collecting the tax, and in any review and appeal process.

5 (2) With the exception that the tax on possession and
 6 storage of less than 1 ounce, 1 gram, or 100 micrograms of
 7 dangerous drugs must be that set forth below for 1 ounce, 1
 8 gram, or 100 micrograms, the tax on possession and storage
 9 of dangerous drugs is the greater of:

10 (a) 10% of the assessed market value of the drugs, as
 11 determined by the department; or

12 (b) (i) \$100 per ounce of marijuana, as defined in
 13 50-32-101, or its derivatives, as determined by the
 14 aggregate weight of the substance seized;

15 (ii) \$250 per ounce of hashish, as defined in ~~50-32-101~~
 16 as the mechanically processed or extracted plant material
 17 that contains tetrahydrocannabinol (THC) and is composed of
 18 resin from the cannabis plant, as determined by the
 19 aggregate weight of the substance seized;

20 (iii) \$200 per gram of any substance containing or
 21 purported to contain any amount of a ~~dangerous--drug~~
 22 substance included in Schedule I pursuant to 50-32-222(1),
 23 (2), (4), and (5), or Schedule II pursuant to 50-32-224(1)
 24 through (4), as determined by the aggregate weight of the
 25 substance seized;

1 (iv) \$10 per 100 micrograms of any substance containing
 2 or purported to contain any amount of lysergic acid
 3 diethylamide (LSD) included in Schedule I pursuant to
 4 50-32-222(3), as determined by the aggregate weight of the
 5 substance seized;

6 (v) \$100 per ounce of any substance containing or
 7 purported to contain any amount of an immediate precursor as
 8 defined under Schedule II pursuant to 50-32-224(5), as
 9 determined by the aggregate weight of the substance seized;
 10 and

11 (vi) \$100 per gram of any substance containing or
 12 purported to contain any amount of dangerous drug not
 13 otherwise provided for in this subsection (2).

14 (3) The tax imposed under this section may be collected
 15 before any state or federal fines or forfeitures have been
 16 satisfied."

17 **Section 3.** Section 17-7-502, MCA, is amended to read:

18 "17-7-502. Statutory appropriations -- definition --
 19 requisites for validity. (1) A statutory appropriation is an
 20 appropriation made by permanent law that authorizes spending
 21 by a state agency without the need for a biennial
 22 legislative appropriation or budget amendment.

23 (2) Except as provided in subsection (4), to be
 24 effective, a statutory appropriation must comply with both
 25 of the following provisions:

1 (a) The law containing the statutory authority must be
2 listed in subsection (3).

3 (b) The law or portion of the law making a statutory
4 appropriation must specifically state that a statutory
5 appropriation is made as provided in this section.

6 (3) The following laws are the only laws containing
7 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
8 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
9 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
10 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
11 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
12 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
13 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
14 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
15 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
16 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;
17 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;
18 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;
19 [section 29]; and section 13, House Bill No. 861, Laws of
20 1985.

21 (4) There is a statutory appropriation to pay the
22 principal, interest, premiums, and costs of issuing, paying,
23 and securing all bonds, notes, or other obligations, as due,
24 that have been authorized and issued pursuant to the laws of
25 Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state
2 treasurer, for deposit in accordance with 17-2-101 through
3 17-2-107, as determined by the state treasurer, an amount
4 sufficient to pay the principal and interest as due on the
5 bonds or notes have statutory appropriation authority for
6 such payments. (In subsection (3), pursuant to sec. 10, Ch.
7 664, L. 1987, the inclusion of 39-71-2504 terminates June
8 30, 1991.)"

9 **Section 4.** Section 37-20-404, MCA, is amended to read:

10 "37-20-404. Prescribing and dispensing authority --
11 discretion of supervising physician on limitation of
12 authority. (1) A physician assistant-certified may
13 prescribe, dispense, and administer drugs to the extent
14 authorized by the board by rule, by the utilization plan, or
15 both. The prescribing, dispensing, and administration of
16 drugs are also subject to the authority of the supervising
17 physician, and the supervising physician in his discretion
18 may impose additional limitations on the prescribing and
19 dispensing authority granted by the board.

20 (2) All dispensing activities allowed by this section
21 must comply with 37-2-104 and with packaging and labeling
22 guidelines developed by the board of pharmacy under Title
23 37, chapter 7.

24 (3) The prescribing and dispensing authority granted a
25 physician assistant-certified may include the following:

1 (a) Prescribing, dispensing, and administration of
2 Schedule III drugs substances listed in 50-32-226, Schedule
3 IV drugs substances listed in 50-32-229, and Schedule V
4 drugs substances listed in 50-32-232, is authorized.

5 (b) Prescribing, dispensing, and administration of
6 Schedule II drugs substances listed in 50-32-224 may be
7 authorized for limited periods not to exceed 48 hours.

8 (c) Records on the dispensing and administration of
9 scheduled drugs substances must be kept.

10 (d) A physician assistant-certified shall maintain
11 registration with the federal drug enforcement
12 administration.

13 (e) Drugs dispensed by a physician assistant-certified
14 must be prepackaged by a licensed pharmacist, except that
15 samples provided by a pharmaceutical company representative
16 may be dispensed.

17 (f) Prescriptions written by physician
18 assistants-certified must comply with regulations relating
19 to prescription requirements adopted by the board of
20 pharmacy.

21 (g) The board shall adopt rules regarding the refilling
22 of prescriptions written by physician assistants-certified."

23 **Section 5.** Section 41-5-206, MCA, is amended to read:

24 "41-5-206. Transfer to criminal court. (1) After a
25 petition has been filed alleging delinquency, the court may,

1 upon motion of the county attorney, before hearing the
2 petition on its merits, transfer the matter of prosecution
3 to the district court if:

4 (a) (i) the youth charged was 12 years of age or more
5 at the time of the conduct alleged to be unlawful and the
6 unlawful act would constitute sexual intercourse without
7 consent as defined in 45-5-503, deliberate homicide as
8 defined in 45-5-102, or mitigated deliberate homicide as
9 defined in 45-5-103, or the attempt, as defined in 45-4-103,
10 of either deliberate or mitigated deliberate homicide if the
11 act had been committed by an adult; or

12 (ii) the youth charged was 16 years of age or more at
13 the time of the conduct alleged to be unlawful and the
14 unlawful act is one or more of the following:

15 (A) negligent homicide as defined in 45-5-104;

16 (B) arson as defined in 45-6-103;

17 (C) aggravated or felony assault as defined in
18 45-5-202;

19 (D) robbery as defined in 45-5-401;

20 (E) burglary or aggravated burglary as defined in
21 45-6-204;

22 (F) aggravated kidnapping as defined in 45-5-303;

23 (G) possession of explosives as defined in 45-8-335;

24 (H) criminal sale of dangerous---drugs controlled
25 substances as included in 45-9-101;

1 (I) attempt as defined in 45-4-103 of any of the acts
2 enumerated in subsections (1)(a)(ii)(A) through
3 (1)(a)(ii)(H);

4 (b) a hearing on whether the transfer should be made is
5 held in conformity with the rules on a hearing on a petition
6 alleging delinquency, except that the hearing will be to the
7 youth court without a jury;

8 (c) notice in writing of the time, place, and purpose
9 of the hearing is given to the youth, his counsel, and his
10 parents, guardian, or custodian at least 10 days before the
11 hearing; and

12 (d) the court finds upon the hearing of all relevant
13 evidence that there is probable cause to believe that:

14 (i) the youth committed the delinquent act alleged;

15 (ii) the seriousness of the offense and the protection
16 of the community require treatment of the youth beyond that
17 afforded by juvenile facilities; and

18 (iii) the alleged offense was committed in an
19 aggressive, violent, or premeditated manner.

20 (2) In transferring the matter of prosecution to the
21 district court, the court may also consider the following
22 factors:

23 (a) the sophistication and maturity of the youth,
24 determined by consideration of his home, environmental
25 situation, and emotional attitude and pattern of living;

1 (b) the record and previous history of the youth,
2 including previous contacts with the youth court, law
3 enforcement agencies, youth courts in other jurisdictions,
4 prior periods of probation, and prior commitments to
5 juvenile institutions. However, lack of a prior juvenile
6 history with youth courts will not of itself be grounds for
7 denying the transfer.

8 (3) The court shall grant the motion to transfer if the
9 youth was 16 years old or older at the time of the conduct
10 alleged to be unlawful and the unlawful act would constitute
11 deliberate homicide as defined in 45-5-102, mitigated
12 deliberate homicide as defined in 45-5-103, or the attempt,
13 as defined in 45-4-103, of either deliberate or mitigated
14 deliberate homicide if the act had been committed by an
15 adult.

16 (4) Upon transfer to district court, the judge shall
17 make written findings of the reasons why the jurisdiction of
18 the youth court was waived and the case transferred to
19 district court.

20 (5) The transfer terminates the jurisdiction of the
21 youth court over the youth with respect to the acts alleged
22 in the petition. No youth may be prosecuted in the district
23 court for a criminal offense originally subject to the
24 jurisdiction of the youth court unless the case has been
25 transferred as provided in this section.

1 (6) Upon order of the youth court transferring the case
2 to the district court, the county attorney shall file the
3 information against the youth without unreasonable delay.

4 (7) Any offense not enumerated in subsection (1) that
5 arises during the commission of a crime enumerated in
6 subsection (1) may be:

- 7 (a) tried in youth court;
8 (b) transferred to district court with an offense
9 enumerated in subsection (1), upon motion of the county
10 attorney and order of the youth court judge.

11 (8) If a youth is found guilty in district court of any
12 of the offenses transferred by the youth court and is
13 sentenced to the state prison, his commitment shall be to
14 the department of institutions which shall confine the youth
15 in whatever institution it considers proper, including a
16 state youth correctional facility under the procedures of
17 53-30-212; however, no youth under 16 years of age may be
18 confined in the state prison.

19 (9) A youth whose case is transferred to district court
20 may not be detained in an adult detention facility before
21 final disposition of the case unless the youth court judge
22 determines that:

- 23 (a) the youth facilities do not provide adequate
24 security; and
25 (b) detention in the adult facility is in an area

1 physically, aurally, and visually separate from that of
2 adults."

3 **Section 6.** Section 45-7-307, MCA, is amended to read:

4 "45-7-307. Transferring illegal articles or
5 unauthorized communication. (1) (a) A person commits the
6 offense of transferring illegal articles if he knowingly or
7 purposely transfers any illegal article or thing to a person
8 subject to official detention or is transferred any illegal
9 article or thing by a person subject to official detention.

10 (b) A person convicted of transferring illegal articles
11 shall be:

12 (i) imprisoned in the state prison for a term not to
13 exceed 20 years, if he conveys a weapon to a person subject
14 to official detention;

15 (ii) imprisoned in the state prison for a term not to
16 exceed 10 years, if he conveys a dangerous-drug controlled
17 substance, as defined in 50-32-101, to a person subject to
18 official detention; or

19 (iii) fined not to exceed \$100 or imprisoned in the
20 county jail for any term not to exceed 10 days, or both, if
21 he conveys any other illegal article or thing to a person
22 subject to official detention.

23 (c) Subsection (1)(b)(iii) does not apply unless the
24 offender knew or was given sufficient notice so that he
25 reasonably should have known that the article or thing he

1 conveyed was an illegal article.

2 (2) (a) A person commits the offense of unauthorized
3 communication if he knowingly or purposely communicates with
4 a person subject to official detention without the consent
5 of the person in charge of such official detention.

6 (b) A person convicted of the offense of unauthorized
7 communication shall be fined not to exceed \$100 or
8 imprisoned in the county jail for any term not to exceed 10
9 days, or both."

10 **Section 7.** Section 45-9-101, MCA, is amended to read:

11 ~~"45-9-101. Criminal-sale-of-dangerous-drugs Prohibited~~
12 ~~acts -- penalties. (1) A Except as authorized by [sections 7~~
13 ~~through 19 and 22 through 74], a person commits-the-offense~~
14 ~~of-criminal-sale-of-dangerous-drugs-if--he--sells7--barter7~~
15 ~~exchanges7--gives-away7-or-offers-to-sell7-barter7-exchange7~~
16 ~~or--give--away--or---manufactures7---prepares7---cultivates7~~
17 ~~compounds7--or--processes--any-dangerous-drug7-as-defined-in~~
18 ~~50-32-101 may not purposely or knowingly manufacture,~~
19 ~~distribute, or deliver a controlled substance or knowingly~~
20 ~~possess a controlled substance with intent to manufacture,~~
21 ~~distribute, or deliver a controlled substance.~~

22 (2) A person ~~convicted-of-criminal-sale-of-a-narcotic~~
23 ~~drug7-as-defined--in--50-32-101(18)(d)7--or--an-opiate7--as~~
24 ~~defined--in--50-32-101(19)7--shall is guilty of a crime and~~
25 ~~upon conviction may be imprisoned in the state prison for a~~

1 term of not less than 2 years or more than life and may be
2 fined not more than \$50,000, except as provided in
3 46-18-222, for a violation of subsection (1) with respect
4 to:

5 (a) a mixture or substance containing heroin;

6 (b) a mixture or substance containing:

7 (i) coca leaves, except coca leaves and extracts of
8 coca leaves from which cocaine, ecgonine, and derivatives of
9 ecgonine or their salts have been removed;

10 (ii) cocaine or a salt, isomer, or salt of isomer of
11 cocaine;

12 (iii) ecgonine or a derivative, salt, isomer, or salt of
13 isomer of ecgonine; or

14 (iv) a compound, mixture, or preparation containing any
15 quantity of a substance referred to in subsection (2)(b)(i)
16 through (2)(b)(iii);

17 (c) a mixture or substance described in subsection
18 (2)(b) that contains cocaine base;

19 (d) phencyclidine or a mixture or substance containing
20 phencyclidine;

21 (e) a mixture or substance containing lysergic acid
22 diethylamide;

23 (f) a mixture or substance containing methamphetamine
24 or any of its salts, isomers, or salts of isomers; or

25 (g) a mixture or substance containing 60 grams or more

1 of marijuana.

2 (3) A person ~~convicted-of-criminal-sale-of-a-dangerous~~
3 drug is guilty of a crime and upon conviction for a
4 violation of subsection (1) in the case of a substance
5 included in Schedule I or Schedule II pursuant-to--50-32-222
6 or-50-32-224, except marijuana or tetrahydrocannabinols, who
7 has a prior conviction for criminal-sale-of-such-a-drug a
8 violation of subsection (1) shall be imprisoned in the state
9 prison for a term of not less than 10 years or more than
10 life and may be fined not more than \$50,000, except as
11 provided in 46-18-222. Upon a third or subsequent conviction
12 for criminal-sale-of-such-a-drug a violation of subsection
13 (1), he shall be imprisoned in the state prison for a term
14 of not less than 20 years or more than life and may be fined
15 not more than \$50,000, except as provided in 46-18-222.

16 (4) A person convicted of ~~criminal--sale--of--dangerous~~
17 drugs a violation of subsection (1) not otherwise provided
18 for in subsection (2), (3), or (5) shall be imprisoned in
19 the state prison for a term of not less than 1 year or more
20 than life or be fined an amount of not more than \$50,000, or
21 both.

22 (5) A person who was an adult at the time of sale and
23 who is convicted of ~~criminal-sale-of-dangerous-drugs-to a~~
24 violation of subsection (1) involving a minor shall be
25 sentenced as follows:

1 (a) If convicted pursuant to subsection (2), the person
2 shall be imprisoned in the state prison for not less than 4
3 years or more than life and may be fined not more than
4 \$50,000, except as provided in 46-18-222.

5 (b) If convicted of ~~the--sale--of-a-dangerous-drug a~~
6 violation of subsection (1) involving a substance included
7 in Schedule I or Schedule II pursuant--to-50-32-222-or
8 50-32-224 and if previously convicted of such--a--sale a
9 violation of subsection (1) involving a substance included
10 in Schedule I or Schedule II, the person shall be imprisoned
11 in the state prison for not less than 20 years or more than
12 life and may be fined not more than \$50,000, except as
13 provided in 46-18-222.

14 (c) If convicted of ~~the-sale--of--a--dangerous--drug a~~
15 violation of subsection (1) involving a substance included
16 in Schedule I or Schedule II pursuant--to--50-32-222--or
17 50-32-224 and if previously convicted of two or more such
18 sales violations of subsection (1) involving a substance
19 included in Schedule I or Schedule II, the person shall be
20 imprisoned in the state prison for not less than 40 years or
21 more than life and may be fined not more than \$50,000,
22 except as provided in 46-18-222.

23 (d) If convicted pursuant to subsection (4), the person
24 shall be imprisoned in the state prison for not less than 2
25 years or more than life and may be fined not more than

1 \$50,000, except as provided in 46-18-222.

2 (6) Practitioners and agents under their supervision
3 acting in the course of a professional practice, as defined
4 by 50-32-101, are exempt from this section."

5 **Section 8.** Section 45-9-102, MCA, is amended to read:

6 "45-9-102. Criminal possession of dangerous--drugs
7 controlled substance. (1) A person commits the offense of
8 criminal possession of dangerous--drugs a controlled
9 substance if he possesses any dangerous--drug controlled
10 substance, as defined in 50-32-101.

11 (2) Any person convicted of criminal possession of
12 marijuana or its derivatives in an amount the aggregate
13 weight of which does not exceed 60 grams of marijuana or 1
14 gram of hashish is, for the first offense, guilty of a
15 misdemeanor and shall be punished by a fine of not less than
16 \$100 or more than \$500 and by imprisonment in the county
17 jail for not more than 6 months. The minimum fine must be
18 imposed as a condition of a suspended or deferred sentence.
19 A person convicted of a second or subsequent offense under
20 this subsection is punishable by a fine not to exceed \$1,000
21 or imprisonment in the county jail for a term not to exceed
22 1 year or in the state prison for a term not to exceed 3
23 years or both such fine and imprisonment.

24 (3) A person convicted of criminal possession of an
25 opiate, as defined in 50-32-101{19}, shall be imprisoned in

1 the state prison for a term of not less than 2 years or more
2 than 5 years and may be fined not more than \$50,000, except
3 as provided in 46-18-222.

4 (4) A person convicted of criminal possession of
5 dangerous-drugs controlled substances not otherwise provided
6 for in subsection (2) or (3) shall be imprisoned in the
7 state prison for a term not to exceed 5 years or be fined an
8 amount not to exceed \$50,000, or both.

9 (5) A person of the age of 21 years or under convicted
10 of a first violation under this section shall be presumed to
11 be entitled to a deferred imposition of sentence of
12 imprisonment.

13 (6) Ultimate users and practitioners and agents under
14 their supervision acting in the course of a professional
15 practice, as defined by 50-32-101, are exempt from this
16 section."

17 **Section 9.** Section 45-9-103, MCA, is amended to read:

18 "45-9-103. Criminal possession with intent to sell. (1)
19 A person commits the offense of criminal possession with
20 intent to sell if he possesses with intent to sell any
21 dangerous-drug controlled substance as defined in 50-32-101.

22 (2) A person convicted of criminal possession of an
23 opiate, as defined in 50-32-101{19}, with intent to sell
24 shall be imprisoned in the state prison for a term of not
25 less than 2 years or more than 20 years and may be fined not

1 more than \$50,000, except as provided in 46-18-222.

2 (3) A person convicted of criminal possession with
3 intent to sell not otherwise provided for in subsection (2)
4 shall be imprisoned in the state prison for a term of not
5 more than 20 years or be fined an amount not to exceed
6 \$50,000, or both.

7 (4) Practitioners and agents under their supervision
8 acting in the course of a professional practice as defined
9 by 50-32-101 are exempt from this section."

10 **Section 10.** Section 45-9-104, MCA, is amended to read:

11 "45-9-104. Fraudulently obtaining dangerous---drugs
12 controlled substance. A person commits--the--offense--of
13 fraudulently-obtaining dangerous--drugs if--he--obtains--or
14 attempts---to---obtain--a--dangerous--drug,--as--defined--in
15 50-32-101, by may not purposely or knowingly:

16 (1) distribute as a registrant a controlled substance
17 included in Schedule I or Schedule II, except pursuant to an
18 order form required by 50-32-207;

19 (2) use in the course of the manufacture, distribution,
20 or dispensing of a controlled substance or use for the
21 purpose of acquiring a controlled substance, a registration
22 number that is fictitious, revoked, suspended, or issued to
23 another person;

24 (3) acquire or obtain possession of a controlled
25 substance by fraud, deceit, deception, misrepresentation,

1 forgery, or subterfuge;

2 (2) falsely--assuming--the--title--of--or--representing
3 himself--to--be--a--manufacturer,--wholesaler,--practitioner,
4 pharmacist,--owner-of-a-pharmacy,--or-other-person-authorized
5 to-possess-dangerous-drugs;

6 (4) furnish false or fraudulent material information
7 in, or omit material information from, an application,
8 report, or other document required to be kept or filed under
9 [sections 7 through 19 and 22 through 74] or from a record
10 required to be kept pursuant to [sections 7 through 19 and
11 22 through 74]; or

12 (3)(5) the-use-of--a--forged,--altered,--or--fictitious
13 possess a false or fraudulent prescription with intent to
14 obtain a controlled substance;

15 (4) the-use-of-a-false-name-or-a-false--address--on--a
16 prescription,--or

17 (5) the-concealment-of-a-material-fact."

18 **Section 11.** Section 45-9-105, MCA, is amended to read:

19 "45-9-105. Altering labels on dangerous---drugs
20 controlled substances. A person commits the offense of
21 altering labels on dangerous-drugs controlled substances if
22 he affixes a false, forged, or altered label to or otherwise
23 misrepresents a package or receptacle containing a dangerous
24 drug controlled substance, as defined in 50-32-101."

25 **Section 12.** Section 45-9-106, MCA, is amended to read:

1 "45-9-106. Penalty for fraudulently obtaining dangerous
2 drugs controlled substances or altering the labels of
3 dangerous--drugs controlled substances. (1) A person
4 convicted of altering labels on dangerous--drugs controlled
5 substances shall be imprisoned in the county jail for a term
6 not to exceed 6 months.

7 (2) A person convicted of fraudulently obtaining
8 dangerous--drugs controlled substances included in Schedule
9 I, Schedule II, Schedule III, Schedule IV, or Schedule V in
10 50-32-222,--50-32-224,--50-32-216,--50-32-229,--~~or~~50-32-232
11 shall:

12 (a) upon his first conviction be imprisoned in the
13 state prison for a term of not less than 1 year or not more
14 than 5 years; and

15 (b) upon his second conviction be imprisoned in the
16 state prison for a term of not less than 5 years or not more
17 than 10 years."

18 **Section 13.** Section 45-9-112, MCA, is amended to read:

19 "45-9-112. ~~Criminal--sale--of--imitation-dangerous-drug~~
20 Imitation controlled substances prohibited -- penalty. (1) A
21 ~~person commits the offense of criminal sale of an imitation~~
22 ~~dangerous--drug if he knowingly or purposely sells, barter,~~
23 ~~exchanges, gives away, or offers to sell, barter, exchange,~~
24 ~~or give away any imitation dangerous drug~~ may not purposely
25 or knowingly deliver, or possess with intent to deliver, a

1 noncontrolled substance representing it to be a controlled
2 substance.

3 (2) A person may not purposely or knowingly deliver, or
4 possess with intent to deliver, a noncontrolled substance
5 intending it to be used or distributed as a controlled
6 substance or under circumstances in which the person has
7 reasonable cause to believe that the noncontrolled substance
8 will be used or distributed for use as a controlled
9 substance.

10 (3) It is not a defense that the accused believed the
11 noncontrolled substance to be a controlled substance.

12 ~~(2)(4)~~ (4) A person convicted--of--criminal--sale--of--an
13 imitation-dangerous-drug-to who violates this section is
14 guilty of a crime and upon conviction of a violation
15 involving a person 18 years of age or older shall be
16 imprisoned in the state prison for a term of not more than 5
17 years and may be fined not more than \$50,000.

18 ~~(3)(5)~~ (5) A person convicted--of--criminal--sale--of--an
19 imitation--dangerous--drug--to who violates this section is
20 guilty of a crime and upon conviction of a violation
21 involving a person under the age of 18 shall be imprisoned
22 in the state prison for a term of not more than 10 years and
23 may be fined not more than \$50,000."

24 **Section 14.** Section 45-9-114, MCA, is amended to read:

25 "45-9-114. Criminal advertisement of imitation

1 dangerous-drug controlled substance -- penalty. (1) A person
 2 commits the offense of criminal advertisement of an
 3 imitation dangerous---drug controlled substance if he
 4 knowingly or purposely places in any newspaper, magazine,
 5 handbill, or other publication or posts or distributes any
 6 advertisement or solicitation to promote the manufacture,
 7 sale, exchange, or distribution of an imitation dangerous
 8 drug controlled substance.

9 (2) A person convicted of criminal advertisement of an
 10 imitation dangerous--drug controlled substance under this
 11 section is punishable by a fine not to exceed \$100,000 or by
 12 imprisonment in the state prison for a term of not more than
 13 10 years or by both such fine and imprisonment."

14 **Section 15.** Section 45-9-115, MCA, is amended to read:

15 ***45-9-115. Criminal manufacture of imitation dangerous**
 16 **drug controlled substance -- penalty.** (1) A person commits
 17 the offense of criminal manufacture of an imitation
 18 dangerous--drug controlled substance if he knowingly or
 19 purposely manufactures, prepares, or cultivates any
 20 imitation dangerous-drug controlled substance.

21 (2) A person convicted of criminal manufacture of an
 22 imitation dangerous-drug controlled substance under this
 23 section is punishable by a fine not to exceed \$100,000 or by
 24 imprisonment in the state prison for a term of not more than
 25 10 years or by both such fine and imprisonment."

1 **Section 16.** Section 45-9-116, MCA, is amended to read:
 2 ***45-9-116. Imitation dangerous---drugs controlled**
 3 **substances -- exemptions -- rules.** (1) Sections ~~45-9-111~~
 4 through 45-9-112, 45-9-114, or 45-9-115 do not apply to:

5 (a) a person authorized by rules adopted by the board
 6 of pharmacy to possess with purpose to sell or sell
 7 imitation dangerous-drugs controlled substances;

8 (b) law enforcement personnel selling or possessing
 9 with purpose to sell imitation dangerous-drugs controlled
 10 substances while acting within the scope of their
 11 employment; and

12 (c) a person registered under the provisions of Title
 13 50, chapter 32, part 3, who sells, or possesses with purpose
 14 to sell an imitation dangerous-drug controlled substance for
 15 use as a placebo, by that person or any other person so
 16 registered, in the course of professional practice or
 17 research.

18 (2) The board of pharmacy shall adopt, amend, or repeal
 19 rules in accordance with the Montana Administrative
 20 Procedure Act to authorize the possession with purpose to
 21 sell or sale of imitation dangerous--drugs controlled
 22 substances whenever it determines that there is a legitimate
 23 need and that the drugs will be used for a lawful purpose."

24 **NEW SECTION. Section 17. Prohibited acts --**
 25 **registrants.** (1) A person who is subject to Title 50,

1 chapter 32, part 3, may not distribute or dispense a
2 controlled substance in violation of 50-32-208.

3 (2) A person who is a registrant may not manufacture a
4 controlled substance not authorized by that person's
5 registration or distribute or dispense a controlled
6 substance not authorized by that person's registration to
7 another registrant or other authorized person.

8 (3) A person may not refuse or fail to make, keep, or
9 furnish any record, notification, order form, statement,
10 invoice, or information required under [sections 7 through
11 19 and 22 through 74].

12 (4) A person may not refuse entry into any premises for
13 an inspection authorized by [section 33].

14 (5) A manufacturer or distributor, or agent or employee
15 of a manufacturer or distributor, having reasonable cause to
16 believe that a person will possess or distribute a
17 controlled substance in violation of [sections 7 through 19
18 and 22 through 74] may not deliver the controlled substance
19 to that person.

20 (6) A person may not knowingly keep, maintain, control,
21 rent, lease, or make available for use any store, shop,
22 warehouse, dwelling, building, vehicle, vessel, aircraft,
23 room, enclosure, or other structure or place that the person
24 knows is used for the purpose of keeping for distribution,
25 transporting for distribution, or distributing controlled

1 substances in violation of [sections 7 through 19 and 22
2 through 74].

3 (7) Except as authorized by [sections 7 through 19 and
4 22 through 74], a person may not:

5 (a) knowingly open or maintain any place that the
6 person knows is used for the purpose of unlawfully
7 manufacturing a controlled substance; or

8 (b) manage or control a building, room, or enclosure as
9 an owner, lessee, agent, employee, or mortgagee and
10 knowingly rent, lease, or make available for use, with or
11 without compensation, the building, room, or enclosure that
12 the person knows is used for the purpose of unlawfully
13 manufacturing a controlled substance.

14 (8) A person does not violate subsection (6):

15 (a) by reason of an act committed by another person
16 while the other person is unlawfully on or in the structure
17 or place if the person lacked knowledge of the unlawful
18 presence of the other person; or

19 (b) if the person has notified a law enforcement agency
20 of the illegal conduct.

21 (9) A person who violates subsection (7) is guilty of a
22 crime and upon conviction may be imprisoned for not more
23 than 10 years, fined not more than \$50,000, or both, or
24 fined not more than \$100,000 if the person is not an
25 individual.

1 (10) Except as provided in subsection (9), a person who
 2 violates this section is guilty of a crime and upon
 3 conviction may be imprisoned for not more than 5 years,
 4 fined not more than \$25,000, or both.

5 NEW SECTION. Section 18. Counterfeit substances
 6 prohibited -- penalty. (1) A person may not purposely or
 7 knowingly manufacture, deliver, or possess with intent to
 8 manufacture or deliver, a controlled substance that, or the
 9 container or labeling of which, without authorization, bears
 10 the trademark, trade name, or other identifying mark,
 11 imprint, number, or device, or a likeness thereof, of a
 12 manufacturer, distributor, or dispenser, other than the
 13 person who manufactured, distributed, or dispensed the
 14 substance.

15 (2) A person may not purposely or knowingly make,
 16 distribute, or possess a punch, die, plate, stone, or other
 17 thing designed to print, imprint, or reproduce the
 18 trademark, trade name, or other identifying mark, imprint,
 19 or device of another person or a likeness of any of the
 20 foregoing upon any drug, container, or labeling without
 21 authorization.

22 (3) A person who violates this section is guilty of a
 23 crime and upon conviction may be imprisoned in the state
 24 prison for a term of not more than 10 years, fined not more
 25 than \$100,000, or both.

1 **Section 19.** Section 45-9-202, MCA, is amended to read:

2 **"45-9-202. Alternative sentencing authority.** A person
 3 convicted of criminal possession of ~~dangerous---drugs~~
 4 controlled substances, criminal sale of imitation ~~dangerous~~
 5 drugs controlled substances, criminal possession of
 6 imitation ~~dangerous-drugs~~ controlled substances with purpose
 7 to sell, fraudulently obtaining ~~dangerous-drugs~~ controlled
 8 substances, or altering labels on ~~dangerous-drugs~~ controlled
 9 substances, if he is shown to be an excessive or habitual
 10 user of ~~dangerous-drugs~~ controlled substances, as defined in
 11 50-32-101, either from the face of the record or by a
 12 presentence investigation, may, in lieu of imprisonment, be
 13 committed to the custody of any institution for
 14 rehabilitative treatment for not less than 6 months or more
 15 than 2 years."

16 **Section 20.** Section 45-10-101, MCA, is amended to read:

17 **"45-10-101. Definitions.** (1) As used in this part, the
 18 term "drug paraphernalia" means all equipment, products, and
 19 materials of any kind that are used, intended for use, or
 20 designed for use in planting, propagating, cultivating,
 21 growing, harvesting, manufacturing, compounding, converting,
 22 producing, processing, preparing, testing, analyzing,
 23 packaging, repackaging, storing, containing, concealing,
 24 injecting, ingesting, inhaling, or otherwise introducing
 25 into the human body a dangerous drug. It includes but is not

1 limited to:

2 (a) kits used, intended for use, or designed for use in
3 planting, propagating, cultivating, growing, or harvesting
4 of any species of plant that is a dangerous drug or from
5 which a dangerous drug can be derived;

6 (b) kits used, intended for use, or designed for use in
7 manufacturing, compounding, converting, producing,
8 processing, or preparing dangerous drugs;

9 (c) isomerization devices used, intended for use, or
10 designed for use in increasing the potency of any species of
11 plant that is a dangerous drug;

12 (d) testing equipment used, intended for use, or
13 designed for use in identifying or in analyzing the
14 strength, effectiveness, or purity of dangerous drugs;

15 (e) scales and balances used, intended for use, or
16 designed for use in weighing or measuring dangerous drugs;

17 (f) dilutents and adulterants, such as quinine
18 hydrochloride, mannitol, mannite, dextrose, and lactose,
19 used, intended for use, or designed for use in cutting
20 dangerous drugs;

21 (g) separation gins and sifters used, intended for use,
22 or designed for use in removing twigs and seeds from or in
23 otherwise cleaning or refining marijuana;

24 (h) blenders, bowls, containers, spoons, and mixing
25 devices used, intended for use, or designed for use in

1 compounding dangerous drugs;

2 (i) capsules, balloons, envelopes, and other containers
3 used, intended for use, or designed for use in packaging
4 small quantities of dangerous drugs;

5 (j) containers and other objects used, intended for
6 use, or designed for use in storing or concealing dangerous
7 drugs;

8 (k) objects used, intended for use, or designed for use
9 in ingesting, inhaling, or otherwise introducing marijuana,
10 cocaine, hashish, hashish oil, or other dangerous-drug
11 controlled substance, as defined by 50-32-101, into the
12 human body, such as:

13 (i) metal, wooden, acrylic, glass, stone, plastic, or
14 ceramic pipes with or without screens, permanent screens,
15 hashish heads, or punctured metal bowls;

16 (ii) water pipes;

17 (iii) carburetion tubes and devices;

18 (iv) smoking and carburetion masks;

19 (v) roach clips, meaning objects used to hold burning
20 material, such as a marijuana cigarette, that has become too
21 small or too short to be held in the hand;

22 (vi) miniature cocaine spoons and cocaine vials;

23 (vii) chamber pipes;

24 (viii) carburetor pipes;

25 (ix) electric pipes;

1 (x) air-driven pipes;

2 (xi) chillums;

3 (xii) bongs;

4 (xiii) ice pipes or chillers.

5 (2) Words or phrases used in this part that are not
6 defined by this section have the meaning given to them by
7 the definitions contained in 50-32-101 unless the usage
8 clearly indicates a different intent.

9 (3) As used in this part, "dangerous drug" means a
10 controlled substance as defined in 50-32-101."

11 **Section 21.** Section 45-10-107, MCA, is amended to read:

12 "45-10-107. Exemptions. Practitioners and agents under
13 their supervision acting in the course of a professional
14 practice as a practitioner, as defined by in 50-32-101, are
15 exempt from this part."

16 NEW SECTION. **Section 22.** Distribution to individual
17 under eighteen years of age -- distribution near schools or
18 colleges -- penalties. (1) An individual 18 years of age or
19 older who violates 45-9-101 by distributing a controlled
20 substance to an individual under 18 years of age who is at
21 least 2 years younger than that individual is guilty of a
22 crime and upon conviction is punishable by a term of
23 imprisonment and fine not exceeding two times those
24 authorized in 45-9-101.

25 (2) An individual may not violate 45-9-101 in or on, or

1 within 1,000 feet of, the real property comprising a public
2 playground, a public or private elementary or secondary
3 school, a public vocational school, or a public or private
4 college or university. An individual who violates this
5 subsection is guilty of a crime and upon conviction is
6 punishable by a term of imprisonment and fine not exceeding
7 two times those authorized by 45-9-101.

8 (3) An individual who violates subsection (2) after a
9 previous judgment of conviction under that subsection has
10 become final is punishable by a term of imprisonment not
11 exceeding three times that authorized by 45-9-101.

12 (4) It is not a defense to a violation of subsection
13 (1) that the accused did not know the age of an individual
14 to whom a controlled substance was distributed.

15 (5) It is not a defense to a violation of subsection
16 (2) or (3) that the accused did not know the distance
17 involved.

18 NEW SECTION. **Section 23.** Employment or use of
19 individual under eighteen years of age in drug operations --
20 penalties. (1) An individual 18 years of age or older may
21 not purposely or knowingly employ, hire, use, persuade,
22 induce, entice, or coerce an individual under 18 years of
23 age to violate or assist in avoiding detection or
24 apprehension for a violation of 45-9-101.

25 (2) An individual who violates subsection (1) is guilty

1 of a crime and upon conviction is punishable by a term of
2 imprisonment and fine not exceeding two times those
3 authorized by 45-9-101.

4 (3) An individual who violates subsection (1) after a
5 previous judgment of conviction under that subsection has
6 become final is punishable by a term of imprisonment not
7 exceeding three times that authorized by 45-9-101.

8 (4) An individual who violates subsection (1) by
9 employing, hiring, using, persuading, inducing, enticing, or
10 coercing an individual who is under 15 years of age may be
11 imprisoned for not more than 10 years and fined not more
12 than \$100,000 in addition to any other punishment authorized
13 by this section.

14 (5) It is not a defense to a violation of this section
15 that the accused did not know the age of a protected
16 individual.

17 NEW SECTION. Section 24. Continuing criminal
18 enterprise -- penalty. (1) A person who engages in a
19 continuing criminal enterprise is guilty of a crime and upon
20 conviction is punishable by a term of imprisonment and fine
21 not exceeding two times those authorized by 45-9-101 for the
22 underlying offense. For purposes of this subsection, a
23 person is engaged in a continuing criminal enterprise if:

24 (a) the person violates any provision of [sections 7
25 through 19 and 22 through 74] that is a felony; and

1 (b) the violation is a part of a continuing series of
2 two or more violations of [sections 7 through 19 and 22
3 through 74] on separate occasions:

4 (i) that are undertaken by the person in concert with
5 five or more other persons with respect to whom the person
6 occupies a position of organizer, supervisor, or any other
7 position of management; and

8 (ii) from which the person obtained substantial income
9 or resources.

10 (2) A person who violates subsection (1) after a
11 previous judgment of conviction under that subsection has
12 become final is punishable by a term of imprisonment not
13 exceeding three times that authorized by 45-9-101.

14 NEW SECTION. Section 25. Money laundering and illegal
15 investment -- penalty. (1) A person may not purposely or
16 knowingly receive or acquire proceeds, or engage in
17 transactions involving proceeds, known to be derived from a
18 violation of [sections 7 through 19 and 22 through 74]. This
19 subsection does not apply to a transaction between an
20 individual and the individual's counsel necessary to
21 preserve the individual's right to representation, as
22 guaranteed by Article II, section 24, of the Montana
23 constitution and by the sixth amendment of the United States
24 constitution.

25 (2) A person may not purposely or knowingly give, sell,

1 transfer, trade, invest, conceal, transport, or otherwise
 2 make available anything of value that the person knows is
 3 intended to be used to commit or further the commission of a
 4 violation of [sections 7 through 19 and 22 through 74].

5 (3) A person may not purposely or knowingly direct,
 6 plan, organize, initiate, finance, manage, supervise, or
 7 facilitate the transportation or transfer of proceeds that
 8 the person knows are derived from a violation of [sections 7
 9 through 19 and 22 through 74].

10 (4) A person may not purposely or knowingly conduct a
 11 financial transaction involving proceeds that the person
 12 knows are derived from a violation of [sections 7 through 19
 13 and 22 through 74] if the transaction is designed in whole
 14 or in part to conceal or disguise the nature, location,
 15 source, ownership, or control of the proceeds the person
 16 knows are derived from a violation of [sections 7 through 19
 17 and 22 through 74] or to avoid a transaction reporting
 18 requirement under state or federal law.

19 (5) A person who violates this section is guilty of a
 20 crime and upon conviction may be imprisoned for not more
 21 than 10 years, fined not more than \$100,000, or both.

22 NEW SECTION. Section 26. Second or subsequent offenses
 23 -- penalties. (1) A person convicted of a second or
 24 subsequent offense under [sections 7 through 19 and 22
 25 through 74] may be imprisoned for a term not exceeding two

1 times the term otherwise authorized and fined an amount not
 2 exceeding two times the fine otherwise authorized.

3 (2) For purposes of this section, an offense is
 4 considered a second or subsequent offense if before
 5 conviction of the offense, the offender has at any time been
 6 convicted under [sections 7 through 19 and 22 through 74] or
 7 under any statute of the United States or of any state
 8 relating to narcotic drugs, marijuana, stimulants,
 9 depressants, or hallucinogenic substances and judgment of
 10 that conviction has become final.

11 (3) This section does not apply to a second or
 12 subsequent offense under 45-9-102, [section 22(2), 23(1), or
 13 24].

14 NEW SECTION. Section 27. Conditional discharge for
 15 possession as first offense. (1) Whenever an individual who
 16 has not been convicted within the past 10 years of any
 17 offense under [sections 7 through 19 and 22 through 74] or
 18 under any statute of the United States or of any state
 19 relating to narcotic drugs, marijuana, stimulants,
 20 depressants, or hallucinogenic substances tenders a plea of
 21 admission, guilty, no contest, nolo contendere, or similar
 22 plea to a charge of possession of a controlled substance
 23 under 45-9-102 or is found guilty of that charge, the court,
 24 without entering a judgment of conviction and with the
 25 consent of the accused, may defer further proceedings and

1 place that individual on probation upon terms and conditions
 2 that must include attendance and successful completion of an
 3 education program or in the case of a drug dependent
 4 individual, of a treatment and rehabilitation program.

5 (2) Upon violation of a term or condition, the court
 6 may enter a judgment of conviction and proceed as otherwise
 7 provided. Upon fulfillment of the terms and conditions, the
 8 court shall discharge the individual and dismiss the
 9 proceedings against that individual. A nonpublic record of
 10 the dismissal must be retained by the department of justice
 11 solely for the purpose of use by the courts in determining
 12 whether, in later proceedings, the individual qualifies
 13 under this section.

14 (3) Discharge and dismissal under this section is
 15 without adjudication of guilt and is not a conviction for
 16 purposes of this section or for purposes of employment,
 17 civil rights, or any statute, regulation, license,
 18 questionnaire, or any other public or private purpose, but
 19 not including additional penalties imposed for second or
 20 subsequent convictions or the setting of bail. Discharge and
 21 dismissal restores the individual, in the contemplation of
 22 the law, to the status occupied before the arrest,
 23 indictment, or information. The individual may not be held
 24 thereafter under any law to be guilty of perjury or
 25 otherwise giving a false statement by reason of failure to

1 recite or acknowledge that arrest, indictment or
 2 information, or trial in response to an inquiry made of that
 3 individual for any purpose. Discharge and dismissal under
 4 this section may occur only once with respect to an
 5 individual.

6 NEW SECTION. **Section 28.** Treatment option for
 7 violation. If an individual is adjudicated guilty of a
 8 violation of [sections 7 through 19 and 22 through 74] for
 9 which the individual is eligible for probation, the court
 10 may impose a sentence authorized by [sections 7 through 19
 11 and 22 through 74], may place the individual on probation as
 12 authorized by this section, or may impose a combination of a
 13 sentence and probation as authorized by this section. The
 14 court, with the consent of the individual and with the
 15 consent of a treatment facility having inpatient or
 16 outpatient programs for the treatment of drug dependent
 17 individuals, may place the individual, if found by the court
 18 to be in need of treatment, on probation upon terms and
 19 conditions, including participation in a treatment program
 20 of the facility. The court shall order treatment for the
 21 period the treatment facility considers necessary. Treatment
 22 or a combination of a sentence and probation including
 23 treatment may not exceed the maximum sentence allowable
 24 unless the convicted individual consents to continued
 25 treatment. Upon violation of a term or condition, including

1 failure to participate in the treatment program, the court
 2 may revoke the probation and proceed as otherwise provided.
 3 Upon fulfillment of the terms and conditions, including
 4 attendance and successful completion of the treatment
 5 program, the court shall terminate the probation.

6 NEW SECTION. Section 29. Assessment for education and
 7 treatment -- appropriation of money. (1) A person convicted
 8 of a violation of [sections 7 through 19 and 22 through 74]
 9 and each individual placed on probation under [section 27]
 10 must be assessed for each offense a sum of not less than
 11 \$500 and not more than \$3,000. The assessment is in addition
 12 to and not in lieu of any fine, restitution, other
 13 assessment, or forfeiture authorized or required by law.

14 (2) The assessment provided for in this section must be
 15 collected as provided for collection of fines and must be
 16 forwarded to the department of justice as provided in
 17 subsection (3).

18 (3) Money collected under this section must be
 19 forwarded to the department of justice for deposit in a drug
 20 abuse education and treatment account in the state special
 21 revenue fund. Money in the account is statutorily
 22 appropriated as provided in 17-7-502.

23 (4) The department of justice shall administer
 24 expenditures from the account. Expenditures may be made only
 25 for drug abuse education, prevention, and treatment

1 services. Money from the fund may not supplant other local,
 2 state, or federal funds.

3 NEW SECTION. Section 30. Penalties under other laws.
 4 Penalties imposed for violation of [sections 7 through 19
 5 and 22 through 74] and civil remedies provided under
 6 [sections 7 through 19 and 22 through 74] are in addition
 7 to, and not in lieu of, any civil remedy, administrative
 8 penalty, or sanction otherwise provided by law.

9 NEW SECTION. Section 31. Bar to prosecution. If a
 10 violation of [sections 7 through 19 and 22 through 74] is a
 11 violation of a federal law or the law of another state, a
 12 conviction or acquittal under federal law or the law of
 13 another state for the same act is a bar to prosecution in
 14 this state.

15 NEW SECTION. Section 32. Powers of enforcement
 16 personnel. An officer or employee of the department of
 17 justice designated by the attorney general may:

18 (1) carry firearms in the performance of the officer's
 19 or employee's official duties;

20 (2) execute and serve search warrants, arrest warrants,
 21 administrative inspection warrants, subpoenas, and summonses
 22 issued under the authority of this state;

23 (3) make arrests without warrant for an offense under
 24 [sections 7 through 19 and 22 through 74] committed in the
 25 officer's or employee's presence or if the officer or

1 employee has probable cause to believe that the individual
 2 to be arrested has committed or is committing a violation of
 3 [sections 7 through 19 and 22 through 74] that may
 4 constitute a felony;

5 (4) make seizures of property pursuant to [sections 7
 6 through 19 and 22 through 74]; and

7 (5) perform other law enforcement duties the attorney
 8 general assigns.

9 NEW SECTION. **Section 33. Administrative inspections**
 10 **and warrants.** (1) In this section, "controlled premises"
 11 means:

12 (a) places where persons registered or exempted from
 13 registration requirements under [sections 7 through 19 and
 14 22 through 74] are required to keep records; and

15 (b) places, including factories, warehouses,
 16 establishments, and conveyances in which persons registered
 17 or exempted from registration requirements under [sections 7
 18 through 19 and 22 through 74] are permitted to hold,
 19 manufacture, compound, process, sell, deliver, or otherwise
 20 dispose of a controlled substance.

21 (2) The procedure for issuance and execution of
 22 administrative inspection warrants is as follows:

23 (a) A district court judge within the judge's
 24 jurisdiction and upon proper oath or affirmation showing
 25 probable cause may issue warrants to conduct administrative

1 inspections of controlled premises authorized by [sections 7
 2 through 19 and 22 through 74] or rules adopted under
 3 [sections 7 through 19 and 22 through 74] and to conduct
 4 seizures of property appropriate to the inspections. For the
 5 purpose of issuance of an administrative inspection warrant,
 6 probable cause exists upon showing a valid public interest
 7 in the effective enforcement of [sections 7 through 19 and
 8 22 through 74] or rules adopted under [sections 7 through 19
 9 and 22 through 74] sufficient to justify administrative
 10 inspection of the area, premises, building, or conveyance in
 11 the circumstances specified in the application for the
 12 warrant.

13 (b) A warrant may issue only upon an affidavit of a
 14 designated officer or employee having knowledge of the facts
 15 alleged, sworn to before the judge, and establishing the
 16 grounds for issuing the warrant. If the judge is satisfied
 17 that grounds for the application exist or that there is
 18 probable cause to believe they exist, the judge shall issue
 19 a warrant identifying the area, premises, building, or
 20 conveyance to be inspected, the purpose of the inspection,
 21 and, if appropriate, the type of property to be inspected,
 22 if any. The warrant must:

23 (i) state the grounds for its issuance and the name of
 24 each individual whose affidavit has been taken in support
 25 thereof;

1 (ii) be directed to an individual authorized by [section
2 32] to execute it;

3 (iii) command the individual to whom it is directed to
4 inspect the area, premises, building, or conveyance
5 identified for the purpose specified and, if appropriate,
6 direct the seizure of the property specified;

7 (iv) identify the item or types of property to be
8 seized, if any; and

9 (v) direct that it be served during normal business
10 hours and designate the judge to whom it must be returned.

11 (c) A warrant issued pursuant to this section must be
12 executed and returned within 10 days after its date unless,
13 upon a showing of a need for additional time, the judge
14 orders otherwise. If property is seized pursuant to a
15 warrant, a copy must be given to the person from whom or
16 from whose premises the property is taken, together with a
17 receipt for the property taken. The return of the warrant
18 must be made promptly, accompanied by a written inventory of
19 any property taken. The inventory must be made in the
20 presence of the individual executing the warrant and of the
21 person from whose possession or premises the property is
22 being taken, if present, or in the presence of at least one
23 credible individual other than the individual executing the
24 warrant. A copy of the inventory must be delivered to the
25 person from whom or from whose premises the property was

1 taken and to the applicant for the warrant.

2 (d) The judge who has issued a warrant shall attach to
3 the warrant a copy of the return and all papers returnable
4 in connection with the warrant and file them with the clerk
5 of court in the judicial district in which the inspection
6 was made.

7 (3) The department of justice may make administrative
8 inspections of controlled premises in accordance with the
9 following provisions:

10 (a) If authorized by an administrative inspection
11 warrant issued pursuant to subsection (2), an officer or
12 employee designated by the attorney general, upon presenting
13 the warrant and appropriate credentials to the owner,
14 operator, or agent in charge, may enter controlled premises
15 for the purpose of conducting an administrative inspection.

16 (b) If authorized by an administrative inspection
17 warrant, an officer or employee designated by the attorney
18 general may:

19 (i) inspect and copy records required to be kept by
20 [sections 7 through 19 and 22 through 74];

21 (ii) inspect, within reasonable limits and in a
22 reasonable manner, controlled premises and all pertinent
23 equipment, finished and unfinished material, containers and
24 labeling found therein, and, except as provided in
25 subsection (3)(d), all other things therein, including

1 records, files, papers, processes, controls, and facilities
2 bearing on violation of [sections 7 through 19 and 22
3 through 74]; and

4 (iii) inventory any stock of a controlled substance
5 therein and obtain samples thereof.

6 (c) This section does not prevent the inspection
7 without a warrant of books and records pursuant to an
8 administrative warrant issued in accordance with subsection
9 (2) nor does it prevent entries and administrative
10 inspections, including seizures of property, without a
11 warrant:

12 (i) if the owner, operator, or agent in charge of the
13 controlled premises consents;

14 (ii) in situations presenting imminent danger to health
15 or safety;

16 (iii) in situations involving inspection of conveyances
17 if there is reasonable cause to believe that the mobility of
18 the conveyance makes it impracticable to obtain a warrant;

19 (iv) in an emergency or other exceptional circumstance
20 in which time or opportunity to apply for a warrant is
21 lacking; or

22 (v) in all other situations in which a warrant is not
23 constitutionally required.

24 (d) An inspection authorized by this section may not
25 extend to financial data, sales data, other than shipment

1 data, or pricing data unless the owner, operator, or agent
2 in charge of the controlled premises consents in writing.

3 NEW SECTION. Section 34. Injunctions. (1) A district
4 court has jurisdiction to restrain or enjoin violations of
5 [sections 7 through 19 and 22 through 74].

6 (2) The defendant may demand trial by jury for an
7 alleged violation of an injunction or restraining order
8 under this section.

9 NEW SECTION. Section 35. Cooperative arrangements and
10 confidentiality. (1) The department of justice shall
11 cooperate with federal and other state agencies in
12 discharging that department's responsibilities concerning
13 traffic in controlled substances and in suppressing the
14 abuse of controlled substances. To this end, the department
15 of justice may:

16 (a) arrange for the exchange of information among
17 governmental officials concerning the use and abuse of
18 controlled substances;

19 (b) coordinate and cooperate in training programs
20 concerning controlled substance law enforcement at local and
21 state levels;

22 (c) cooperate with the drug enforcement administration
23 by establishing a centralized unit to accept, catalog, file,
24 and collect statistics, including records of drug-dependent
25 persons and other controlled substance law offenders within

1 this state, and make information available for federal,
 2 state, and local law enforcement purposes but may not
 3 furnish the name or identity of a patient or research
 4 subject whose identity could not be obtained under
 5 subsection (3); and

6 (d) conduct programs of eradication aimed at destroying
 7 wild growth or unlawful propagation of plant species from
 8 which controlled substances may be extracted.

9 (2) Results, information, and evidence received from
 10 the drug enforcement administration relating to the
 11 regulatory functions of [sections 7 through 19 and 22
 12 through 74], including results of inspections conducted by
 13 it, may be relied and acted upon by the department of
 14 justice in the exercise of its regulatory functions under
 15 [sections 7 through 19 and 22 through 74].

16 (3) A practitioner engaged in medical practice or
 17 research is not required or compelled to furnish the name or
 18 identity of a patient or research subject to the department
 19 of justice, nor may the practitioner be compelled in any
 20 state or local civil, criminal, administrative, legislative,
 21 or other proceeding to furnish the name or identity of an
 22 individual that the practitioner is obligated to keep
 23 confidential.

24 NEW SECTION. Section 36. Pleadings -- presumptions --
 25 liabilities. (1) It is not necessary for the state to negate

1 any exemption or exception in [sections 7 through 19 and 22
 2 through 74] in any complaint, information, indictment, or
 3 other pleading or in any trial, hearing, or other proceeding
 4 under [sections 7 through 19 and 22 through 74].

5 (2) A person is not presumed to be the holder of an
 6 appropriate registration or order form issued under
 7 [sections 7 through 19 and 22 through 74].

8 (3) [Sections 7 through 19 and 22 through 74] do not
 9 impose civil or criminal liability on any authorized state,
 10 county, or municipal officer engaged in the lawful
 11 administration or enforcement of [sections 7 through 19 and
 12 22 through 74].

13 NEW SECTION. Section 37. Judicial review. Final
 14 determinations, findings, and conclusions of the department
 15 of justice under [sections 7 through 19 and 22 through 74]
 16 are subject to judicial review under the Montana
 17 Administrative Procedure Act.

18 NEW SECTION. Section 38. Continuing criminal
 19 enterprise -- civil action. (1) The department of justice
 20 may maintain a civil action against a person who violates
 21 [section 24] to obtain a judgment for damages in an amount
 22 equal to three times the gross income and the value of
 23 assets acquired directly or indirectly by the person by
 24 reason of violation of [section 24], together with costs
 25 incurred for resources and personnel used in the

1 investigation and prosecution of the proceedings through
2 which liability was established.

3 (2) The standard of proof in actions brought under this
4 section is a preponderance of the evidence.

5 NEW SECTION. Section 39. Statute of limitations. A
6 civil action under [sections 7 through 19 and 22 through 74]
7 must be commenced within 7 years after the claim for relief
8 became known or should have become known, excluding any time
9 during which a party is out of the state or in confinement
10 or during which criminal proceedings relating to a party are
11 in progress.

12 **Section 40.** Section 50-32-101, MCA, is amended to read:

13 **"50-32-101. Definitions.** As used in this chapter, the
14 following definitions apply:

15 (1) "Administer" means ~~the direct application of a~~
16 ~~dangerous drug~~ to apply a controlled substance, whether by
17 injection, inhalation, ingestion, or any other means,
18 directly to the body of a patient or research subject by:

19 (a) a practitioner ~~(or, in the practitioner's presence,~~
20 by his the practitioner's authorized agent); or

21 (b) the patient or research subject at the direction
22 and in the presence of the practitioner.

23 ~~(2) "Agent" means an authorized person who acts on~~
24 ~~behalf of or at the direction of a manufacturer,~~
25 ~~distributor, or dispenser. It does not include a common or~~

1 ~~contract carrier, public warehouseman, or employee of the~~
2 ~~carrier or warehouseman.~~

3 ~~(3) (2)~~ "Board" means the board of pharmacy provided for
4 in 2-15-1843.

5 ~~(4) "Bureau" means the drug enforcement administration,~~
6 ~~United States department of justice, or its successor~~
7 ~~agency.~~

8 (3) "Controlled substance" means a drug, substance, or
9 immediate precursor listed in Schedules I through V in Title
10 50, chapter 32, part 2.

11 (4) (a) "Controlled substance analog" means a substance
12 the chemical structure of which is substantially similar to
13 the chemical structure of a controlled substance listed in
14 or added to Schedule I or Schedule II and:

15 (i) that has a stimulant, depressant, or hallucinogenic
16 effect on the central nervous system substantially similar
17 to the stimulant, depressant, or hallucinogenic effect on
18 the central nervous system of a controlled substance
19 included in Schedule I or Schedule II; or

20 (ii) with respect to a particular individual, that the
21 individual represents or intends to have a stimulant,
22 depressant, or hallucinogenic effect on the central nervous
23 system of a controlled substance included in Schedule I or
24 Schedule II.

25 (b) The term does not include:

1 (i) a controlled substance;

2 (ii) a substance for which there is an approved new drug

3 application;

4 (iii) a substance with respect to which an exemption is

5 in effect for investigational use by a particular person

6 under section 505 of the federal Food, Drug, and Cosmetic

7 Act, 21 U.S.C. 355, to the extent that conduct with respect

8 to the substance is permitted by the exemption; or

9 (iv) any substance to the extent not intended for human

10 consumption before an exemption takes effect with respect to

11 the substance.

12 {5}--"Counterfeit--substance"--means--a--dangerous--drug

13 which--or--the--container--or--labeling--of--which---without

14 authorization--bears--the--trademark,--trade--name,--or--other

15 identifying-mark,--imprint,--number,--or--device--or--any--likeness

16 thereof--of--a--manufacturer,--distributor,--or--dispenser--other

17 than--the--person--who--in--fact--manufactured,--distributed,--or

18 dispensed--the--drug;

19 {6}--"Dangerous--drug"--means--a--drug,--substance,--or

20 immediate-precursor--in--Schedules--I--through--V--hereinafter--set

21 forth;

22 {7}(5) "Deliver" or--"delivery" means the--actual,

23 constructive,--or--attempted to transfer a substance, actually

24 or constructively, from one person to another of-a-dangerous

25 drug, whether or not there is an agency relationship.

1 {8}(6) "Department" means the department of commerce

2 provided for in Title 2, chapter 15, part 18.

3 {9}(7) "Dispense" means to deliver a dangerous-drug

4 controlled substance to an ultimate user, patient, or

5 research subject by or pursuant to the lawful order of a

6 practitioner, including the prescribing, administering,

7 packaging, labeling, or compounding necessary to prepare the

8 drug substance for that delivery.

9 {10}(8) "Dispenser" means a practitioner who dispenses.

10 {11}(9) "Distribute" means to deliver other than by

11 administering or dispensing a dangerous--drug controlled

12 substance.

13 {12}(10) "Distributor" means a person who distributes.

14 {13}(11) (a) "Drug" means.

15 (i) a substance recognized as a drug in the official

16 United States Pharmacopoeia, National Formulary, the

17 official Homeopathic Pharmacopoeia of the United States, or

18 any a supplement to it either of them;

19 (ii) a substance intended for use in the diagnosis,

20 cure, mitigation, treatment, or prevention of disease in man

21 individuals or animals;

22 (iii) a substance, {other than food}, intended to affect

23 the structure or any a function of the body of man

24 individuals or animals; and

25 (iv) a substance intended for use as a component of any

1 an article specified in (11)(a)(i), (11)(a)(ii), or
 2 (11)(a)(iii) of this subsection.

3 (b) "Drug" The term does not include a device or its
 4 components, parts, or accessories.

5 (12) "Drug enforcement administration" means the drug
 6 enforcement administration of the United States department
 7 of justice or its successor agency.

8 ~~{14} "Hashish", as distinguished from marijuana, means~~
 9 ~~the mechanically processed or extracted plant material that~~
 10 ~~contains tetrahydrocannabinol (THC) and is composed of resin~~
 11 ~~from the cannabis plant.~~

12 ~~{15} (13) "Immediate precursor" means a substance;~~

13 ~~(a) which that the board finds has found to be and has~~
 14 ~~by rule designates as being designated to be the principal~~
 15 ~~compound commonly used, or produced primarily for use, and~~
 16 ~~which is an immediate chemical intermediary used or likely~~
 17 ~~to be used in the manufacture of a dangerous drug,~~
 18 ~~controlled substance;~~

19 ~~(b) that is an immediate chemical intermediary used or~~
 20 ~~likely to be used in the manufacture of the controlled~~
 21 ~~substance; and~~

22 ~~(c) the control of which is necessary to prevent,~~
 23 ~~curtail, or limit the manufacture of the controlled~~
 24 ~~substance.~~

25 (14) "Isomer" means an optical isomer, but in

1 45-9-101(2)(b)(ii), 50-32-222(1)(l) and (1)(hh),
 2 50-32-224(1)(d), and subsection (17)(e) of this section, the
 3 term includes a geometric isomer; in 50-32-222(1)(h) and
 4 (1)(pp) and 50-32-229(1)(c), the term includes a positional
 5 isomer; and in 50-32-222(1)(ii) and (3) and 50-32-226(1),
 6 the term includes a positional or geometrical isomer.

7 ~~{16} (15) (a) "Manufacture" means the production,~~
 8 ~~preparation, propagation, compounding, conversion, or~~
 9 ~~processing of a dangerous drug either to produce, prepare,~~
 10 ~~propagate, compound, convert, or process a controlled~~
 11 ~~substance, directly or indirectly, by extraction from~~
 12 ~~substances of natural origin, independently by means of~~
 13 ~~chemical synthesis, or by a combination of extraction and~~
 14 ~~chemical synthesis and includes any packaging or repackaging~~
 15 ~~of the drug substance or labeling or relabeling of its~~
 16 ~~container.~~

17 (b) "Manufacture" The term does not include the
 18 preparation, or compounding, packaging, repackaging,
 19 labeling, or relabeling of a dangerous drug by an individual
 20 for his own use or the preparation, compounding, packaging,
 21 or labeling of a dangerous drug controlled substance:

22 (i) by a practitioner as an incident to his the
 23 practitioner's administering or dispensing of a dangerous
 24 drug controlled substance in the course of his the
 25 practitioner's professional practice; or

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

~~(17)~~(16) (a) "Marijuana ~~(marihuana)~~" means all parts of the plant material--from--the--genus cannabis containing tetrahydrocannabinol--(THC)--or--seeds--of--the--genus--capable--of germination whether growing or not; its seeds; the resin extracted from any part of the plant; and any compound, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

(b) The term 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, salt, derivative, mixture, or preparation of the mature stalks, except resin extracted from the mature stalks; fiber, oil, or cake; or the sterilized seed of the plant that is incapable of germination.

~~(18)~~(17) "Narcotic drug" means any of the following, whether--produced--directly--or--indirectly--by--extraction--from substances--of--vegetable--origin,--independently--by--means--of chemical--synthesis,--or--by--a--combination--of--extraction--and chemical--synthesis however manufactured:

(a) opium and--opiate--and--any--salt,--compound, opium derivative, or--preparation--of--opium--or--opiate and any

derivative of either, including their salts, isomers, and salts of isomers,

(b)--any--salt,--compound,--isomer,--derivative,--or preparation--thereof--which--is--chemically--equivalent--or identical--with--any--of--the--drugs--referred--to--in--(10)(a)--of this-section, but not including the isoquinoline alkaloids of opium;

(b) synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers;

(c) opium poppy straw and concentrate of poppy straw;
or

(d) coca leaves, and--any--salt,--compound,--derivative,--or preparation--of--coca--leaves--and--any--salt,--compound,--isomer, derivative,--or--preparation--thereof--which--is--chemically equivalent--or--identical--with--any--of--these--drugs,--but--not including--decocainized--coca--leaves--or--extractions--of except coca leaves from which do-not-contain cocaine, or ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) cocaine or any salt, isomer, or salt of isomer of cocaine;

(f) cocaine base;

(g) ecgonine or any derivative, salt, isomer, or salt of isomer of ecgonine; or

1 (h) a compound, mixture, or preparation containing any
 2 quantity of a substance listed in this subsection (17).

3 ~~{19}~~(18) (a) "Opiate" means any drug a substance having
 4 an addiction-forming or addiction-sustaining liability
 5 similar to morphine or being capable of conversion into a
 6 drug having addiction-forming or addiction-sustaining
 7 liability. The term includes opium, opium derivatives, and
 8 synthetic opiates.

9 (b) It The term does not include, unless specifically
 10 designated scheduled as a dangerous drug under controlled
 11 substance pursuant to 50-32-202, the dextrorotatory isomer
 12 of 3-methoxy-n-methylmorphinan and its salts
 13 (dextromethorphan). ~~it does include its~~ but does include the
 14 racemic and levorotatory forms of dextromethorphan.

15 ~~{20}~~(19) "Opium poppy" means the plant of the species
 16 papaver somniferum L., except its seeds.

17 ~~{21}~~(20) "Person" means an individual, corporation,
 18 government or governmental subdivision or agency, business
 19 trust, estate, trust, partnership, association, joint
 20 venture, or any other legal or commercial entity.

21 ~~{22}~~(21) "Poppy straw" means all parts, except the
 22 seeds, of the opium poppy after mowing.

23 ~~{23}~~(22) "Practitioner" means:

24 (a) a physician, dentist, veterinarian, scientific
 25 investigator, pharmacist, pharmacy, hospital, or other

1 person licensed, registered, or otherwise permitted, by this
 2 state, to distribute, dispense, or conduct research with
 3 respect to, or to administer, or use in teaching or chemical
 4 analysis a dangerous drug controlled substance in the course
 5 of professional practice or research ~~in this state, and~~

6 ~~(b) a pharmacy or other institution licensed,~~
 7 ~~registered, or otherwise permitted to distribute, dispense,~~
 8 ~~or conduct research with respect to or to administer a~~
 9 ~~dangerous drug in the course of professional practice or~~
 10 ~~research in this state.~~

11 ~~{24} The term "prescription" is given the meaning it has~~
 12 ~~in 37-7-101.~~

13 ~~{25}~~(23) "Production" ~~includes~~ "Produce" means the
 14 manufacture, manufacturing of a controlled substance and the
 15 planting, cultivation cultivating, growing, or harvesting of
 16 a plant from which a controlled substance or drug regulated
 17 under the provisions of this chapter is derived.

18 ~~{26}~~(24) "State", ~~when applied to a part~~ means a state
 19 of the United States, includes any state, district,
 20 commonwealth the District of Columbia, the Commonwealth of
 21 Puerto Rico, or a territory, or insular possession thereof,
 22 and any area subject to the legal authority jurisdiction of
 23 the United States of America.

24 ~~{27}~~(25) "Ultimate user" means ~~a person~~ an individual
 25 who lawfully possesses a dangerous drug for his controlled

1 substance for the individual's own use or for the use of a
 2 member of his the individual's household or for
 3 administering to an animal owned by him the individual or by
 4 a member of his the individual's household."

5 **Section 41.** Section 50-32-105, MCA, is amended to read:

6 **"50-32-105. Board to conduct educational programs.** (1)

7 The board shall carry out educational programs designed to
 8 prevent and deter misuse and abuse of dangerous--drugs
 9 controlled substances.

10 (2) In connection with these programs, it the board
 11 may:

12 (a) promote better recognition of the problems of
 13 misuse and abuse of dangerous--drugs controlled substances
 14 within the regulated industry and among interested groups
 15 and organizations;

16 (b) assist the regulated industry and interested groups
 17 and organizations in contributing to the reduction of misuse
 18 and abuse of dangerous-drugs controlled substances;

19 (c) consult with interested groups and organizations to
 20 aid them in solving administrative and organizational
 21 problems;

22 (d) evaluate procedures, projects, techniques, and
 23 controls conducted or proposed as part of educational
 24 programs on misuse and abuse of dangerous- drugs controlled
 25 substances;

1 (e) disseminate the results of research on misuse and
 2 abuse of dangerous-drugs controlled substances to promote a
 3 better public understanding of what problems exist and what
 4 can be done to combat alleviate them; and

5 (f) assist in the education and training of state and
 6 local law enforcement officials in their efforts to control
 7 misuse and abuse of dangerous-drugs controlled substances."

8 **Section 42.** Section 50-32-106, MCA, is amended to read:

9 **"50-32-106. Board to encourage research.** (1) The board
 10 shall encourage research on misuse and abuse of dangerous
 11 drugs controlled substances.

12 (2) In connection with the research and in furtherance
 13 of the enforcement of this chapter, it the board may:

14 (a) establish methods to assess accurately the effects
 15 of dangerous-drugs controlled substances and identify and
 16 characterize those with potential for abuse;

17 (b) make studies and undertake programs of research to:
 18 (i) develop new or improved approaches, techniques,
 19 systems, equipment, and devices to strengthen the
 20 enforcement of this chapter;

21 (ii) determine patterns of misuse and abuse of dangerous
 22 drugs controlled substances and the social effects thereof;
 23 and

24 (iii) improve methods for preventing, predicting,
 25 understanding, and dealing with the misuse and abuse of

1 ~~dangerous-drugs controlled substances~~; and

2 (c) request that the department to enter into contracts
3 with public agencies, institutions of higher education, and
4 private organizations or individuals for the purpose of
5 conducting research, demonstrations, or special projects
6 which that bear directly on misuse and abuse of ~~dangerous~~
7 ~~drugs controlled substances~~.

8 (3) The board may authorize persons engaged in research
9 on the use and effects of ~~dangerous--drugs controlled~~
10 ~~substances~~ to withhold the names and other identifying
11 characteristics of individuals who are the subjects of the
12 research. ~~Persons~~ A person who ~~obtain~~ obtains this
13 authorization ~~are is~~ not compelled in any civil, criminal,
14 administrative, legislative, or other proceeding to identify
15 the individuals who are the subjects of research for which
16 the authorization was obtained.

17 (4) The board may authorize the possession and
18 distribution of ~~dangerous--drugs controlled substances~~ by
19 persons engaged in research. ~~Persons~~ A person who ~~obtain~~
20 obtains this authorization ~~are is~~ exempt from state
21 prosecution for possession and distribution of ~~dangerous~~
22 ~~drugs controlled substances~~ to the extent of the
23 authorization."

24 **Section 43.** Section 50-32-201, MCA, is amended to read:

25 "50-32-201. ~~General-criteria-to-be-considered~~ Authority

1 to control. (1) The board shall administer [sections 7
2 through 19 and 22 through 74] and, pursuant to the Montana
3 Administrative Procedure Act, may add substances to or
4 delete or reschedule substances listed in 50-32-222,
5 50-32-224, 50-32-226, 50-32-229, or 50-32-232.

6 (2) In making a determination regarding a ~~drug~~
7 substance, the board shall consider the following:

8 ~~(1)~~(a) the actual or relative potential for abuse;

9 ~~(2)~~(b) the scientific evidence of its pharmacological
10 effect, if known;

11 ~~(3)~~(c) the state of current scientific knowledge
12 regarding the ~~drug~~ substance;

13 ~~(4)~~(d) the history and current pattern of abuse;

14 ~~(5)~~(e) the scope, duration, and significance of abuse;

15 ~~(6)~~(f) the risk to the public health;

16 ~~(7)~~(g) the potential of the ~~drug~~ substance to produce
17 psychic or physiological dependence liability; and

18 ~~(8)~~(h) whether the ~~drug~~ substance is an immediate
19 precursor of a ~~drug-already~~ controlled under-this-chapter
20 substance.

21 (3) The board may consider findings of the federal food
22 and drug administration or the drug enforcement
23 administration as prima facie evidence relating to one or
24 more of the determinative factors."

25 **Section 44.** Section 50-32-202, MCA, is amended to read:

1 **"50-32-202. Designation of drug substance as dangerous**
 2 **drug controlled substance. (1)** After considering the factors
 3 enumerated in 50-32-201, the board shall make findings with
 4 respect thereto, to them and if it finds the drug has a
 5 potential for abuse, it shall designate such drug a
 6 dangerous drug in the manner set forth in the Montana
 7 Administrative Procedure Act adopt and publish a rule
 8 controlling the substance upon finding the substance has a
 9 potential for abuse.

10 (2) The board, without regard to the findings required
 11 by 50-32-221, 50-32-223, 50-32-225, 50-32-228, and 50-32-231
 12 or subsection (1) of this section or the procedures
 13 prescribed by 50-32-201 and this section, may add an
 14 immediate precursor to the same schedule in which the
 15 controlled substance of which it is an immediate precursor
 16 is included in any other schedule. If the board designates a
 17 substance as an immediate precursor, substances that are
 18 precursors of the controlled precursor are not subject to
 19 control solely because they are precursors of the controlled
 20 precursor."

21 **Section 45.** Section 50-32-203, MCA, is amended to read:

22 **"50-32-203. Effect of rescheduling under federal law.**

23 (1) If any drug a substance is designated, rescheduled, or
 24 deleted as a "controlled substance" under federal law and
 25 notice thereof is given to the board, the board shall

1 similarly control treat the drug substance under this
 2 chapter after the expiration of 30 days from the date of
 3 publication in the federal register of a final order
 4 designating a drug the substance as a "controlled substance"
 5 or rescheduling or deleting a drug the substance or from the
 6 date of issuance of an order of temporary scheduling under
 7 section 508 of the federal Dangerous Drug Diversion Control
 8 Act of 1984 (21 U.S.C. 811(h)), unless, within that the
 9 30-day period, the board or an interested party objects to
 10 inclusion, rescheduling, or deletion the treatment of the
 11 substance. In that case, the board shall cause the reasons
 12 for objection to be published and afford all interested
 13 parties an opportunity to be heard. At the conclusion of the
 14 hearing, the department shall publish the board's decision
 15 which shall be final unless altered thereafter by the board
 16 or by statute. Upon publication of objection to inclusion,
 17 rescheduling, or deletion under this chapter by the board,
 18 control under this chapter is stayed until the board's
 19 decision is published. If no objection is made, the board
 20 shall adopt and publish, without making the determinations
 21 or findings required by 50-32-201 and 50-32-202 or
 22 50-32-221, 50-32-223, 50-32-225, 50-32-228, or 50-32-231, a
 23 final rule scheduling the substance. If an objection is
 24 made, the board shall make a determination with respect to
 25 the treatment of the substance as provided by 50-32-201 and

1 50-32-202. Upon receipt of an objection to the treatment by
 2 the board, the board shall publish notice of the receipt of
 3 the objection, and action by the board under this chapter is
 4 stayed until the board adopts a rule as provided by
 5 50-32-202.

6 (2) The board, by rule and without regard to the
 7 requirements of 50-32-201, may include a substance in
 8 Schedule I, whether or not the substance is substantially
 9 similar to a controlled substance included in Schedule I or
 10 Schedule II, if the board finds that scheduling of the
 11 substance on an emergency basis is necessary to avoid an
 12 imminent hazard to the public safety and the substance is
 13 not in any other schedule or no exemption or approval is in
 14 effect for the substance under section 505 of the federal
 15 Food, Drug, and Cosmetic Act (21 U.S.C. 355). Upon receipt
 16 of notice under [section 60], the board shall initiate
 17 scheduling of the controlled substance analog on an
 18 emergency basis pursuant to this subsection. The scheduling
 19 of a substance under this subsection expires 1 year after
 20 the adoption of the scheduling rule. With respect to the
 21 finding of an imminent hazard to the public safety, the
 22 board shall consider whether the substance has been
 23 scheduled on a temporary basis under federal law or factors
 24 set forth in 50-32-201(2)(d) through (2)(f) and may also
 25 consider clandestine importation, manufacture, or

1 distribution and, if available, information concerning the
 2 other factors set forth in 50-32-201(2). A rule may not be
 3 adopted under this subsection until the board initiates a
 4 rulemaking proceeding under 50-32-201 with respect to the
 5 substance. A rule adopted under this subsection lapses upon
 6 the conclusion of the rulemaking proceeding initiated under
 7 50-32-201 with respect to the substance.

8 (3) Authority of the board to control under this
 9 section does not extend to distilled spirits, wine, malt
 10 beverages, or tobacco."

11 **Section 46.** Section 50-32-206, MCA, is amended to read:
 12 "50-32-206. Use---of---names---of---scheduled---drugs
 13 Nomenclature. The dangerous--drugs controlled substances
 14 listed in or to--be--listed--in added to the schedules in
 15 50-32-222, 50-32-224, 50-32-226, 50-32-229, and 50-32-232
 16 are included listed or added by whatever any official,
 17 common, usual, chemical, or trade name designated used."

18 **Section 47.** Section 50-32-207, MCA, is amended to read:
 19 "50-32-207. Order forms for--drugs--in--Schedules--I--and
 20 II. Dangerous--drugs--in--Schedules--I--and--II--shall--be
 21 distributed--by--a--registrant A registrant may distribute a
 22 substance included in Schedule I or Schedule II to another
 23 registrant only pursuant-to by means of an order form.
 24 Compliance with the--provisions--of federal law respecting
 25 order forms shall-be-deemed constitutes compliance with this

1 section ~~unless the board prescribes particular forms to be~~
2 ~~used.~~"

3 **Section 48.** Section 50-32-208, MCA, is amended to read:

4 "50-32-208. ~~Prescription and medical requirements for~~
5 ~~scheduled drugs --- penalty~~ Prescriptions. (1) As used in
6 this section, "medical treatment" includes dispensing or
7 administering a narcotic drug for pain, including
8 intractable pain.

9 (2) A person may dispense a controlled substance only
10 as provided in this section.

11 ~~(3) No dangerous drug~~ Except when dispensed directly
12 by a practitioner, other than a pharmacy, to an ultimate
13 user, a substance included in Schedule II may not be
14 dispensed without the written prescription of a
15 practitioner.

16 ~~(4)~~ (4) In an emergency situations, as defined by rule
17 of the board, a substance included in Schedule II drugs may
18 be dispensed upon a practitioner's oral prescription of a
19 practitioner, reduced promptly to writing, signed by the
20 practitioner, and filed by the pharmacy. Prescriptions shall
21 be retained. The pharmacy shall keep prescriptions in
22 conformity with the requirements of 50-32-309. No A
23 prescription for a Schedule II drug may not be refilled.

24 ~~(5) A dangerous drug~~ Except when dispensed directly
25 by a practitioner, other than a pharmacy, to an ultimate

1 user, a substance included in Schedule III or IV, which is a
2 prescription drug as determined under the federal or Montana
3 food, drug, and cosmetic acts Food, Drug, and Cosmetic Act,
4 shall may not be dispensed without a written or oral
5 prescription of a practitioner. The prescription shall may
6 not be filled or refilled more than 6 months after the its
7 date thereof or be refilled more than five times unless
8 renewed by the practitioner.

9 ~~(6)~~ (6) A dangerous drug substance included in Schedule
10 V shall not may be distributed or dispensed other than only
11 for a medical purpose, including medical treatment or
12 authorized research.

13 ~~(5) Any person who violates the provisions of this~~
14 ~~section is guilty of a misdemeanor and upon conviction may~~
15 ~~be fined not to exceed \$1,000 or be imprisoned in county~~
16 ~~jail for a term not to exceed 1 year, or both fined and~~
17 ~~imprisoned.~~

18 (7) A practitioner may dispense or deliver a controlled
19 substance to or for an individual or animal only for medical
20 treatment or authorized research in the ordinary course of
21 that practitioner's profession.

22 (8) A civil or criminal liability or administrative
23 sanction may not be imposed on a pharmacist for action taken
24 in reliance on a reasonable belief that an order purporting
25 to be a prescription was issued by a practitioner in the

1 usual course of professional treatment or in authorized
2 research.

3 (9) An individual practitioner may not dispense a
4 substance include in Schedule II, III, or IV for that
5 individual practitioner's personal use except in a medical
6 emergency."

7 **Section 49.** Section 50-32-209, MCA, is amended to read:

8 "~~50-32-209. Annual---republication~~ Publishing of
9 schedules. The board shall revise-and-the-department-shall
10 republish-the publish updated schedules of--dangerous--drugs
11 annually. For--the-purposes-of-this-section,-the-mandate-to
12 republish--may--be---satisfied---by---publication---in---the
13 Administrative-Rules-of-Montana-pursuant-to Title-2,-chapter
14 4- Failure to publish updated schedules is not a defense in
15 any administrative or judicial proceeding under [sections 7
16 through 19 and 22 through 74]."

17 **Section 50.** Section 50-32-221, MCA, is amended to read:

18 "~~50-32-221. Criteria--for-placement-of-drug-in~~ Schedule
19 I tests. (1) The board shall place add a drug--in substance
20 to Schedule I if--it--finds upon finding that the drug
21 substance:

22 (1)(a) has high potential for abuse; and

23 (2)(b) has no accepted medical use in treatment in the
24 United States; or and

25 (c) lacks accepted safety for use in-treatment under

1 medical supervision.

2 (2) The board may add a substance to Schedule I without
3 making the findings required by subsection (1) if the
4 substance is controlled under Schedule I of the federal
5 Controlled Substances Act by a federal agency as the result
6 of an international treaty, convention, or protocol."

7 **Section 51.** Section 50-32-222, MCA, is amended to read:

8 "~~50-32-222. Specific---dangerous---drugs---included---in~~
9 Schedule I. Schedule I--consists--of--the--drugs--and--other
10 substances,-by--whatever-official,-common,-usual,-chemical,-
11 or-brand-name-designated,-listed--in--this--section. Unless
12 specifically excepted by state or federal law or state or
13 federal regulation or more specifically included in another
14 schedule, the following controlled substances are listed in
15 Schedule I:

16 (1) Opiates,-Unless-specifically-excepted-or-listed--in
17 another--schedule, any of the following synthetic opiates,
18 including its their isomers, esters, ethers, salts, and
19 salts of isomers, esters, and ethers whenever-the-existence
20 of-such-isomers,-esters,-ethers,-and--salts--is--possible
21 within-the-specific-chemical-designation:

22 (a) acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-
23 phenethyl)-4-piperidinyl]-N-phenylacetamide);

24 (b) acetylmethadol;

25 (b)(c) allylprodine;

1 (c)(d) alphacetylmethadol;
 2 (d)(e) alphameprodine;
 3 (e)(f) alphamethadol;
 4 (f)(g) alpha-methylfentanyl (N-[1-(alpha-methyl-
 5 beta-phenylethyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-
 6 2-phenylethyl)-4-(N-propanilido) piperidine);
 7 (h) alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)-
 8 ethyl-4-piperidinyl]-N-phenylpropanamide);
 9 (g)(i) benzethidine;
 10 (h)(j) betacetylmethadol;
 11 (i)(k) beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-
 12 phenethyl)-4-piperidinyl]-N-phenylpropanamide);
 13 (l) beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-
 14 hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-
 15 phenylpropanamide);
 16 (m) betameprodine;
 17 (j)(n) betamethadol;
 18 (k)(o) betaprodine;
 19 (i)(p) clonitazene;
 20 (m)(q) dextromoramide;
 21 (n)(r) diampromide;
 22 (o)(s) diethylthiambutene;
 23 (p)(t) difenoxin;
 24 (q)(u) dimenoxadol;
 25 (r)(v) dimepheptanol;

1 (s)(w) dimethylthiambutene;
 2 (t)(x) dioxaphetyl butyrate;
 3 (u)(y) dipipanone;
 4 (v)(z) ethylmethylthiambutene;
 5 (w)(aa) etonitazene;
 6 (x)(bb) etoxeridine;
 7 (y)(cc) furethidine;
 8 (z)(dd) hydroxypethidine;
 9 (aa)(ee) ketobemidone;
 10 (bb)(ff) levomoramide; -
 11 (cc)(gg) levophenacylmorphan;
 12 (hh) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
 13 piperidinyl]-N-phenylpropanamide);
 14 (ii) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)-
 15 ethyl-4-piperidinyl]-N-phenylpropanamide);
 16 (dd)(jj) morpheridine;
 17 (kk) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
 18 (ee)(ll) noracymethadol;
 19 (ff)(mm) norlevorphanol;
 20 (gg)(nn) normethadone;
 21 (hh)(oo) norpipanone;
 22 (pp) para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
 23 phenethyl)-4-piperidinyl]-propanamide);
 24 (qq) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
 25 (ii)(rr) phenadoxone;

1 {jj}{ss} phenampromide;
 2 {kk}{tt} phenomorphan;
 3 {ll}{uu} phenoperidine;
 4 {mm}{vv} piritramide;
 5 {nn}{ww} proheptazine;
 6 {oo}{xx} properidine;
 7 {pp}{yy} propiram;
 8 {qq}{zz} racemoramide;
 9 {rr}-sufentanil;
 10 {aaa} thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-
 11 piperidinyl]-propanamide);
 12 {ss}{bbb} tilidine; and
 13 {tt}{ccc} trimeperidine;
 14 (2) ~~Opium-derivatives--Unless-specifically-expected--or~~
 15 ~~listed--in--another--schedule,~~ any of the following opium
 16 derivatives, its including their salts, isomers, and salts
 17 ~~of isomers whenever--the-existence-of-such-salts; isomers;~~
 18 ~~and--salts--of--isomers--is--possible--within--the--specific~~
 19 ~~chemical-designation:~~
 20 (a) acetorphine;
 21 (b) acetyldihydrocodeine;
 22 (c) benzylmorphine;
 23 (d) codeine methylbromide;
 24 (e) codeine-n-oxide codeine-N-oxide;
 25 (f) cyprenorphine;

1 (g) desomorphine;
 2 (h) dihydromorphine;
 3 (i) drotebanol;
 4 (j) etorphine, except hydrochloride salt;
 5 (k) heroin;
 6 (l) hydromorphenol;
 7 (m) methyl-desorphine;
 8 (n) methyldihydromorphine;
 9 (o) morphine methylbromide;
 10 (p) morphine methylsulfonate;
 11 (q) morphine-n-oxide morphine-N-oxide;
 12 (r) myrophine;
 13 (s) nicocodeine;
 14 (t) nicomorphine;
 15 (u) normorphine;
 16 (v) pholcodine; and
 17 (w) thebacon;
 18 (3) ~~Hallucinogenic--substances--Unless--specifically~~
 19 ~~excepted--or--listed--in--another--schedule,~~ any material,
 20 compound, mixture, or preparation that contains any quantity
 21 of the following hallucinogenic substances ~~or--any--of--its~~
 22 including their salts, isomers, and salts of isomers
 23 ~~whenever--the-existence-of-such-salts; isomers; and--salts--of~~
 24 ~~isomers--is--possible--within--the--specific--chemical~~
 25 ~~designation:~~

1 (a) 4-bromo-2,5-dimethoxy-amphetamine (other names:
 2 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-
 3 2,5-DMA);
 4 (b) 2,5-dimethoxyamphetamine (other names: 2,5-
 5 dimethoxy-alpha-methylphenethylamine; 2,5-DMA);
 6 (c) 4-methoxyamphetamine (other names: 4-methoxy-alpha-
 7 methylphenethylamine; paramethoxyamphetamine, PMA);
 8 (d) 5-methoxy-3,4-methylenedioxy amphetamine;
 9 (e) 4-methyl-2,5-dimethoxy-amphetamine (other names: 4-
 10 methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM; and
 11 STP);
 12 (f) 3,4-methylenedioxy amphetamine;
 13 (b)(g) 5-methoxy-3,4-methylenedioxyamphetamine 3,4-
 14 methylenedioxymethamphetamine (MDMA);
 15 (c)(h) 3,4,5-trimethoxy amphetamine;
 16 (d)(i) bufotenine (other names: 3-(beta-
 17 dimethylaminoethyl)-5-hydroxyindole; 3-(2-
 18 dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin;
 19 5-hydroxy-N,N-dimethyltryptamine; mappine);
 20 (e)(j) diethyltryptamine (other names: N,N-
 21 diethyltryptamine; DET);
 22 (f)(k) dimethyltryptamine (other names: DMT);
 23 (g)(l) 4-methyl-2,5-dimethoxy-amphetamine;
 24 (h)(r) ibogaine (other names: 7-ethyl-
 25 6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-

1 pyrido [1',2':1,2] azepine [5,4-b] indole; tabernanthe
 2 iboga);
 3 (i)(n) lysergic acid diethylamide;
 4 (j)(o) marijuana;
 5 (k)(p) mescaline;
 6 (g) parahexyl (other names: 3-hexyl-1-hydroxy-7,8,9,10-
 7 tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl);
 8 (l)(r) peyote (all parts of the plant classified
 9 botanically as lophophora williamsii lemaire, whether
 10 growing or not, its seeds, any extract from any part of the
 11 plant, and every compound, salt, derivative, mixture, or
 12 preparation of the plant or its seeds or extracts);
 13 (m)(s) n-ethyl-3-piperidyl N-ethyl-3-piperidyl
 14 benzilate;
 15 (n)(t) n-methyl-3-piperidyl N-methyl-3-piperidyl
 16 benzilate;
 17 (o)(u) psilocybin;
 18 (p)(v) psilocyn;
 19 (q)(w) tetrahydrocannabinols;
 20 (r)--2,7,5-dimethoxyamphetamine;
 21 (s)--4-bromo-2,7,5-dimethoxy-amphetamine;
 22 (t)--4-methoxyamphetamine;
 23 (u)(x) ethylamine analog of phencyclidine (other names:
 24 N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)
 25 ethylamine, N-(1-phenylcyclohexyl)ethylamine; cyclohexamine;

1 PCE;

2 {v}{y} pyrrolidine analog of phencyclidine (other
3 names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; PHP); and

4 {w}{z} thiophene analog of phencyclidine (other names:
5 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of
6 phencyclidine; TPCP, TCP).

7 (4) ~~Depressants--Unless specifically excepted or listed~~
8 ~~in another schedule,~~ any material, compound, mixture, or
9 preparation that contains any quantity of the following
10 substance substances having a depressant effect on the
11 central nervous system, including its their salts, isomers,
12 and salts of isomers ~~whenever the existence of such salts,~~
13 ~~isomers, and salts of isomers is possible within the~~
14 ~~specific chemical designation:~~

15 (a) mecloqualone; and

16 (b) methaqualone;

17 (5) ~~Stimulants--Unless specifically excepted or listed~~
18 ~~in another schedule,~~ any material, compound, mixture, or
19 preparation that contains any quantity of the following
20 substances having a stimulant effect on the central nervous
21 system, including its their salts, isomers, and salts of
22 isomers:

23 (a) fenethylamine; and

24 (b) n-ethylamphetamine N-ethylamphetamine.

25 {6} ~~For purposes of subsection (3) only, the term~~

1 "isomer" ~~includes the optical, position, and geometric~~
2 ~~isomers.~~

3 {7} ~~If prescription or administration is authorized by~~
4 ~~the Federal Food, Drug and Cosmetic Act, then any material,~~
5 ~~compound, mixture, or preparation containing~~
6 ~~tetrahydrocannabinols listed in subsection (3) shall~~
7 ~~automatically be rescheduled from Schedule I to Schedule~~
8 ~~III."~~

9 **Section 52.** Section 50-32-223, MCA, is amended to read:

10 "50-32-223. ~~Criteria for placement of drug in~~ Schedule
11 II tests. (1) The board shall place add a drug-in substance
12 to Schedule II if it finds upon finding that:

13 {1}(a) the drug substance has high potential for abuse;

14 {2}(b) the drug substance has currently accepted
15 medical use in treatment in the United States or currently
16 accepted medical use with severe restrictions; and

17 {3}(c) the abuse of the drug substance may lead to
18 severe psychic psychological or physical dependence.

19 (2) The board may add a substance to Schedule II
20 without making the findings required by subsection (1) if
21 the substance is controlled under Schedule II of the federal
22 Controlled Substances Act by a federal agency as the result
23 of an international treaty, convention, or protocol."

24 **Section 53.** Section 50-32-224, MCA, is amended to read:

25 "50-32-224. ~~Specific dangerous drugs included in~~

1 Schedule II. ~~Schedule II consists of the drugs and other~~
 2 ~~substances, by whatever official, common, usual, chemical,~~
 3 ~~or brand name designated, listed in this section. Unless~~
 4 specifically excepted by state or federal law or state or
 5 federal regulation or more specifically included in another
 6 schedule, the following controlled substances are listed in
 7 Schedule II:

8 (1) ~~Substances of vegetable origin or chemical synthesis,~~
 9 ~~unless specifically excepted or listed in another schedule,~~
 10 ~~any of the following substances, whether produced directly~~
 11 ~~or indirectly by extraction from substances of vegetable~~
 12 ~~origin, or independently by means of chemical synthesis, or by~~
 13 ~~a combination of extraction and chemical synthesis any of~~
 14 the following substances, however manufactured:

15 (a) opium and opiate opium derivative and any salt,
 16 compound, derivative, or preparation of opium or opiate
 17 opium derivative, excluding apomorphine, dextrorphan,
 18 nalbuphine, butorphanol, nalmeferne, naloxone, and naltrexone
 19 ~~and their respective salts~~, but including the following:

- 20 (i) raw opium;
 21 (ii) opium extracts;
 22 (iii) opium fluid extracts;
 23 (iv) powdered opium;
 24 (v) granulated opium;
 25 (vi) tincture of opium;

- 1 (vii) codeine;
 2 (viii) ethylmorphine;
 3 (ix) etorphine hydrochloride;
 4 (x) hydrocodone;
 5 (xi) hydromorphone;
 6 (xii) metopon;
 7 (xiii) morphine;
 8 (xiv) oxycodone;
 9 (xv) oxymorphone; and
 10 (xvi) thebaine;
 11 (b) any a salt, compound, derivative, or preparation
 12 thereof that is chemically equivalent or identical with any
 13 of the substances referred to listed in subsection (1)(a) of
 14 this section, except that these substances do but not
 15 ~~include the~~ isoquinoline alkaloids of opium;
 16 (c) opium poppy and poppy straw;
 17 (d) coca leaves and any salt, compound, derivative, or
 18 preparation of coca leaves, including cocaine and ecgonine
 19 and their salts, isomers, derivatives, and salts of isomers
 20 and derivatives, and any salt, compound, derivative, or
 21 preparation thereof that is chemically equivalent or
 22 identical with any of these the substances listed in this
 23 subsection, except that these substances do but not include
 24 including decocainized coca leaves or extraction extractions
 25 of coca leaves, ~~which extractions~~ that do not contain

1 cocaine or ecgonine; and

2 (e) concentrate of poppy straw (the crude extract of
3 poppy straw in either liquid, solid, or powder form that
4 contains the phenanthrene alkaloids of the opium poppy);

5 (2) ~~Opiates,--Unless-specifically-excepted-or-listed-in~~
6 ~~another-schedule,~~ any of the following synthetic opiates,
7 including its their isomers, esters, ethers, salts, and
8 salts of isomers, esters, and ethers ~~whenever-the--existence~~
9 ~~of--such--isomers,--esters,--ethers,--and--salts-is-possible~~
10 ~~within-the-specific-chemical--designation,--dextrorphan--and~~
11 ~~levopropoxyphene-excepted:~~

12 (a) alfentanil;

13 (b) alphaprodine;

14 (c) anileridine;

15 (d) bezitramide;

16 (e) dihydrocodeine;

17 (f) diphenoxylate;

18 (g) fentanyl;

19 (h) isomethadone;

20 (i) levomethorphan;

21 (j) levorphanol;

22 (k) metazocine;

23 (l) methadone;

24 (m) methadone-intermediate,

25 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

1 (n) moramide-intermediate, 2-methyl-3-morpholino-1,
2 1-diphenylpropane-carboxylic acid;

3 (o) pethidine (meperidine);

4 (p) pethidine-intermediate-A, 4-cyano-1-methyl-4-
5 phenylpiperidine;

6 (q) pethidine-intermediate-B, ethyl-4-
7 phenylpiperidine-4-carboxylate;

8 (r) pethidine-intermediate-C, 1-methyl-4-
9 phenylpiperidine-4-carboxylic acid;

10 (s) phenazocine;

11 (t) piminodine;

12 (u) racemethorphan;

13 (v) racemorphan; and

14 (w) bulk--dextropropoxyphene--(nondosage--forms)--
15 sufentanil;

16 (3) ~~Stimulants,--Unless-specifically-excepted-or-listed~~
17 ~~in-another-schedule,~~ any material, compound, mixture, or
18 preparation that contains any quantity of the following
19 substances having a stimulant effect on the central nervous
20 system, including their salts, isomers, and salts of
21 isomers:

22 (a) amphetamine,--its-salts,--optical-isomers,--and--salts
23 of-its-optical-isomers;

24 (b) phenmetrazine and-its-salts;

25 (c) methamphetamine,--its--salts,--isomers,--and-salts-of

1 ~~its isomers;~~ and
 2 (d) methylphenidate;
 3 (4) ~~Depressants--Unless specifically excepted or listed~~
 4 ~~in another schedule,~~ any material, compound, mixture, or
 5 preparation that contains any quantity of the following
 6 substances having a depressant effect on the central nervous
 7 system, including ~~its~~ their salts, isomers, and salts of
 8 isomers ~~whenever--the existence of such salts, isomers, and~~
 9 ~~salts of isomers is possible within the specific chemical~~
 10 ~~designation:~~
 11 (a) amobarbital;
 12 (b) methaqualone;
 13 ~~(c)~~ pentobarbital;
 14 ~~(d)~~ (c) phencyclidine; and
 15 ~~(e)~~ (d) secobarbital;
 16 (5) (a) dronabinol (synthetic) in sesame oil and
 17 encapsulated in a soft gelatin capsule in a drug product
 18 approved by the federal food and drug administration (other
 19 names: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-
 20 pentyl-6H-dibenzo[b,d]pyran-1-01, (-)-delta-9-(trans)-
 21 tetrahydrocannabinol);
 22 (b) nabilone (other name: (*)trans-3-(1,1-
 23 demethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6
 24 -dimethyl-9Hdibenzo [b,d] pyran-9-one); and
 25 (c) ~~Immediate--precursors--Unless specifically excepted~~

1 ~~or listed in another schedule,~~ any material, compound,
 2 mixture, or preparation that contains any quantity of the
 3 following substances:
 4 ~~(a)~~ (i) immediate precursor to amphetamine and
 5 methamphetamine;
 6 ~~(b)~~ (i) phenylacetone (other names: phenyl-w-propanone;
 7 P2P; benzyl methyl ketone; methyl benzyl ketone;
 8 ~~(b)~~ (ii) immediate precursors to phencyclidine ~~(PCP):~~
 9 ~~(i)~~ (A) 1-phenylcyclohexylamine; and
 10 ~~(ii)~~ (B) 1-piperidinocyclohexanecarbonitrile (PCC)."
 11 **Section 54.** Section 50-32-225, MCA, is amended to read:
 12 "50-32-225. ~~Criteria for placement of drug in~~ Schedule
 13 III ~~tests.~~ (1) The board shall place add a drug in substance
 14 to Schedule III if it finds upon finding that:
 15 ~~(1)~~ (a) the drug substance has a potential for abuse
 16 less than the drugs substances listed in Schedules Schedule
 17 I and Schedule II;
 18 ~~(2)~~ (b) the drug substance has currently accepted
 19 medical use in treatment in the United States; and
 20 ~~(3)~~ (c) abuse of the drug substance may lead to moderate
 21 or low physical dependence or high psychological dependence.
 22 (2) The board may add a substance to Schedule III
 23 without making the findings required by subsection (1) if
 24 the substance is controlled under Schedule III of the
 25 federal Controlled Substances Act by a federal agency as the

1 result of an international treaty, convention, or protocol."

2 **Section 55.** Section 50-32-226, MCA, is amended to read:

3 "50-32-226. Specific--dangerous---drugs---included--in
4 Schedule III. Schedule III--consists--of--the--drugs--and--other
5 substances;--by--whatever--official;--common;--usual;--chemical;
6 or--brand--name--designated;--listed--in--this--section; Unless
7 specifically excepted by state or federal law or state or
8 federal regulation or more specifically included in another
9 schedule, the following controlled substances are listed in
10 Schedule III:

11 (1) Stimulants;--Unless--specifically--excepted--or--listed
12 in--another--schedule; any material, compound, mixture, or
13 preparation that--contains containing any quantity of the
14 following substances having a stimulant effect on the
15 central nervous system, including its their salts, isomers
16 (whether--optical;--position;--or--geometric), and salts of such
17 isomers whenever--the--existence--of--such--salts;--isomers;--and
18 salts--of--isomers--is--possible--within--the--specific--chemical
19 designation:

20 (a) a compound, mixture, or preparation in dosage unit
21 form containing any stimulant substance included in Schedule
22 II and that was listed as an accepted compound on August 25,
23 1971, pursuant to the federal Controlled Substances Act, and
24 any other substance of the quantitative composition shown in
25 that list for those substances or that is the same except

1 for containing a lesser quantity of controlled substances;

2 (a)(i) benzphetamine;

3 (b)(ii) chlorphentermine;

4 (c)(iii) clortermine; and

5 (d)(iv) phendimetrazine;

6 (2)(b) Depressants;--Unless--specifically--excepted--or
7 listed--in--another--schedule;--any a material, compound,
8 mixture, or preparation that--contains containing any
9 quantity of the following substances having a depressant
10 effect on the central nervous system:

11 (i) a compound, mixture, or preparation containing any
12 of the following substances or their salts and one or more
13 other active medicinal ingredients not included in any
14 schedule:

15 (A) amobarbital;

16 (B) secobarbital; and

17 (C) pentobarbital;

18 (ii) any of the following substances or their salts, in
19 suppository dosage form, approved by the federal food and
20 drug administration for marketing only as a suppository:

21 (A) amobarbital;

22 (B) secobarbital; and

23 (C) pentobarbital;

24 (a)(iii) any a substance that--contains containing any
25 quantity of a derivative of barbituric acid or any salt

1 thereof of a derivative of barbituric acid;
 2 {b}(iv) chlorhexadol;
 3 {c}(v) glutethimide;
 4 {d}(vi) lysergic acid;
 5 {e}(vii) lysergic acid amide;
 6 {f}(viii) methyprylon;
 7 {g}(ix) sulfondiethylmethane;
 8 {h}(x) sulfonethylmethane;
 9 {i}(xi) sulfonmethane;
 10 {j}(xii) tiletamine and zolazepam or any of their salts
 11 (other names for a tiletamine-zolazepam combination product:
 12 telazol; other names for tiletamine: 2-(ethylamino)-2-
 13 (2-thienyl)-cyclohexanone; other names for zolazepam:
 14 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e]
 15 [1,4]-diazepin-7(1H)-one; flupyrzapon);
 16 ~~{j}--any-compound;-mixture;-or-preparation--containing~~
 17 ~~amobarbital;-secobarbital;-or-pentobarbital-or-any-salt-of~~
 18 ~~any-of-these-drugs-and-one-or-more--other--active--medicinal~~
 19 ~~ingredients-that-are-not-listed-in-any-schedule;-and~~
 20 ~~{k}--any-suppository-dosage-form-containing-amobarbital;~~
 21 ~~secobarbital;-or--pentobarbital-or-any-salt-of-any-of-these~~
 22 ~~drugs-approved-by-the-federal-food-and--drug--administration~~
 23 ~~for-marketing-only-as-a-suppository;~~
 24 {3}(c) Nalorphine; nalorphine; and
 25 {4}(d) Narcotic--drugs;-Unless-specifically-excepted-or

1 ~~listed--in--another--schedule;-any~~ a material, compound,
 2 mixture, or preparation containing any of the following
 3 narcotic drugs or its their salts calculated as the free
 4 anhydrous base or alkaloid in ~~the--following~~ limited
 5 quantities, as set forth below:
 6 {a}(i) not more than 1.8 grams of codeine per 100
 7 milliliters or not more than 90 milligrams per dosage unit,
 8 with an equal or greater quantity of an isoquinoline
 9 alkaloid of opium;
 10 {b}(ii) not more than 1.8 grams of codeine per 100
 11 milliliters or not more than 90 milligrams per dosage unit,
 12 with one or more active, nonnarcotic ingredients in
 13 recognized therapeutic amounts;
 14 {c}(iii) not more than 300 milligrams of
 15 dihydrocodeinone per 100 milliliters or not more than 15
 16 milligrams per dosage unit, with a fourfold or greater
 17 quantity of an isoquinoline alkaloid of opium;
 18 {d}(iv) not more than 300 milligrams of dihydrocodeinone
 19 per 100 milliliters or not more than 15 milligrams per
 20 dosage unit, with one or more active, nonnarcotic
 21 ingredients in recognized therapeutic amounts;
 22 {e}(v) not more than 1.8 grams of dihydrocodeine per
 23 100 milliliters or not more than 90 milligrams per dosage
 24 unit, with one or more active, nonnarcotic ingredients in
 25 recognized therapeutic amounts;

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

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

9 ~~h~~(viii) not more than 50 milligrams of morphine per
10 100 milliliters or per 100 grams, with one or more active,
11 nonnarcotic ingredients in recognized therapeutic amounts.

12 (2) The board may exempt by rule a compound, mixture,
13 or preparation containing a stimulant or depressant
14 substance listed in subsections (1)(a) and (1)(b) from the
15 application of all or part of [sections 7 through 19 and 22
16 through 74] if the compound, mixture, or preparation
17 contains one or more active medicinal ingredients not having
18 a stimulant or depressant effect on the central nervous
19 system and the admixtures are in combinations, quantity,
20 proportion, or concentration that vitiate the potential for
21 abuse of the substances having a stimulant or depressant
22 effect on the central nervous system."

23 **Section 56.** Section 50-32-228, MCA, is amended to read:
24 "50-32-228. ~~Criteria for placement of drug in~~ Schedule
25 IV tests. (1) The board shall ~~place~~ add a ~~drug in~~ substance

1 to Schedule IV if it finds upon finding that:

2 ~~1~~(a) the drug substance has a low potential for abuse
3 relative to drugs substances included in Schedule III;

4 ~~2~~(b) the drug substance has currently accepted
5 medical use in treatment in the United States; and

6 ~~3~~(c) abuse of the drug substance may lead to limited
7 physical dependence or psychological dependence relative to
8 the drugs substances included in Schedule III.

9 (2) The board may add a substance to Schedule IV
10 without making the findings required by subsection (1) if
11 the substance is controlled under Schedule IV of the federal
12 Controlled Substances Act by a federal agency as the result
13 of an international treaty, convention, or protocol."

14 **Section 57.** Section 50-32-229, MCA, is amended to read:

15 "~~50-32-229. Specific dangerous drugs included in~~
16 ~~Schedule IV. Schedule IV consists of the drugs and other~~
17 ~~substances, by whatever official, common, usual, chemical,~~
18 ~~or brand name designated, listed in this section. (1) Unless~~
19 ~~specifically excepted by state or federal law or state or~~
20 ~~federal regulation or more specifically included in another~~
21 ~~schedule, the following controlled substances are listed in~~
22 Schedule IV:

23 ~~1~~(a) ~~Narcotic drugs, unless specifically excepted or~~
24 ~~listed in another schedule, any a material, compound,~~
25 ~~mixture, or preparation containing any of the following~~

1 narcotic drugs or ~~its~~ their salts calculated as the free
2 anhydrous base or alkaloid in ~~the--following~~ limited
3 quantities, as set forth below:

4 ~~(a)~~(i) not more than 1 milligram of difenoxin and not
5 less than 25 micrograms of atropine sulfate per dosage unit;
6 and

7 ~~(b)~~(ii) dextropropoxyphene (alpha-(+)-4-dimethylamino
8 -1,2-diphenyl-3-methyl-2-propionoxybutane);

9 ~~(2)~~(b) ~~Depressants,--Unless--specifically--excepted--or~~
10 ~~listed--in--another--schedule,--any~~ a material, compound,
11 mixture, or preparation ~~that--contains~~ containing any
12 quantity of the following substances having a depressant
13 effect on the central nervous system, including its their
14 salts, isomers, and salts of isomers whenever the--existence
15 of--such--salts,--isomers,--and--salts--of--isomers--is--possible
16 within the specific chemical designation:

17 ~~(a)~~(i) alprazolam;

18 ~~(b)~~(ii) barbital;

19 (iii) bromazepam;

20 (iv) camazepam;

21 ~~(c)~~(v) chloral betaine;

22 ~~(d)~~(vi) chloral hydrate;

23 ~~(e)~~(vii) chlordiazepoxide;

24 (viii) clobazam;

25 ~~(f)~~(ix) clonazepam;

1 ~~(g)~~(x) clorazepate;

2 (xi) clotiazepam;

3 (xii) cloxazolam;

4 (xiii) delorazepam;

5 ~~(h)~~(xiv) diazepam;

6 (xv) estazolam;

7 ~~(i)~~(xvi) ethchlorvynol;

8 ~~(j)~~(xvii) ethinamate;

9 (xviii) ethyl loflazepate;

10 (xix) fludiazepam;

11 (xx) flunitrazepam;

12 ~~(k)~~(xxi) flurazepam;

13 ~~(l)~~(xxii) halazepam;

14 (xxiii) haloxazolam;

15 (xxiv) ketazolam;

16 (xxv) lopraxolam;

17 ~~(m)~~(xxvi) lorazepam;

18 (xxvii) lormetazepam;

19 ~~(n)~~(xxviii) mebutamate;

20 (xxix) medazepam;

21 (xxx) meprobamate;

22 ~~(o)~~(xxxi) methohexital;

23 ~~(p)~~--meprobamate;

24 ~~(q)~~(xxxii) methylphenobarbital (mephobarbital);

25 (xxxiii) midazolam;

1 (xxxiv) nimetazepam;
 2 (xxxv) nitrazepam;
 3 (xxxvi) nordiazepam;
 4 ~~(r)~~(xxxvii) oxazepam;
 5 (xxxviii) oxazolam;
 6 ~~(s)~~(xxxix) paraldehyde;
 7 ~~(t)~~(xl) petrichloral;
 8 ~~(u)~~(xli) phenobarbital;
 9 (xlii) pinazepam;
 10 ~~(v)~~(xlili) prazepam; and
 11 (xliv) quazepam;
 12 ~~(w)~~(xlv) temazepam;
 13 (xlvi) tetrazepam; and
 14 (xlvii) triazolam;
 15 ~~(3)~~(c) Fenfluramine—Any a material, compound, mixture,
 16 or preparation that ~~contains~~ containing any quantity of the
 17 ~~following~~ substance fenfluramine, including its salts,
 18 isomers ~~(whether optical, position, or geometric)~~, and salts
 19 of such isomers ~~whenever the existence of such salts,~~
 20 ~~isomers, and salts of isomers is possible;~~
 21 ~~(a)~~—fenfluramine;
 22 ~~(4)~~(d) Stimulants—~~Unless specifically excepted or~~
 23 ~~listed in another schedule,~~ any a material, compound,
 24 mixture, or preparation that ~~contains~~ containing any
 25 quantity of the following substances having a stimulant

1 effect on the central nervous system, including ~~its~~ their
 2 salts, isomers, and salts of isomers:
 3 ~~(a)~~(i) diethylpropion;
 4 ~~(b)~~(ii) mazindol;
 5 ~~(c)~~(iii) pemoline; (including organometallic complexes
 6 and chelates thereof);
 7 ~~(d)~~(iv) phentermine;
 8 ~~(e)~~(v) pipradrol; and
 9 ~~(f)~~(vi) SPA ((-)-1-dimethylamino-1,2-diphenylethane);
 10 and
 11 ~~(5)~~(e) Other substances—~~Unless specifically excepted~~
 12 ~~or listed in another schedule,~~ any a material, compound,
 13 mixture, or preparation that ~~contains~~ containing any
 14 quantity of the ~~following substances~~ pentazocine, including
 15 its salts:
 16 ~~(a)~~—pentazocine.
 17 (2) The board may exempt by rule any compound, mixture,
 18 or preparation containing a depressant substance listed in
 19 subsection (1)(b) from the application of all or part of
 20 [sections 7 through 19 and 22 through 74] if the compound,
 21 mixture, or preparation contains one or more active
 22 medicinal ingredients not having a depressant effect on the
 23 central nervous system and the admixtures are in
 24 combinations, quantity, proportion, or concentration that
 25 vitate the potential for abuse of the substances having a

1 depressant effect on the central nervous system."

2 **Section 58.** Section 50-32-231, MCA, is amended to read:

3 "50-32-231. Criteria-for-placement-of-drug-in Schedule
4 V tests. (1) The board shall piace add a drug-in substance
5 to Schedule V if-it-finds upon finding that:

6 {1}(a) the drug substance has a low potential for abuse
7 relative to the controlled--drugs substances listed in
8 Schedule IV;

9 {2}(b) the drug substance has currently accepted
10 medical use in treatment in the United States; and

11 {3}(c) the--drug-has abuse of the substance may lead to
12 limited physical dependence or psychological dependence
13 liability relative to the dangerous-drugs substances listed
14 in Schedule IV.

15 (2) The board may add a substance to Schedule V without
16 being required to make the findings required by subsection
17 (1) if the substance is controlled under Schedule V of the
18 federal Controlled Substances Act by a federal agency as the
19 result of an international treaty, convention, or protocol."

20 **Section 59.** Section 50-32-232, MCA, is amended to read:

21 "50-32-232. Specific---dangerous---drugs---included---in
22 Schedule V. Schedule-V---consists---of---the---drugs---and---other
23 substances;---by---whatever-official;---common;---usual;---chemical;
24 or-brand-name-designated;---listed---in---this---section; Unless
25 specifically excepted by state or federal law or state or

1 federal regulation or more specifically included in another
2 schedule, the following controlled substances are listed in
3 Schedule V:

4 (1) a material compound, mixture, or preparation
5 containing buprenorphine and its salts;

6 (2) Narcotic---drugs---containing---nonnarcotic---active
7 medicinal---ingredients;---Any a compound, mixture, or
8 preparation containing any of the following narcotic drugs
9 or its their salts calculated as the free anhydrous base or
10 alkaloid in limited quantities, as set forth in--subsections
11 {1}(a)---through---{1}(f) below, which--include that also
12 contains one or more nonnarcotic, active medicinal
13 ingredients in sufficient proportion to confer upon the
14 compound, mixture, or preparation valuable medicinal
15 qualities other than those possessed by narcotic drugs
16 alone:

17 (a) not more than 200 milligrams of codeine per 100
18 milliliters or per 100 grams;

19 (b) not more than 100 milligrams of dihydrocodeine per
20 100 milliliters or per 100 grams;

21 (c) not more than 100 milligrams of ethylmorphine per
22 100 milliliters or per 100 grams;

23 (d) not more than 2.5 milligrams of diphenoxylate and
24 not less than 25 micrograms of atropine sulfate per dosage
25 unit;

1 (e) not more than 100 milligrams of opium per 100
2 milliliters or per 100 grams; and

3 (f) not more than 0.5 milligram of difenoxin and not
4 less than 25 micrograms of atropine sulfate per dosage
5 unit; and

6 ~~(2) --boperamide--~~

7 (3) a material, compound, mixture, or preparation
8 containing any quantity of the following substances having a
9 stimulant effect on the central nervous system, including
10 their salts, isomers, and salts of isomers:

11 (a) propylhexedrine; and

12 (b) pyrovalerone."

13 **NEW SECTION. Section 60.** Controlled substance analog
14 treated as Schedule I substance. A controlled substance
15 analog, to the extent intended for human consumption, must
16 be treated, for the purposes of [sections 7 through 19 and
17 22 through 74], as a substance included in Schedule I.
18 Within 10 days after the initiation of prosecution with
19 respect to a controlled substance analog by indictment or
20 information, the prosecutor shall notify the board of
21 information relevant to emergency scheduling as provided for
22 in 50-32-203(2). After final determination that the
23 controlled substance analog should not be scheduled, no
24 prosecution relating to that substance as a controlled
25 substance analog may be commenced or continued.

1 **NEW SECTION. Section 61.** Rules. The board may adopt
2 rules and charge reasonable fees relating to the
3 registration and control of the manufacture, distribution,
4 and dispensing of controlled substances in this state.

5 **Section 62.** Section 50-32-301, MCA, is amended to read:

6 "~~50-32-301. Annual registration required for~~
7 ~~manufacturers, distributor, or dispenser~~ Registration
8 requirements. (1) Every A person who manufactures,
9 distributes, or dispenses ~~any dangerous--drug~~ a controlled
10 substance within this state or who proposes to engage in the
11 manufacture, distribution, or dispensing of a controlled
12 substance within this state must shall obtain annually a
13 registration issued by the department in accordance with
14 rules adopted by the board rules.

15 (2) Persons A person registered by the board under this
16 chapter to manufacture, distribute, dispense, or conduct
17 research with ~~dangerous--drugs~~ controlled substances may
18 possess, manufacture, distribute, dispense, or conduct
19 research with those drugs substances to the extent
20 authorized by their the registration and in conformity with
21 ~~the other provisions of~~ this chapter."

22 **Section 63.** Section 50-32-302, MCA, is amended to read:

23 "~~50-32-302. Exceptions to registration requirement.~~ The
24 following persons need not register and may lawfully possess
25 ~~dangerous--drugs~~ controlled substances under this chapter:

1 (1) an agent or employee of any a registered
2 manufacturer, distributor, or dispenser of any--dangerous
3 drug a controlled substance if he the agent or employee is
4 acting in the usual course of his business or employment;

5 (2) a common or contract carrier or warehouseman or an
6 employee thereof, whose possession of any--dangerous--drug a
7 controlled substance is in the usual course of business or
8 employment; and

9 (3) an ultimate user or a person in possession of any
10 dangerous--drug a controlled substance pursuant to a lawful
11 order of a practitioner or in lawful possession of a
12 substance included in Schedule V drug;

13 ~~(4)--officers-and-employees-of-the-state-or-a--political~~
14 ~~subdivision--of--the--state,--while--acting-in-the-course-of~~
15 ~~their-official-duties."~~

16 **Section 64.** Section 50-32-305, MCA, is amended to read:

17 "50-32-305. Separate registration required. A separate
18 registration is required at for each principal place of
19 business or professional practice where the applicant
20 manufactures, distributes, or dispenses dangerous--drugs
21 controlled substances."

22 **Section 65.** Section 50-32-306, MCA, is amended to read:

23 "50-32-306. ~~Criteria--for-registration-of-manufacturers~~
24 ~~and-distributors~~ Registration. (1) The board shall register
25 an applicant to manufacture or distribute dangerous--drugs

1 substances included in 50-32-222,--50-32-224,--50-32-226,
2 50-32-229, and 50-32-232 Schedules I through V unless ~~it~~ the
3 board determines that the issuance of ~~that~~ the registration
4 would be inconsistent with the public interest.

5 (2) In determining the public interest, the board shall
6 consider the following factors:

7 (a) maintenance of effective controls against diversion
8 of dangerous--drugs controlled substances into other than
9 legitimate medical, scientific, research, or industrial
10 channels;

11 (b) compliance with applicable state and local law;

12 (c) promotion of technical advances in the art of
13 manufacturing controlled substances and the development of
14 new substances;

15 (d) any convictions of the applicant under any federal
16 and state laws relating to any--dangerous--drug a controlled
17 substance;

18 ~~(d)~~(e) past experience of the applicant in the
19 manufacture or distribution of dangerous--drugs controlled
20 substances and the existence in the applicant's
21 establishment of effective controls against diversion of
22 controlled substances into other than legitimate medical,
23 scientific, research, or industrial channels;

24 ~~(e)~~(f) furnishing by the applicant of false or
25 fraudulent material in any an application filed under this

1 chapter;

2 ~~(f)~~(g) suspension or revocation of the applicant's
3 federal registration or the applicant's registration in
4 another state to manufacture, distribute, or dispense
5 ~~dangerous--drugs~~ controlled substances as authorized by
6 federal law; and

7 ~~(g)~~(h) any other factors relevant to and consistent
8 with the public health and safety.

9 ~~(3) Compliance-by-manufacturers-and--distributors--with~~
10 ~~the--provisions--of--the-federal-law-respecting-registration~~
11 ~~(excluding-fees)-entities-them-to-be-registered--under--this~~
12 ~~chapter-~~ A manufacturer or distributor registered under the
13 federal Controlled Substances Act (21 U.S.C. 801, et seq.)
14 may submit a copy of the federal application as an
15 application for registration as a manufacturer or
16 distributor under this section. The board may require a
17 manufacturer or distributor to submit information in
18 addition to the application for registration under the
19 federal act."

20 **Section 66.** Section 50-32-307, MCA, is amended to read:

21 "50-32-307. **Manufacture and distribution limited by**
22 **registration.** Registration under 50-32-306 ~~does-not--entitle~~
23 entitles a registrant to manufacture and distribute
24 ~~dangerous-drugs~~ a substance included in Schedule I or II
25 ~~other---than---those~~ only if it is specified in the

1 registration."

2 **Section 67.** Section 50-32-308, MCA, is amended to read:

3 "50-32-308. **Criteria for registration of practitioners.**

4 ~~(1) Practitioners-shall~~ A practitioner must be registered
5 with the board to dispense ~~any-dangerous-drugs~~ a controlled
6 substance or to conduct research with ~~dangerous--drugs~~
7 respect to a controlled substance included in Schedules II
8 through V ~~if--they--are--authorized-to-dispense-or-conduct~~
9 ~~research-under-the-laws-of-this-state.~~ The board need not
10 require separate registration for practitioners engaging in
11 research with nonnarcotic ~~dangerous---drugs~~ substances
12 included in Schedules II through V where if the registrant
13 is already registered under this chapter in another
14 capacity.

15 (2) **Practitioners** A practitioner registered under
16 federal law to conduct research with a substance included in
17 Schedule I ~~drugs~~ may conduct research with ~~Schedule-I--drugs~~
18 within the substance in this state upon furnishing the board
19 evidence of that the federal registration."

20 **Section 68.** Section 50-32-309, MCA, is amended to read:

21 "50-32-309. **Registrants---to---maintain---records---and**
22 **inventories** Records of registrants. **Persons** A person
23 registered to manufacture, distribute, or dispense ~~dangerous~~
24 drugs controlled substances under this chapter shall keep
25 records and maintain inventories in conformance compliance

1 with ~~the record-keeping and inventory requirements of~~
 2 federal law and ~~with any additional~~ rules adopted by the
 3 board issues."

4 **Section 69.** Section 50-32-310, MCA, is amended to read:

5 "50-32-310. Inspections authorized. The board may have
 6 inspect the establishment of a registrant or applicant for
 7 registration inspected in accordance with rules adopted by
 8 the board."

9 **Section 70.** Section 50-32-311, MCA, is amended to read:

10 "50-32-311. Revocation or suspension of registration.

11 (1) A registration under 50-32-301 to manufacture,
 12 distribute, or dispense a ~~dangerous---~~drug controlled
 13 substance may be suspended or revoked by the board upon a
 14 finding that the registrant has:

15 (a) furnished false or fraudulent material information
 16 in any an application filed under this chapter;

17 (b) been convicted of a felony under any a state or
 18 federal law relating to ~~any dangerous-drug-or~~ a controlled
 19 substance; or

20 (c) had his the registrant's federal registration
 21 suspended or revoked and is no longer authorized by federal
 22 law to manufacture, distribute, or dispense controlled
 23 substances; or

24 (d) committed an act that would render registration
 25 under 50-32-306 inconsistent with the public interest as

1 determined under that section.

2 (2) The board may limit revocation or suspension of a
 3 registration to the particular ~~dangerous--drug~~ controlled
 4 substance with respect to which grounds for revocation or
 5 suspension exist.

6 (3) If the board suspends or revokes a registration,
 7 all ~~dangerous-drugs~~ controlled substances owned or possessed
 8 by the registrant at the time of suspension or of the
 9 effective date of the revocation order may be placed under
 10 seal. No disposition may be made of ~~drugs~~ substances under
 11 seal until the time for taking an appeal has elapsed or
 12 until all appeals have been concluded unless a court, upon
 13 application ~~therefor~~, orders the sale of perishable ~~drugs~~
 14 substances and the deposit of the proceeds of the sale with
 15 the court. Upon When a revocation order becoming becomes
 16 final, ~~all--dangerous--drugs--may~~ the court may order that
 17 controlled substances be forfeited to the state.

18 (4) The board may seize or place under seal any
 19 controlled substance owned or possessed by a registrant
 20 whose registration has expired or who has ceased to practice
 21 or do business in the manner permitted by the registration.
 22 The controlled substance must be held for the benefit of the
 23 registrant or the registrant's successor in interest. The
 24 board shall notify a registrant, or the registrant's
 25 successor in interest, whose controlled substance is seized

1 or placed under seal of the procedures to be followed to
 2 secure the return of the controlled substance and the
 3 conditions under which it will be returned. The board may
 4 not dispose of a controlled substance seized or placed under
 5 seal under this subsection until the expiration of 180 days
 6 after the controlled substance was seized or placed under
 7 seal. Costs incurred by the board in seizing, placing under
 8 seal, maintaining custody, and disposing of any controlled
 9 substance under this subsection may be recovered from the
 10 registrant, from any proceeds obtained from the disposition
 11 of the controlled substance, or from both. The board shall
 12 pay to the registrant or the registrant's successor in
 13 interest any balance of the proceeds of any disposition.

14 ~~†4†~~(5) The board shall promptly cause notify the bureau
 15 ~~to-be-notified~~ drug enforcement administration of all orders
 16 restricting, suspending, or revoking registration and of all
 17 forfeitures of dangerous-drugs controlled substances."

18 **Section 71.** Section 50-32-312, MCA, is amended to read:

19 "50-32-312. Procedure ~~for denial, suspension,~~
 20 ~~revocation of, or refusal to renew registration~~ Order to
 21 show cause. (1) Before denying, suspending, or revoking, or
 22 refusing to renew a registration ~~or refusing a renewal of~~
 23 registration, the board shall serve upon the applicant or
 24 registrant an order to show cause why registration should
 25 not be denied, suspended, or revoked ~~or suspended~~ or why

1 the renewal ~~should-not-be~~ refused. The order ~~to-show-cause~~
 2 ~~shall-contain-a-statement-of-the-basis-therefor~~ must state
 3 its grounds and ~~shall-require~~ direct the applicant or
 4 registrant to appear before the board at a specified time
 5 and place not less than 30 days after the date of service of
 6 the order, ~~but-in~~ In the case of a ~~denial-of-renewal-of~~
 7 refusal to renew a registration, the ~~show-cause~~ order ~~shall~~
 8 must be served not later than 30 days before the expiration
 9 of the registration. The proceedings must be conducted in
 10 accordance with contested case procedures as provided in
 11 Title 2, chapter 4, part 6. ~~These~~ The proceedings ~~shall be~~
 12 ~~conducted-without-regard-to~~ do not preclude any criminal
 13 prosecution or other proceeding. Proceedings ~~A proceeding~~ to
 14 ~~refuse renewal of to renew~~ a registration ~~do~~ does not ~~abate~~
 15 affect the existing registration, which remains in effect
 16 ~~pending-the-outcome-of-the-administrative-hearing~~ until
 17 completion of the proceeding.

18 (2) The board may suspend, without an order to show
 19 cause, any a registration simultaneously with the
 20 institution of proceedings under 50-32-311 or whenever if
 21 renewal of registration is refused ~~if-it-finds, upon finding~~
 22 that there is an imminent danger to the public health or
 23 safety which that warrants ~~such the~~ action. The suspension
 24 continues in effect until the conclusion of the proceedings,
 25 including judicial review thereof, unless ~~sooner~~ earlier

1 withdrawn by the board or dissolved by a court of competent
2 jurisdiction."

3 NEW SECTION. Section 72. Diversion prevention and
4 control. (1) As used in this section, "diversion" means the
5 transfer of a controlled substance from a lawful to an
6 unlawful channel of distribution or use.

7 (2) The board shall regularly prepare and make
8 available to other state regulatory, licensing, and law
9 enforcement agencies a report on the patterns and trends of
10 distribution, diversion, and abuse of controlled substances.

11 (3) The board shall enter into written agreements with
12 local, state, and federal agencies to improve identification
13 of sources of diversion and to improve enforcement of and
14 compliance with [sections 7 through 19 and 22 through 74]
15 and other laws and regulations pertaining to unlawful
16 conduct involving controlled substances. An agreement must
17 specify the roles and responsibilities of each agency that
18 has information or authority to identify, prevent, or
19 control drug diversion and drug abuse. The board shall hold
20 periodic meetings to coordinate a state diversion prevention
21 and control program. The board shall arrange for cooperation
22 and exchange of information among agencies and with other
23 states and the federal government.

24 (4) The board shall report annually to the governor and
25 to the presiding officer of each house of the legislature on

1 the outcome of the program with respect to its effect on
2 distribution and abuse of controlled substances, including
3 recommendations for improving control and prevention of the
4 diversion of controlled substances in this state.

5 NEW SECTION. Section 73. Uniformity of application and
6 construction. [Sections 7 through 19 and 22 through 74] must
7 be applied and construed to effectuate its general purpose
8 to make uniform the law with respect to the subject of
9 [sections 7 through 19 and 22 through 74] among states
10 enacting it.

11 NEW SECTION. Section 74. Short title. [Sections 7
12 through 19 and 22 through 74] may be cited as the "Uniform
13 Controlled Substances Act".

14 **Section 75.** Section 50-32-401, MCA, is amended to read:

15 "50-32-401. Report required for precursor to controlled
16 substance. (1) A manufacturer, wholesaler, retailer, or
17 other person who sells, transfers, or otherwise furnishes
18 any of the following substances to a person in this state
19 must submit a report to the department of justice detailing
20 all such transactions:

- 21 (a) phenyl-2-propanone;
22 (b) methylamine;
23 (c) d-lysergic acid;
24 (d) ergotamine tartrate;
25 (e) diethyl malonate;

- 1 (f) malonic acid;
 2 (g) ethyl malonate;
 3 (h) barbituric acid; and
 4 (i) piperidine.

5 (2) The department of justice may adopt, amend, or
 6 repeal rules in accordance with the Montana Administrative
 7 Procedure Act that add or delete substances to the list of
 8 regulated substances detailed in subsection (1), if the
 9 substance is a precursor to a dangerous--drug controlled
 10 substance as defined in 50-32-101.

11 (3) This section does not apply to any of the
 12 following:

- 13 (a) a pharmacist or other authorized person who sells
 14 or furnishes the substance upon the prescription of a
 15 physician, dentist, podiatrist, or veterinarian;
 16 (b) a physician, dentist, podiatrist, or veterinarian
 17 who administers or furnishes the substance to his patients;
 18 (c) a manufacturer or wholesaler licensed by the board
 19 of pharmacy who sells, transfers, or otherwise furnishes the
 20 substance to a licensed pharmacist, physician, dentist,
 21 podiatrist, or veterinarian;
 22 (d) transfers of the substances listed in subsection
 23 (1) within any college or university to an employee or
 24 student of the college or university for the purpose of
 25 teaching or research authorized by the college or

1 university."

2 **Section 76.** Section 77-6-210, MCA, is amended to read:

3 "77-6-210. Cancellation of leases. (1) The department
 4 may cancel a lease for any of the following causes:

5 (a) fraud, misrepresentation, or concealment of facts
 6 relating to its issue, which if known would have prevented
 7 its issue in the form or to the party issued;

8 (b) subleasing state land contrary to the provisions of
 9 77-6-212;

10 (c) using the land for other purposes than those
 11 authorized by the lease;

12 (d) conviction of the lessee for a felony offense
 13 involving a dangerous-drug controlled substance, as defined
 14 in Title 50, chapter 32, and involving the planting,
 15 propagating, cultivating, growing, harvesting,
 16 manufacturing, compounding, converting, producing,
 17 processing, preparing, testing, analyzing, packaging,
 18 repackaging, storing, or concealing of a dangerous-drug
 19 controlled substance on any portion of the unit; however,
 20 when a state land lease is held by an association, company,
 21 or corporation, conviction of a member of the association,
 22 company, or corporation under this subsection does not
 23 result in cancellation of the lease unless it appears that
 24 the operator, manager, or family in control of the
 25 association, company, or corporation is a consenting party

1 or privy to the violation of this subsection;

2 (e) for any other cause which in the judgment of the
3 department makes the cancellation of the lease necessary in
4 order to do justice to all parties concerned and to protect
5 the interests of the state.

6 (2) Cancellation of a lease under this section does not
7 entitle the lessee to any refund of rentals paid or
8 exemption from the payment of any rentals, penalties, or
9 other compensation due the state."

10 **Section 77.** Section 77-6-212, MCA, is amended to read:

11 "77-6-212. Loss of preference right -- cancellation of
12 lease -- subleasing -- pasturing agreements. (1) Except as
13 provided in subsections (3) and (4), a lessee of state land
14 classed as agricultural or grazing land may not exercise the
15 preference right provided in 77-6-205 if he subleases the
16 land for more than 2 years in the term of the lease.

17 (2) The department shall cancel a lease of state
18 agricultural or grazing land if the lessee subleases the
19 land for more than 3 years during the term of the lease,
20 unless the sublease is made between members of a family as
21 provided in subsection (3).

22 (3) A lessee under subsection (1) or (2) may sublease
23 the land for a period of not more than 5 years without
24 losing the preference right or the lease to state land if,
25 during the term of the lease, the land is subleased only to

1 a spouse, son, daughter, adopted child, or sibling of the
2 lessee.

3 (4) The lessee does not lose the preference right or
4 right to lease because of subleasing as provided under this
5 section if:

6 (a) the sublease is one-third or less acres of the
7 lease; or

8 (b) the sublease is considered to be a pasturing
9 agreement and is approved in writing by the department prior
10 to the initiation of the agreement.

11 (5) For purposes of this section, a sublease may not be
12 considered a pasturing agreement unless the lessee
13 personally retains management and physical control of the
14 land and livestock. "Management" means but is not limited
15 to:

16 (a) providing all costs for improvements, land
17 maintenance, and range renovation, if range renovation is
18 approved by the department;

19 (b) making all decisions regarding rotation or other
20 placement of livestock on state land;

21 (c) making all decisions regarding turn-in and turn-out
22 dates of the livestock on state land; and

23 (d) making all decisions regarding proper range
24 management, including placement of water, fencing, and salt.

25 (6) A lessee of state land classified as agricultural

1 or grazing land shall lose the preference right provided in
 2 77-6-205 upon conviction of a felony offense involving a
 3 dangerous-drug controlled substance, as defined in Title 50,
 4 chapter 32, and involving the planting, propagating,
 5 cultivating, growing, harvesting, manufacturing,
 6 compounding, converting, producing, processing, preparing,
 7 testing, analyzing, packaging, repackaging, storing, or
 8 concealing of a dangerous-drug controlled substance on any
 9 portion of the unit. When a state land lease is held by an
 10 association, company, or corporation, conviction of a member
 11 of the association, company, or corporation under this
 12 subsection does not result in loss of lease preference
 13 unless it appears that the operator, manager, or family in
 14 control of the association, company, or corporation is a
 15 consenting party or privy to the violation of this
 16 subsection."

17 NEW SECTION. Section 78. Repealer. Sections 45-9-107,
 18 45-9-108, 45-9-111, 45-9-113, 50-32-102, 50-32-103,
 19 50-32-104, 50-32-204, 50-32-205, 50-32-227, and 50-32-230,
 20 MCA, are repealed.

21 NEW SECTION. Section 79. Prospective application.
 22 [This act] applies to violations of law, seizures and
 23 forfeitures, injunctive proceedings, administrative
 24 proceedings, and investigations that occur on or after
 25 October 1, 1991.

1 NEW SECTION. Section 80. Pending proceedings. (1)
 2 [This act] does not affect or abate a prosecution for a
 3 violation of law occurring before October 1, 1991. If the
 4 offense being prosecuted is similar to one set out in Title
 5 45, chapter 9, part 1, the penalties under [this act] apply
 6 if they are less than those under the former law.

7 (2) [This act] does not affect a civil seizure,
 8 forfeiture, or injunctive proceeding commenced before
 9 October 1, 1991.

10 (3) An administrative proceeding pending under laws
 11 that are superseded by [this act] must be continued and
 12 brought to a final determination in accordance with the laws
 13 and rules in effect before October 1, 1991. A substance
 14 controlled under superseded law but that is not listed in
 15 [this act] is automatically controlled without further
 16 proceedings and must be added in the appropriate schedule.

17 (4) The board of pharmacy shall initially permit a
 18 person to register who owns or operates an establishment
 19 engaged in the manufacture, distribution, or dispensing of a
 20 controlled substance before October 1, 1991, and who is
 21 registered or licensed by the state.

22 NEW SECTION. Section 81. Continuation of rules --
 23 application to existing relationships. Orders issued and
 24 rules adopted under any law affected by [this act] and in
 25 effect on October 1, 1991, and not in conflict with [this

1 act] continue in effect until modified, superseded, or
 2 repealed. Rights and duties that matured, penalties that
 3 were incurred, and proceedings that were begun before
 4 October 1, 1991, continue in effect and are not affected by
 5 [section 82].

6 NEW SECTION. Section 82. Severability. If a part of
 7 [this act] is invalid, all valid parts that are severable
 8 from the invalid part remain in effect. If a part of [this
 9 act] is invalid in one or more of its applications, the part
 10 remains in effect in all valid applications that are
 11 severable from the invalid applications.

12 NEW SECTION. Section 83. Codification instruction --
 13 code commissioner instructions. (1) [Sections 17, 18, 22
 14 through 39, 60, 61, and 72 through 74] are intended to be
 15 codified as an integral part of Title 45, chapter 9, and the
 16 provisions of Title 45, chapter 9, apply to [sections 17,
 17 18, 22 through 39, 60, 61, and 72 through 74].

18 (2) The code commissioner shall renumber Title 50,
 19 chapter 32, as an integral part of Title 45, chapter 9, in
 20 order to conform to the Uniform Controlled Substances Act.
 21 The code commissioner shall correct internal references to
 22 reflect the rearrangement of the current provisions of Title
 23 45, chapter 9, and the incorporation of Title 50, chapter
 24 32.

25 (3) In 37-29-311, 41-3-609, 41-5-103, and wherever it

1 appears in legislation enacted by the 52nd legislature other
 2 than Title 15, chapter 25, part 1, the code commissioner
 3 shall substitute references to controlled substance for
 4 references to dangerous drug.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 SENATE BILL NO. 300
 2 INTRODUCED BY PINSONEAULT, J. RICE, MAZUREK, B. BROWN,
 3 NATHE, MERCER, VAN VALKENBURG
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS GOVERNING DANGEROUS DRUGS TO CONFORM TO THE UNIFORM
 7 CONTROLLED SUBSTANCES ACT; UPDATING THE SCHEDULES OF
 8 CONTROLLED SUBSTANCES; REVISING THE REGULATION OF THE
 9 MANUFACTURE AND DISTRIBUTION OF CONTROLLED SUBSTANCES;
 10 CREATING CRIMINAL PENALTIES FOR VIOLATING PROVISIONS
 11 REGULATING THE MANUFACTURE AND DISTRIBUTION OF CONTROLLED
 12 SUBSTANCES; INCREASING CRIMINAL PENALTIES FOR VIOLATIONS
 13 INVOLVING MINORS OR OCCURRING NEAR A SCHOOL; CREATING THE
 14 OFFENSE OF MONEY LAUNDERING; PROVIDING AN APPROPRIATION OF
 15 AN ASSESSMENT FOR VIOLATION OF CONTROLLED SUBSTANCES LAWS
 16 FOR FUNDING EDUCATION AND TREATMENT PROGRAMS; AUTHORIZING
 17 CIVIL ACTIONS FOR VIOLATIONS OF CONTROLLED SUBSTANCES LAWS
 18 AND CONTINUING CRIMINAL ENTERPRISES INVOLVING CONTROLLED
 19 SUBSTANCES; AMENDING SECTIONS 15-25-102, 15-25-111,
 20 17-7-502, 37-20-404, 41-5-206, 45-7-307, 45-9-101, 45-9-102,
 21 45-9-103, 45-9-104, 45-9-105, 45-9-106, 45-9-112, 45-9-114,
 22 45-9-115, 45-9-116, 45-9-202, 45-10-101, 45-10-107,
 23 50-32-101, 50-32-105, 50-32-106, 50-32-201, 50-32-202,
 24 50-32-203, 50-32-206, 50-32-207, 50-32-208, 50-32-209,
 25 50-32-221, 50-32-222, 50-32-223, 50-32-224, 50-32-225,

1 50-32-226, 50-32-228, 50-32-229, 50-32-231, 50-32-232,
 2 50-32-301, 50-32-302, 50-32-305, 50-32-306, 50-32-307,
 3 50-32-308, 50-32-309, 50-32-310, 50-32-311, 50-32-312,
 4 50-32-401, 77-6-210, AND 77-6-212, MCA; AND REPEALING
 5 SECTIONS 45-9-107, 45-9-108, 45-9-111, 45-9-113, 50-32-102,
 6 50-32-103, 50-32-104, 50-32-204, 50-32-205, 50-32-227, AND
 7 50-32-230, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 15-25-102, MCA, is amended to read:
 11 "15-25-102. **Definitions.** As used in this chapter,
 12 unless the context requires otherwise, the following
 13 definitions apply:

14 (1) "Dangerous drug" ~~has the meaning provided~~ means a
 15 controlled substance as defined in 50-32-101.

16 (2) "Department" means the department of revenue
 17 provided for in 2-15-1301.

18 (3) "Person" means an individual, firm, association,
 19 corporation, partnership, or any other group or combination
 20 acting as a unit."

21 **Section 2.** Section 15-25-111, MCA, is amended to read:
 22 "15-25-111. **Tax on dangerous drugs.** (1) There is a tax
 23 on the possession and storage of dangerous drugs. Except as
 24 provided in 15-25-112, each person possessing or storing
 25 dangerous drugs is liable for the tax. The tax imposed is



1 determined pursuant to subsection (2). The tax is due and
 2 payable on the date of assessment. The department shall add
 3 an administration fee of 5% of the tax imposed pursuant to
 4 subsection (2) to offset costs incurred in assessing value,
 5 in collecting the tax, and in any review and appeal process.

6 (2) With the exception that the tax on possession and
 7 storage of less than 1 ounce, 1 gram, or 100 micrograms of
 8 dangerous drugs must be that set forth below for 1 ounce, 1
 9 gram, or 100 micrograms, the tax on possession and storage
 10 of dangerous drugs is the greater of:

11 (a) 10% of the assessed market value of the drugs, as
 12 determined by the department; or

13 (b) (i) \$100 per ounce of marijuana, as defined in
 14 50-32-101, or its derivatives, as determined by the
 15 aggregate weight of the substance seized;

16 (ii) \$250 per ounce of hashish, as defined ~~in 50-32-101~~
 17 as the mechanically processed or extracted plant material
 18 that contains tetrahydrocannabinol (THC) and is composed of
 19 resin from the cannabis plant, as determined by the
 20 aggregate weight of the substance seized;

21 (iii) \$200 per gram of any substance containing or
 22 purported to contain any amount of a dangerous--drug
 23 substance included in Schedule I pursuant to 50-32-222(1),
 24 (2), (4), and (5), or Schedule II pursuant to 50-32-224(1)
 25 through (4), as determined by the aggregate weight of the

1 substance seized;

2 (iv) \$10 per 100 micrograms of any substance containing
 3 or purported to contain any amount of lysergic acid
 4 diethylamide (LSD) included in Schedule I pursuant to
 5 50-32-222(3), as determined by the aggregate weight of the
 6 substance seized;

7 (v) \$100 per ounce of any substance containing or
 8 purported to contain any amount of an immediate precursor as
 9 defined under Schedule II pursuant to 50-32-224(5), as
 10 determined by the aggregate weight of the substance seized;
 11 and

12 (vi) \$100 per gram of any substance containing or
 13 purported to contain any amount of dangerous drug not
 14 otherwise provided for in this subsection (2).

15 (3) The tax imposed under this section may be collected
 16 before any state or federal fines or forfeitures have been
 17 satisfied."

18 **Section 3.** Section 17-7-502, MCA, is amended to read:

19 "17-7-502. Statutory appropriations -- definition --
 20 requisites for validity. (1) A statutory appropriation is an
 21 appropriation made by permanent law that authorizes spending
 22 by a state agency without the need for a biennial
 23 legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be
 25 effective, a statutory appropriation must comply with both

1 of the following provisions:

2 (a) The law containing the statutory authority must be
3 listed in subsection (3).

4 (b) The law or portion of the law making a statutory
5 appropriation must specifically state that a statutory
6 appropriation is made as provided in this section.

7 (3) The following laws are the only laws containing
8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
9 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
10 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
11 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
12 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
13 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
14 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
15 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
16 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
17 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;
18 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;
19 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;
20 [section 29]; and section 13, House Bill No. 861, Laws of
21 1985.

22 (4) There is a statutory appropriation to pay the
23 principal, interest, premiums, and costs of issuing, paying,
24 and securing all bonds, notes, or other obligations, as due,
25 that have been authorized and issued pursuant to the laws of

1 Montana. Agencies that have entered into agreements
2 authorized by the laws of Montana to pay the state
3 treasurer, for deposit in accordance with 17-2-101 through
4 17-2-107, as determined by the state treasurer, an amount
5 sufficient to pay the principal and interest as due on the
6 bonds or notes have statutory appropriation authority for
7 such payments. (In subsection (3), pursuant to sec. 10, Ch.
8 664, L. 1987, the inclusion of 39-71-2504 terminates June
9 30, 1991.)"

10 **Section 4.** Section 37-20-404, MCA, is amended to read:

11 "37-20-404. Prescribing and dispensing authority --
12 discretion of supervising physician on limitation of
13 authority. (1) A physician assistant-certified may
14 prescribe, dispense, and administer drugs to the extent
15 authorized by the board by rule, by the utilization plan, or
16 both. The prescribing, dispensing, and administration of
17 drugs are also subject to the authority of the supervising
18 physician, and the supervising physician in his discretion
19 may impose additional limitations on the prescribing and
20 dispensing authority granted by the board.

21 (2) All dispensing activities allowed by this section
22 must comply with 37-2-104 and with packaging and labeling
23 guidelines developed by the board of pharmacy under Title
24 37, chapter 7.

25 (3) The prescribing and dispensing authority granted a

1 physician assistant-certified may include the following:

2 (a) Prescribing, dispensing, and administration of
3 Schedule III drugs substances listed in 50-32-226, Schedule
4 IV drugs substances listed in 50-32-229, and Schedule V
5 drugs substances listed in 50-32-232, is authorized.

6 (b) Prescribing, dispensing, and administration of
7 Schedule II drugs substances listed in 50-32-224 may be
8 authorized for limited periods not to exceed 48 hours.

9 (c) Records on the dispensing and administration of
10 scheduled drugs substances must be kept.

11 (d) A physician assistant-certified shall maintain
12 registration with the federal drug enforcement
13 administration.

14 (e) Drugs dispensed by a physician assistant-certified
15 must be prepackaged by a licensed pharmacist, except that
16 samples provided by a pharmaceutical company representative
17 may be dispensed.

18 (f) Prescriptions written by physician
19 assistants-certified must comply with regulations relating
20 to prescription requirements adopted by the board of
21 pharmacy.

22 (g) The board shall adopt rules regarding the refilling
23 of prescriptions written by physician assistants-certified."

24 **Section 5.** Section 41-5-206, MCA, is amended to read:

25 ***41-5-206. Transfer to criminal court.** (1) After a

1 petition has been filed alleging delinquency, the court may,
2 upon motion of the county attorney, before hearing the
3 petition on its merits, transfer the matter of prosecution
4 to the district court if:

5 (a) (i) the youth charged was 12 years of age or more
6 at the time of the conduct alleged to be unlawful and the
7 unlawful act would constitute sexual intercourse without
8 consent as defined in 45-5-503, deliberate homicide as
9 defined in 45-5-102, or mitigated deliberate homicide as
10 defined in 45-5-103, or the attempt, as defined in 45-4-103,
11 of either deliberate or mitigated deliberate homicide if the
12 act had been committed by an adult; or

13 (ii) the youth charged was 16 years of age or more at
14 the time of the conduct alleged to be unlawful and the
15 unlawful act is one or more of the following:

16 (A) negligent homicide as defined in 45-5-104;

17 (B) arson as defined in 45-6-103;

18 (C) aggravated or felony assault as defined in
19 45-5-202;

20 (D) robbery as defined in 45-5-401;

21 (E) burglary or aggravated burglary as defined in
22 45-6-204;

23 (F) aggravated kidnapping as defined in 45-5-303;

24 (G) possession of explosives as defined in 45-8-335;

25 (H) criminal sale of dangerous---drugs controlled

1 substances as included in 45-9-101;

2 (I) attempt as defined in 45-4-103 of any of the acts
3 enumerated in subsections (1)(a)(ii)(A) through
4 (1)(a)(ii)(H);

5 (b) a hearing on whether the transfer should be made is
6 held in conformity with the rules on a hearing on a petition
7 alleging delinquency, except that the hearing will be to the
8 youth court without a jury;

9 (c) notice in writing of the time, place, and purpose
10 of the hearing is given to the youth, his counsel, and his
11 parents, guardian, or custodian at least 10 days before the
12 hearing; and

13 (d) the court finds upon the hearing of all relevant
14 evidence that there is probable cause to believe that:

15 (i) the youth committed the delinquent act alleged;

16 (ii) the seriousness of the offense and the protection
17 of the community require treatment of the youth beyond that
18 afforded by juvenile facilities; and

19 (iii) the alleged offense was committed in an
20 aggressive, violent, or premeditated manner.

21 (2) In transferring the matter of prosecution to the
22 district court, the court may also consider the following
23 factors:

24 (a) the sophistication and maturity of the youth,
25 determined by consideration of his home, environmental

1 situation, and emotional attitude and pattern of living;

2 (b) the record and previous history of the youth,
3 including previous contacts with the youth court, law
4 enforcement agencies, youth courts in other jurisdictions,
5 prior periods of probation, and prior commitments to
6 juvenile institutions. However, lack of a prior juvenile
7 history with youth courts will not of itself be grounds for
8 denying the transfer.

9 (3) The court shall grant the motion to transfer if the
10 youth was 16 years old or older at the time of the conduct
11 alleged to be unlawful and the unlawful act would constitute
12 deliberate homicide as defined in 45-5-102, mitigated
13 deliberate homicide as defined in 45-5-103, or the attempt,
14 as defined in 45-4-103, of either deliberate or mitigated
15 deliberate homicide if the act had been committed by an
16 adult.

17 (4) Upon transfer to district court, the judge shall
18 make written findings of the reasons why the jurisdiction of
19 the youth court was waived and the case transferred to
20 district court.

21 (5) The transfer terminates the jurisdiction of the
22 youth court over the youth with respect to the acts alleged
23 in the petition. No youth may be prosecuted in the district
24 court for a criminal offense originally subject to the
25 jurisdiction of the youth court unless the case has been

1 transferred as provided in this section.

2 (6) Upon order of the youth court transferring the case
3 to the district court, the county attorney shall file the
4 information against the youth without unreasonable delay.

5 (7) Any offense not enumerated in subsection (1) that
6 arises during the commission of a crime enumerated in
7 subsection (1) may be:

8 (a) tried in youth court;

9 (b) transferred to district court with an offense
10 enumerated in subsection (1), upon motion of the county
11 attorney and order of the youth court judge.

12 (8) If a youth is found guilty in district court of any
13 of the offenses transferred by the youth court and is
14 sentenced to the state prison, his commitment shall be to
15 the department of institutions which shall confine the youth
16 in whatever institution it considers proper, including a
17 state youth correctional facility under the procedures of
18 53-30-212; however, no youth under 16 years of age may be
19 confined in the state prison.

20 (9) A youth whose case is transferred to district court
21 may not be detained in an adult detention facility before
22 final disposition of the case unless the youth court judge
23 determines that:

24 (a) the youth facilities do not provide adequate
25 security; and

1 (b) detention in the adult facility is in an area
2 physically, aurally, and visually separate from that of
3 adults."

4 **Section 6.** Section 45-7-307, MCA, is amended to read:

5 **"45-7-307. Transferring illegal articles or**
6 **unauthorized communication.** (1) (a) A person commits the
7 offense of transferring illegal articles if he knowingly or
8 purposely transfers any illegal article or thing to a person
9 subject to official detention or is transferred any illegal
10 article or thing by a person subject to official detention.

11 (b) A person convicted of transferring illegal articles
12 shall be:

13 (i) imprisoned in the state prison for a term not to
14 exceed 20 years, if he conveys a weapon to a person subject
15 to official detention;

16 (ii) imprisoned in the state prison for a term not to
17 exceed 10 years, if he conveys a dangerous-drug controlled
18 substance, as defined in 50-32-101, to a person subject to
19 official detention; or

20 (iii) fined not to exceed \$100 or imprisoned in the
21 county jail for any term not to exceed 10 days, or both, if
22 he conveys any other illegal article or thing to a person
23 subject to official detention.

24 (c) Subsection (1)(b)(iii) does not apply unless the
25 offender knew or was given sufficient notice so that he

1 reasonably should have known that the article or thing he
2 conveyed was an illegal article.

3 (2) (a) A person commits the offense of unauthorized
4 communication if he knowingly or purposely communicates with
5 a person subject to official detention without the consent
6 of the person in charge of such official detention.

7 (b) A person convicted of the offense of unauthorized
8 communication shall be fined not to exceed \$100 or
9 imprisoned in the county jail for any term not to exceed 10
10 days, or both."

11 **Section 7.** Section 45-9-101, MCA, is amended to read:

12 "~~45-9-101. Criminal-sale-of-dangerous-drugs Prohibited~~
13 ~~acts -- penalties. (1) A Except as authorized by [sections 7~~
14 ~~through 19 and 22 through 74], a person commits-the-offense~~
15 ~~of-criminal-sale-of-dangerous-drugs-if-he--sells,--barter,--~~
16 ~~exchanges,--gives-away,--or-offers-to-sell,--barter,--exchange,~~
17 ~~or--give--away--or---manufactures,--prepares,--cultivates,~~
18 ~~compounds,--or--processes--any-dangerous-drug,--as-defined-in~~
19 ~~50-32-101 may not purposely or knowingly manufacture,~~
20 ~~distribute, or deliver a controlled substance or knowingly~~
21 ~~possess a controlled substance with intent to manufacture,~~
22 ~~distribute, or deliver a controlled substance.~~

23 (2) A person ~~convicted-of-criminal-sale-of-a-narcotic~~
24 ~~drug,--as-defined--in--50-32-101(d),--or--an--opiate,--as~~
25 ~~defined--in--50-32-101(i),--shall~~ is guilty of a crime and

1 upon conviction may be imprisoned in the state prison for a
2 term of not less than 2 years or more than life and may be
3 fined not more than \$50,000, except as provided in
4 46-18-222, for a violation of subsection (1) with respect
5 to:

- 6 (a) a mixture or substance containing heroin;
7 (b) a mixture or substance containing:
8 (i) coca leaves, except coca leaves and extracts of
9 coca leaves from which cocaine, ecgonine, and derivatives of
10 ecgonine or their salts have been removed;
11 (ii) cocaine or a salt, isomer, or salt of isomer of
12 cocaine;
13 (iii) ecgonine or a derivative, salt, isomer, or salt of
14 isomer of ecgonine; or
15 (iv) a compound, mixture, or preparation containing any
16 quantity of a substance referred to in subsection (2)(b)(i)
17 through (2)(b)(iii);
18 (c) a mixture or substance described in subsection
19 (2)(b) that contains cocaine base;
20 (d) phencyclidine or a mixture or substance containing
21 phencyclidine;
22 (e) a mixture or substance containing lysergic acid
23 diethylamide;
24 (f) a mixture or substance containing methamphetamine
25 or any of its salts, isomers, or salts of isomers; or

1 (g) a mixture or substance containing 60 grams or more
2 of marijuana.

3 (3) A person convicted-of-criminal-sale-of-a-dangerous
4 drug is guilty of a crime and upon conviction for a
5 violation of subsection (1) in the case of a substance
6 included in Schedule I or Schedule II pursuant-to--50-32-222
7 or-50-32-224, except marijuana or tetrahydrocannabinols, who
8 has a prior conviction for criminal-sale-of such-a-drug a
9 violation of subsection (1) shall be imprisoned in the state
10 prison for a term of not less than 10 years or more than
11 life and may be fined not more than \$50,000, except as
12 provided in 46-18-222. Upon a third or subsequent conviction
13 for criminal-sale-of-such-a-drug a violation of subsection
14 (1), he shall be imprisoned in the state prison for a term
15 of not less than 20 years or more than life and may be fined
16 not more than \$50,000, except as provided in 46-18-222.

17 (4) A person convicted of criminal--sale--of--dangerous
18 drugs a violation of subsection (1) not otherwise provided
19 for in subsection (2), (3), or (5) shall be imprisoned in
20 the state prison for a term of not less than 1 year or more
21 than life or be fined an amount of not more than \$50,000, or
22 both.

23 (5) A person who was an adult at the time of sale and
24 who is convicted of criminal-sale-of-dangerous-drugs-to a
25 violation of subsection (1) involving a minor shall be

1 sentenced as follows:

2 (a) If convicted pursuant to subsection (2), the person
3 shall be imprisoned in the state prison for not less than 4
4 years or more than life and may be fined not more than
5 \$50,000, except as provided in 46-18-222.

6 (b) If convicted of the--sale--of-a-dangerous-drug a
7 violation of subsection (1) involving a substance included
8 in Schedule I or Schedule II pursuant--to-50-32-222-or
9 50-32-224 and if previously convicted of such--a--sale a
10 violation of subsection (1) involving a substance included
11 in Schedule I or Schedule II, the person shall be imprisoned
12 in the state prison for not less than 20 years or more than
13 life and may be fined not more than \$50,000, except as
14 provided in 46-18-222.

15 (c) If convicted of the-sale--of--a--dangerous--drug a
16 violation of subsection (1) involving a substance included
17 in Schedule I or Schedule II pursuant--to--50-32-222--or
18 50-32-224 and if previously convicted of two or more such
19 sales violations of subsection (1) involving a substance
20 included in Schedule I or Schedule II, the person shall be
21 imprisoned in the state prison for not less than 40 years or
22 more than life and may be fined not more than \$50,000,
23 except as provided in 46-18-222.

24 (d) If convicted pursuant to subsection (4), the person
25 shall be imprisoned in the state prison for not less than 2

1 years or more than life and may be fined not more than
2 \$50,000, except as provided in 46-18-222.

3 (6) Practitioners and agents under their supervision
4 acting in the course of a professional practice, as defined
5 by 50-32-101, are exempt from this section."

6 **Section 8.** Section 45-9-102, MCA, is amended to read:

7 **"45-9-102. Criminal possession of dangerous--drugs**
8 **controlled substance.** (1) A person commits the offense of
9 criminal possession of dangerous--drugs a controlled
10 substance if he possesses any dangerous--drug controlled
11 substance, as defined in 50-32-101.

12 (2) Any person convicted of criminal possession of
13 marijuana or its derivatives in an amount the aggregate
14 weight of which does not exceed 60 grams of marijuana or 1
15 gram of hashish is, for the first offense, guilty of a
16 misdemeanor and shall be punished by a fine of not less than
17 \$100 or more than \$500 and by imprisonment in the county
18 jail for not more than 6 months. The minimum fine must be
19 imposed as a condition of a suspended or deferred sentence.
20 A person convicted of a second or subsequent offense under
21 this subsection is punishable by a fine not to exceed \$1,000
22 or imprisonment in the county jail for a term not to exceed
23 1 year or in the state prison for a term not to exceed 3
24 years or both such fine and imprisonment.

25 (3) A person convicted of criminal possession of an

1 opiate, as defined in 50-32-101~~(19)~~, shall be imprisoned in
2 the state prison for a term of not less than 2 years or more
3 than 5 years and may be fined not more than \$50,000, except
4 as provided in 46-18-222.

5 (4) A person convicted of criminal possession of
6 dangerous-drugs controlled substances not otherwise provided
7 for in subsection (2) or (3) shall be imprisoned in the
8 state prison for a term not to exceed 5 years or be fined an
9 amount not to exceed \$50,000, or both.

10 (5) A person of the age of 21 years or under convicted
11 of a first violation under this section shall be presumed to
12 be entitled to a deferred imposition of sentence of
13 imprisonment.

14 (6) Ultimate users and practitioners and agents under
15 their supervision acting in the course of a professional
16 practice, as defined by 50-32-101, are exempt from this
17 section."

18 **Section 9.** Section 45-9-103, MCA, is amended to read:

19 **"45-9-103. Criminal possession with intent to sell.** (1)
20 A person commits the offense of criminal possession with
21 intent to sell if he possesses with intent to sell any
22 dangerous-drug controlled substance as defined in 50-32-101.

23 (2) A person convicted of criminal possession of an
24 opiate, as defined in 50-32-101~~(19)~~, with intent to sell
25 shall be imprisoned in the state prison for a term of not

1 less than 2 years or more than 20 years and may be fined not
2 more than \$50,000, except as provided in 46-18-222.

3 (3) A person convicted of criminal possession with
4 intent to sell not otherwise provided for in subsection (2)
5 shall be imprisoned in the state prison for a term of not
6 more than 20 years or be fined an amount not to exceed
7 \$50,000, or both.

8 (4) Practitioners and agents under their supervision
9 acting in the course of a professional practice as defined
10 by 50-32-101 are exempt from this section."

11 **Section 10.** Section 45-9-104, MCA, is amended to read:

12 "**45-9-104.** Fraudulently obtaining dangerous---drugs
13 controlled substance. A person commits--the--offense--of
14 fraudulently-obtaining dangerous--drugs if--he--obtains--or
15 attempts---to---obtain--a--dangerous--drug,--as--defined--in
16 50-32-101,--by may not purposely or knowingly:

17 (1) distribute as a registrant a controlled substance
18 included in Schedule I or Schedule II, except pursuant to an
19 order form required by 50-32-207;

20 (2) use in the course of the manufacture, distribution,
21 or dispensing of a controlled substance or use for the
22 purpose of acquiring a controlled substance, a registration
23 number that is fictitious, revoked, suspended, or issued to
24 another person;

25 ~~(3)~~(3) acquire or obtain possession of a controlled

1 substance by fraud, deceit deception, misrepresentation,
2 forgery, or subterfuge;

3 ~~(2)~~--falsely--assuming--the--title--of--or--representing
4 himself-to--be--a--manufacturer,--wholesaler,--practitioner,
5 pharmacist,--owner-of-a-pharmacy,--or-other-person-authorized
6 to-possess-dangerous-drugs;

7 (4) furnish false or fraudulent material information
8 in, or omit material information from, an application,
9 report, or other document required to be kept or filed under
10 [sections 7 through 19 and 22 through 74] or from a record
11 required to be kept pursuant to [sections 7 through 19 and
12 22 through 74]; or

13 ~~(3)~~(5) the-use-of--a--forged,--altered,--or--fictitious
14 possess a false or fraudulent prescription with intent to
15 obtain a controlled substance;

16 ~~(4)~~--the-use-of-a-false-name-or-a--false--address--on--a
17 prescription; or

18 (5)--the-concealment-of-a-material-fact."

19 **Section 11.** Section 45-9-105, MCA, is amended to read:

20 "**45-9-105.** Altering labels on dangerous---drugs
21 controlled substances. A person commits the offense of
22 altering labels on dangerous-drugs controlled substances if
23 he affixes a false, forged, or altered label to or otherwise
24 misrepresents a package or receptacle containing a dangerous
25 drug controlled substance, as defined in 50-32-101."

1 **Section 12.** Section 45-9-106, MCA, is amended to read:

2 **"45-9-106. Penalty for fraudulently obtaining dangerous**
3 **drugs controlled substances or altering the labels of**
4 **dangerous--drugs controlled substances.** (1) A person
5 convicted of altering labels on ~~dangerous-drugs~~ controlled
6 substances shall be imprisoned in the county jail for a term
7 not to exceed 6 months.

8 (2) A person convicted of fraudulently obtaining
9 ~~dangerous--drugs~~ controlled substances included in Schedule
10 I, Schedule II, Schedule III, Schedule IV, or Schedule V ~~in~~
11 ~~50-32-222,--50-32-224,--50-32-226,--50-32-229,--or-50-32-232~~
12 shall:

13 (a) upon his first conviction be imprisoned in the
14 state prison for a term of not less than 1 year or not more
15 than 5 years; and

16 (b) upon his second conviction be imprisoned in the
17 state prison for a term of not less than 5 years or not more
18 than 10 years."

19 **Section 13.** Section 45-9-112, MCA, is amended to read:

20 **"45-9-112. ~~Criminal--sale--of--imitation-dangerous-drug~~**
21 **Imitation controlled substances prohibited -- penalty.** (1) A
22 ~~person commits-the-offense-of-criminal-sale-of-an--imitation~~
23 ~~dangerous--drug-if-he-knowingly-or-purposely-sells,--barter,7~~
24 ~~exchanges,7-gives-away,7-or-offers-to-sell,7-barter,7--exchange,~~
25 ~~or--give-away-any-imitation-dangerous-drug~~ may not purposely

1 or knowingly deliver, or possess with intent to deliver, a
2 noncontrolled substance representing it to be a controlled
3 substance.

4 (2) A person may not purposely or knowingly deliver, or
5 possess with intent to deliver, a noncontrolled substance
6 intending it to be used or distributed as a controlled
7 substance or under circumstances in which the person has
8 reasonable cause to believe that the noncontrolled substance
9 will be used or distributed for use as a controlled
10 substance.

11 (3) It is not a defense that the accused believed the
12 noncontrolled substance to be a controlled substance.

13 ~~(2)(4)~~ (4) A person convicted--of--criminal--sale--of--an
14 imitation-dangerous-drug-to who violates this section is
15 guilty of a crime and upon conviction of a violation
16 involving a person 18 years of age or older shall be
17 imprisoned in the state prison for a term of not more than 5
18 years and may be fined not more than \$50,000.

19 ~~(3)(5)~~ (5) A person convicted--of--criminal--sale--of--an
20 imitation--dangerous--drug--to who violates this section is
21 guilty of a crime and upon conviction of a violation
22 involving a person under the age of 18 shall be imprisoned
23 in the state prison for a term of not more than 10 years and
24 may be fined not more than \$50,000."

25 **Section 14.** Section 45-9-114, MCA, is amended to read:

1 "45-9-114. Criminal advertisement of imitation
2 ~~dangerous-drug controlled substance~~ -- penalty. (1) A person
3 commits the offense of criminal advertisement of an
4 imitation ~~dangerous---~~drug controlled substance if he
5 knowingly or purposely places in any newspaper, magazine,
6 handbill, or other publication or posts or distributes any
7 advertisement or solicitation to promote the manufacture,
8 sale, exchange, or distribution of an imitation ~~dangerous~~
9 drug controlled substance.

10 (2) A person convicted of criminal advertisement of an
11 imitation ~~dangerous--~~drug controlled substance under this
12 section is punishable by a fine not to exceed \$100,000 or by
13 imprisonment in the state prison for a term of not more than
14 10 years or by both such fine and imprisonment."

15 **Section 15.** Section 45-9-115, MCA, is amended to read:

16 "45-9-115. Criminal manufacture of imitation ~~dangerous~~
17 drug controlled substance -- penalty. (1) A person commits
18 the offense of criminal manufacture of an imitation
19 ~~dangerous--~~drug controlled substance if he knowingly or
20 purposely manufactures, prepares, or cultivates any
21 imitation ~~dangerous-drug~~ controlled substance.

22 (2) A person convicted of criminal manufacture of an
23 imitation ~~dangerous-drug~~ controlled substance under this
24 section is punishable by a fine not to exceed \$100,000 or by
25 imprisonment in the state prison for a term of not more than

1 10 years or by both such fine and imprisonment."

2 **Section 16.** Section 45-9-116, MCA, is amended to read:

3 "45-9-116. Imitation ~~dangerous---~~drugs controlled
4 substances -- exemptions -- rules. (1) Sections 45-9-~~111~~
5 through 45-9-112, 45-9-114, or 45-9-115 do not apply to:

6 (a) a person authorized by rules adopted by the board
7 of pharmacy to possess with purpose to sell or sell
8 imitation ~~dangerous-drugs~~ controlled substances;

9 (b) law enforcement personnel selling or possessing
10 with purpose to sell imitation ~~dangerous-drugs~~ controlled
11 substances while acting within the scope of their
12 employment; and

13 (c) a person registered under the provisions of Title
14 50, chapter 32, part 3, who sells, or possesses with purpose
15 to sell an imitation ~~dangerous-drug~~ controlled substance for
16 use as a placebo, by that person or any other person so
17 registered, in the course of professional practice or
18 research.

19 (2) The board of pharmacy shall adopt, amend, or repeal
20 rules in accordance with the Montana Administrative
21 Procedure Act to authorize the possession with purpose to
22 sell or sale of imitation ~~dangerous--~~drugs controlled
23 substances whenever it determines that there is a legitimate
24 need and that the drugs will be used for a lawful purpose."

25 **NEW SECTION. Section 17.** Prohibited acts --

1 registrants. (1) A person who is subject to Title 50,
2 chapter 32, part 3, may not distribute or dispense a
3 controlled substance in violation of 50-32-208.

4 (2) A person who is a registrant may not manufacture a
5 controlled substance not authorized by that person's
6 registration or distribute or dispense a controlled
7 substance not authorized by that person's registration to
8 another registrant or other authorized person.

9 (3) A person may not refuse or fail to make, keep, or
10 furnish any record, notification, order form, statement,
11 invoice, or information required under [sections 7 through
12 19 and 22 through 74].

13 (4) A person may not refuse entry into any premises for
14 an inspection authorized by [section 33].

15 (5) A manufacturer or distributor, or agent or employee
16 of a manufacturer or distributor, having reasonable cause to
17 believe that a person will possess or distribute a
18 controlled substance in violation of [sections 7 through 19
19 and 22 through 74] may not deliver the controlled substance
20 to that person.

21 (6) A person may not knowingly keep, maintain, control,
22 rent, lease, or make available for use any store, shop,
23 warehouse, dwelling, building, vehicle, vessel, aircraft,
24 room, enclosure, or other structure or place that the person
25 knows is used for the purpose of keeping for distribution,

1 transporting for distribution, or distributing controlled
2 substances in violation of [sections 7 through 19 and 22
3 through 74].

4 (7) Except as authorized by [sections 7 through 19 and
5 22 through 74], a person may not:

6 (a) knowingly open or maintain any place that the
7 person knows is used for the purpose of unlawfully
8 manufacturing a controlled substance; or

9 (b) manage or control a building, room, or enclosure as
10 an owner, lessee, agent, employee, or mortgagee and
11 knowingly rent, lease, or make available for use, with or
12 without compensation, the building, room, or enclosure that
13 the person knows is used for the purpose of unlawfully
14 manufacturing a controlled substance.

15 (8) A person does not violate subsection (6):

16 (a) by reason of an act committed by another person
17 while the other person is unlawfully on or in the structure
18 or place if the person lacked knowledge of the unlawful
19 presence of the other person; or

20 (b) if the person has notified a law enforcement agency
21 of the illegal conduct.

22 (9) A person who violates subsection (7) is guilty of a
23 crime and upon conviction may be imprisoned for not more
24 than 10 years, fined not more than \$50,000, or both, or
25 fined not more than \$100,000 if the person is not an

1 individual.

2 (10) Except as provided in subsection (9), a person who
3 violates this section is guilty of a crime and upon
4 conviction may be imprisoned for not more than 5 years,
5 fined not more than \$25,000, or both.

6 **NEW SECTION. Section 18.** Counterfeit substances
7 prohibited -- penalty. (1) A person may not purposely or
8 knowingly manufacture, deliver, or possess with intent to
9 manufacture or deliver, a controlled substance that, or the
10 container or labeling of which, without authorization, bears
11 the trademark, trade name, or other identifying mark,
12 imprint, number, or device, or a likeness thereof, of a
13 manufacturer, distributor, or dispenser, other than the
14 person who manufactured, distributed, or dispensed the
15 substance.

16 (2) A person may not purposely or knowingly make,
17 distribute, or possess a punch, die, plate, stone, or other
18 thing designed to print, imprint, or reproduce the
19 trademark, trade name, or other identifying mark, imprint,
20 or device of another person or a likeness of any of the
21 foregoing upon any drug, container, or labeling without
22 authorization.

23 (3) A person who violates this section is guilty of a
24 crime and upon conviction may be imprisoned in the state
25 prison for a term of not more than 10 years, fined not more

1 than \$100,000, or both.

2 **Section 19.** Section 45-9-202, MCA, is amended to read:

3 "45-9-202. Alternative sentencing authority. A person
4 convicted of criminal possession of dangerous--drugs
5 controlled substances, criminal sale of imitation dangerous
6 drugs controlled substances, criminal possession of
7 imitation dangerous-drugs controlled substances with purpose
8 to sell, fraudulently obtaining dangerous-drugs controlled
9 substances, or altering labels on dangerous-drugs controlled
10 substances, if he is shown to be an excessive or habitual
11 user of dangerous-drugs controlled substances, as defined in
12 50-32-101, either from the face of the record or by a
13 presentence investigation, may, in lieu of imprisonment, be
14 committed to the custody of any institution for
15 rehabilitative treatment for not less than 6 months or more
16 than 2 years."

17 **Section 20.** Section 45-10-101, MCA, is amended to read:

18 "45-10-101. Definitions. (1) As used in this part, the
19 term "drug paraphernalia" means all equipment, products, and
20 materials of any kind that are used, intended for use, or
21 designed for use in planting, propagating, cultivating,
22 growing, harvesting, manufacturing, compounding, converting,
23 producing, processing, preparing, testing, analyzing,
24 packaging, repackaging, storing, containing, concealing,
25 injecting, ingesting, inhaling, or otherwise introducing

1 into the human body a dangerous drug. It includes but is not
2 limited to:

3 (a) kits used, intended for use, or designed for use in
4 planting, propagating, cultivating, growing, or harvesting
5 of any species of plant that is a dangerous drug or from
6 which a dangerous drug can be derived;

7 (b) kits used, intended for use, or designed for use in
8 manufacturing, compounding, converting, producing,
9 processing, or preparing dangerous drugs;

10 (c) isomerization devices used, intended for use, or
11 designed for use in increasing the potency of any species of
12 plant that is a dangerous drug;

13 (d) testing equipment used, intended for use, or
14 designed for use in identifying or in analyzing the
15 strength, effectiveness, or purity of dangerous drugs;

16 (e) scales and balances used, intended for use, or
17 designed for use in weighing or measuring dangerous drugs;

18 (f) dilutents and adulterants, such as quinine
19 hydrochloride, mannitol, mannite, dextrose, and lactose,
20 used, intended for use, or designed for use in cutting
21 dangerous drugs;

22 (g) separation gins and sifters used, intended for use,
23 or designed for use in removing twigs and seeds from or in
24 otherwise cleaning or refining marijuana;

25 (h) blenders, bowls, containers, spoons, and mixing

1 devices used, intended for use, or designed for use in
2 compounding dangerous drugs;

3 (i) capsules, balloons, envelopes, and other containers
4 used, intended for use, or designed for use in packaging
5 small quantities of dangerous drugs;

6 (j) containers and other objects used, intended for
7 use, or designed for use in storing or concealing dangerous
8 drugs;

9 (k) objects used, intended for use, or designed for use
10 in ingesting, inhaling, or otherwise introducing marijuana,
11 cocaine, hashish, hashish oil, or other dangerous-drug
12 controlled substance, as defined by 50-32-101, into the
13 human body, such as:

14 (i) metal, wooden, acrylic, glass, stone, plastic, or
15 ceramic pipes with or without screens, permanent screens,
16 hashish heads, or punctured metal bowls;

17 (ii) water pipes;

18 (iii) carburetion tubes and devices;

19 (iv) smoking and carburetion masks;

20 (v) roach clips, meaning objects used to hold burning
21 material, such as a marijuana cigarette, that has become too
22 small or too short to be held in the hand;

23 (vi) miniature cocaine spoons and cocaine vials;

24 (vii) chamber pipes;

25 (viii) carburetor pipes;

- 1 (ix) electric pipes;
 2 (x) air-driven pipes;
 3 (xi) chillums;
 4 (xii) bongos;
 5 (xiii) ice pipes or chillers.

6 (2) Words or phrases used in this part that are not
 7 defined by this section have the meaning given to them by
 8 the definitions contained in 50-32-101 unless the usage
 9 clearly indicates a different intent.

10 (3) As used in this part, "dangerous drug" means a
 11 controlled substance as defined in 50-32-101."

12 **Section 21.** Section 45-10-107, MCA, is amended to read:

13 "**45-10-107. Exemptions.** Practitioners and agents under
 14 their supervision acting in the course of a professional
 15 practice as a practitioner, as defined by in 50-32-101, are
 16 exempt from this part."

17 **NEW SECTION. Section 22.** Distribution to individual
 18 under eighteen years of age -- distribution near schools or
 19 colleges -- penalties. (1) An individual 18 years of age or
 20 older who violates 45-9-101 by distributing a controlled
 21 substance to an individual under 18 years of age who is at
 22 least 2 years younger than that individual is guilty of a
 23 crime and upon conviction is punishable by a term of
 24 imprisonment and fine not exceeding two times those
 25 authorized in 45-9-101.

1 (2) An individual may not violate 45-9-101 in or on, or
 2 within 1,000 feet of, the real property comprising a public
 3 playground, a public or private elementary or secondary
 4 school, a public vocational school, or a public or private
 5 college or university. An individual who violates this
 6 subsection is guilty of a crime and upon conviction is
 7 punishable by a term of imprisonment and fine not exceeding
 8 two times those authorized by 45-9-101.

9 (3) An individual who violates subsection (2) after a
 10 previous judgment of conviction under that subsection has
 11 become final is punishable by a term of imprisonment not
 12 exceeding three times that authorized by 45-9-101.

13 (4) It is not a defense to a violation of subsection
 14 (1) that the accused did not know the age of an individual
 15 to whom a controlled substance was distributed.

16 (5) It is not a defense to a violation of subsection
 17 (2) or (3) that the accused did not know the distance
 18 involved.

19 **NEW SECTION. Section 23. Employment or use of**
 20 **individual under eighteen years of age in drug operations --**
 21 **penalties.** (1) An individual 18 years of age or older may
 22 not purposely or knowingly employ, hire, use, persuade,
 23 induce, entice, or coerce an individual under 18 years of
 24 age to violate or assist in avoiding detection or
 25 apprehension for a violation of 45-9-101.

1 (2) An individual who violates subsection (1) is guilty
2 of a crime and upon conviction is punishable by a term of
3 imprisonment and fine not exceeding two times those
4 authorized by 45-9-101.

5 (3) An individual who violates subsection (1) after a
6 previous judgment of conviction under that subsection has
7 become final is punishable by a term of imprisonment not
8 exceeding three times that authorized by 45-9-101.

9 (4) An individual who violates subsection (1) by
10 employing, hiring, using, persuading, inducing, enticing, or
11 coercing an individual who is under 15 years of age may be
12 imprisoned for not more than 10 years and fined not more
13 than \$100,000 in addition to any other punishment authorized
14 by this section.

15 (5) It is not a defense to a violation of this section
16 that the accused did not know the age of a protected
17 individual.

18 **NEW SECTION. Section 24. Continuing criminal**
19 **enterprise -- penalty.** (1) A person who engages in a
20 continuing criminal enterprise is guilty of a crime and upon
21 conviction is punishable by a term of imprisonment and fine
22 not exceeding two times those authorized by 45-9-101 for the
23 underlying offense. For purposes of this subsection, a
24 person is engaged in a continuing criminal enterprise if:

25 (a) the person violates any provision of [sections 7

1 through 19 and 22 through 74] that is a felony; and

2 (b) the violation is a part of a continuing series of
3 two or more violations of [sections 7 through 19 and 22
4 through 74] on separate occasions:

5 (i) that are undertaken by the person in concert with
6 five or more other persons with respect to whom the person
7 occupies a position of organizer, supervisor, or any other
8 position of management; and

9 (ii) from which the person obtained substantial income
10 or resources.

11 (2) A person who violates subsection (1) after a
12 previous judgment of conviction under that subsection has
13 become final is punishable by a term of imprisonment not
14 exceeding three times that authorized by 45-9-101.

15 **NEW SECTION. Section 25. Money laundering and illegal**
16 **investment -- penalty.** (1) A person may not purposely or
17 knowingly receive or acquire proceeds, or engage in
18 transactions involving proceeds, known to be derived from a
19 violation of [sections 7 through 19 and 22 through 74]. This
20 subsection does not apply to a transaction between an
21 individual and the individual's counsel necessary to
22 preserve the individual's right to representation, as
23 guaranteed by Article II, section 24, of the Montana
24 constitution and by the sixth amendment of the United States
25 constitution.

1 (2) A person may not purposely or knowingly give, sell,
2 transfer, trade, invest, conceal, transport, or otherwise
3 make available anything of value that the person knows is
4 intended to be used to commit or further the commission of a
5 violation of [sections 7 through 19 and 22 through 74].

6 (3) A person may not purposely or knowingly direct,
7 plan, organize, initiate, finance, manage, supervise, or
8 facilitate the transportation or transfer of proceeds that
9 the person knows are derived from a violation of [sections 7
10 through 19 and 22 through 74].

11 (4) A person may not purposely or knowingly conduct a
12 financial transaction involving proceeds that the person
13 knows are derived from a violation of [sections 7 through 19
14 and 22 through 74] if the transaction is designed in whole
15 or in part to conceal or disguise the nature, location,
16 source, ownership, or control of the proceeds the person
17 knows are derived from a violation of [sections 7 through 19
18 and 22 through 74] or to avoid a transaction reporting
19 requirement under state or federal law.

20 (5) A person who violates this section is guilty of a
21 crime and upon conviction may be imprisoned for not more
22 than 10 years, fined not more than \$100,000, or both.

23 **NEW SECTION. Section 26. Second or subsequent offenses**
24 **-- penalties.** (1) A person convicted of a second or
25 subsequent offense under [sections 7 through 19 and 22

1 through 74] may be imprisoned for a term not exceeding two
2 times the term otherwise authorized and fined an amount not
3 exceeding two times the fine otherwise authorized.

4 (2) For purposes of this section, an offense is
5 considered a second or subsequent offense if before
6 conviction of the offense, the offender has at any time been
7 convicted under [sections 7 through 19 and 22 through 74] or
8 under any statute of the United States or of any state
9 relating to narcotic drugs, marijuana, stimulants,
10 depressants, or hallucinogenic substances and judgment of
11 that conviction has become final.

12 (3) This section does not apply to a second or
13 subsequent offense under 45-9-102, [section 22(2), 23(1), or
14 24].

15 **NEW SECTION. Section 27. Conditional discharge for**
16 **possession as first offense.** (1) Whenever an individual who
17 has not been convicted within the past 10 years of any
18 offense under [sections 7 through 19 and 22 through 74] or
19 under any statute of the United States or of any state
20 relating to narcotic drugs, marijuana, stimulants,
21 depressants, or hallucinogenic substances tenders a plea of
22 admission, guilty, no contest, nolo contendere, or similar
23 plea to a charge of possession of a controlled substance
24 under 45-9-102 or is found guilty of that charge, the court,
25 without entering a judgment of conviction and with the

1 consent of the accused, may defer further proceedings and
 2 place that individual on probation upon terms and conditions
 3 that must include attendance and successful completion of an
 4 education program or in the case of a drug dependent
 5 individual, of a treatment and rehabilitation program.

6 (2) Upon violation of a term or condition, the court
 7 may enter a judgment of conviction and proceed as otherwise
 8 provided. Upon fulfillment of the terms and conditions, the
 9 court shall discharge the individual and dismiss the
 10 proceedings against that individual. A nonpublic record of
 11 the dismissal must be retained by the department of justice
 12 solely for the purpose of use by the courts in determining
 13 whether, in later proceedings, the individual qualifies
 14 under this section.

15 (3) Discharge and dismissal under this section is
 16 without adjudication of guilt and is not a conviction for
 17 purposes of this section or for purposes of employment,
 18 civil rights, or any statute, regulation, license,
 19 questionnaire, or any other public or private purpose, but
 20 not including additional penalties imposed for second or
 21 subsequent convictions or the setting of bail. Discharge and
 22 dismissal restores the individual, in the contemplation of
 23 the law, to the status occupied before the arrest,
 24 indictment, or information. The individual may not be held
 25 thereafter under any law to be guilty of perjury or

1 otherwise giving a false statement by reason of failure to
 2 recite or acknowledge that arrest, indictment or
 3 information, or trial in response to an inquiry made of that
 4 individual for any purpose. Discharge and dismissal under
 5 this section may occur only once with respect to an
 6 individual.

7 NEW SECTION. **Section 28.** Treatment option for
 8 violation. If an individual is adjudicated guilty of a
 9 violation of [sections 7 through 19 and 22 through 74] for
 10 which the individual is eligible for probation, the court
 11 may impose a sentence authorized by [sections 7 through 19
 12 and 22 through 74], may place the individual on probation as
 13 authorized by this section, or may impose a combination of a
 14 sentence and probation as authorized by this section. The
 15 court, with the consent of the individual and with the
 16 consent of a treatment facility having inpatient or
 17 outpatient programs for the treatment of drug dependent
 18 individuals, may place the individual, if found by the court
 19 to be in need of treatment, on probation upon terms and
 20 conditions, including participation in a treatment program
 21 of the facility. The court shall order treatment for the
 22 period the treatment facility considers necessary. Treatment
 23 or a combination of a sentence and probation including
 24 treatment may not exceed the maximum sentence allowable
 25 unless the convicted individual consents to continued

1 treatment. Upon violation of a term or condition, including
 2 failure to participate in the treatment program, the court
 3 may revoke the probation and proceed as otherwise provided.
 4 Upon fulfillment of the terms and conditions, including
 5 attendance and successful completion of the treatment
 6 program, the court shall terminate the probation.

7 NEW SECTION. Section 29. Assessment for education and
 8 treatment -- appropriation of money. (1) A person convicted
 9 of a violation of [sections 7 through 19 and 22 through 74]
 10 and each individual placed on probation under [section 27]
 11 must be assessed for each offense a sum of not less than
 12 \$500 and not more than \$3,000. The assessment is in addition
 13 to and not in lieu of any fine, restitution, other
 14 assessment, or forfeiture authorized or required by law.

15 (2) The assessment provided for in this section must be
 16 collected as provided for collection of fines and must be
 17 forwarded to the department of justice as provided in
 18 subsection (3).

19 (3) Money collected under this section must be
 20 forwarded to the department of justice for deposit in a drug
 21 abuse education and treatment account in the state special
 22 revenue fund. Money in the account is statutorily
 23 appropriated as provided in 17-7-502.

24 (4) The department of justice shall administer
 25 expenditures from the account. Expenditures may be made only

1 for drug abuse education, prevention, and treatment
 2 services. Money from the fund may not supplant other local,
 3 state, or federal funds.

4 NEW SECTION. Section 30. Penalties under other laws.
 5 Penalties imposed for violation of [sections 7 through 19
 6 and 22 through 74] and civil remedies provided under
 7 [sections 7 through 19 and 22 through 74] are in addition
 8 to, and not in lieu of, any civil remedy, administrative
 9 penalty, or sanction otherwise provided by law.

10 NEW SECTION. Section 31. Bar to prosecution. If a
 11 violation of [sections 7 through 19 and 22 through 74] is a
 12 violation of a federal law or the law of another state, a
 13 conviction or acquittal under federal law or the law of
 14 another state for the same act is a bar to prosecution in
 15 this state.

16 NEW SECTION. Section 32. Powers of enforcement
 17 personnel. An officer or employee of the department of
 18 justice designated by the attorney general may:

19 (1) carry firearms in the performance of the officer's
 20 or employee's official duties;

21 (2) execute and serve search warrants, arrest warrants,
 22 administrative inspection warrants, subpoenas, and summonses
 23 issued under the authority of this state;

24 (3) make arrests without warrant for an offense under
 25 [sections 7 through 19 and 22 through 74] committed in the

1 officer's or employee's presence or if the officer or
 2 employee has probable cause to believe that the individual
 3 to be arrested has committed or is committing a violation of
 4 [sections 7 through 19 and 22 through 74] that may
 5 constitute a felony;

6 (4) make seizures of property pursuant to [sections 7
 7 through 19 and 22 through 74]; and

8 (5) perform other law enforcement duties the attorney
 9 general assigns.

10 NEW SECTION. Section 33. Administrative inspections
 11 and warrants. (1) In this section, "controlled premises"
 12 means:

13 (a) places where persons registered or exempted from
 14 registration requirements under [sections 7 through 19 and
 15 22 through 74] are required to keep records; and

16 (b) places, including factories, warehouses,
 17 establishments, and conveyances in which persons registered
 18 or exempted from registration requirements under [sections 7
 19 through 19 and 22 through 74] are permitted to hold,
 20 manufacture, compound, process, sell, deliver, or otherwise
 21 dispose of a controlled substance.

22 (2) The procedure for issuance and execution of
 23 administrative inspection warrants is as follows:

24 (a) A district court judge within the judge's
 25 jurisdiction and upon proper oath or affirmation showing

1 probable cause may issue warrants to conduct administrative
 2 inspections of controlled premises authorized by [sections 7
 3 through 19 and 22 through 74] or rules adopted under
 4 [sections 7 through 19 and 22 through 74] and to conduct
 5 seizures of property appropriate to the inspections. For the
 6 purpose of issuance of an administrative inspection warrant,
 7 probable cause exists upon showing a valid public interest
 8 in the effective enforcement of [sections 7 through 19 and
 9 22 through 74] or rules adopted under [sections 7 through 19
 10 and 22 through 74] sufficient to justify administrative
 11 inspection of the area, premises, building, or conveyance in
 12 the circumstances specified in the application for the
 13 warrant.

14 (b) A warrant may issue only upon an affidavit of a
 15 designated officer or employee having knowledge of the facts
 16 alleged, sworn to before the judge, and establishing the
 17 grounds for issuing the warrant. If the judge is satisfied
 18 that grounds for the application exist or that there is
 19 probable cause to believe they exist, the judge shall issue
 20 a warrant identifying the area, premises, building, or
 21 conveyance to be inspected, the purpose of the inspection,
 22 and, if appropriate, the type of property to be inspected,
 23 if any. The warrant must:

24 (i) state the grounds for its issuance and the name of
 25 each individual whose affidavit has been taken in support

1 thereof;

2 (ii) be directed to an individual authorized by [section
3 32] to execute it;

4 (iii) command the individual to whom it is directed to
5 inspect the area, premises, building, or conveyance
6 identified for the purpose specified and, if appropriate,
7 direct the seizure of the property specified;

8 (iv) identify the item or types of property to be
9 seized, if any; and

10 (v) direct that it be served during normal business
11 hours and designate the judge to whom it must be returned.

12 (c) A warrant issued pursuant to this section must be
13 executed and returned within 10 days after its date unless,
14 upon a showing of a need for additional time, the judge
15 orders otherwise. If property is seized pursuant to a
16 warrant, a copy must be given to the person from whom or
17 from whose premises the property is taken, together with a
18 receipt for the property taken. The return of the warrant
19 must be made promptly, accompanied by a written inventory of
20 any property taken. The inventory must be made in the
21 presence of the individual executing the warrant and of the
22 person from whose possession or premises the property is
23 being taken, if present, or in the presence of at least one
24 credible individual other than the individual executing the
25 warrant. A copy of the inventory must be delivered to the

1 person from whom or from whose premises the property was
2 taken and to the applicant for the warrant.

3 (d) The judge who has issued a warrant shall attach to
4 the warrant a copy of the return and all papers returnable
5 in connection with the warrant and file them with the clerk
6 of court in the judicial district in which the inspection
7 was made.

8 (3) The department of justice may make administrative
9 inspections of controlled premises in accordance with the
10 following provisions:

11 (a) If authorized by an administrative inspection
12 warrant issued pursuant to subsection (2), an officer or
13 employee designated by the attorney general, upon presenting
14 the warrant and appropriate credentials to the owner,
15 operator, or agent in charge, may enter controlled premises
16 for the purpose of conducting an administrative inspection.

17 (b) If authorized by an administrative inspection
18 warrant, an officer or employee designated by the attorney
19 general may:

20 (i) inspect and copy records required to be kept by
21 [sections 7 through 19 and 22 through 74];

22 (ii) inspect, within reasonable limits and in a
23 reasonable manner, controlled premises and all pertinent
24 equipment, finished and unfinished material, containers and
25 labeling found therein, and, except as provided in

1 subsection (3)(d), all other things therein, including
 2 records, files, papers, processes, controls, and facilities
 3 bearing on violation of [sections 7 through 19 and 22
 4 through 74]; and

5 (iii) inventory any stock of a controlled substance
 6 therein and obtain samples thereof.

7 (c) This section does not prevent the inspection
 8 without a warrant of books and records pursuant to an
 9 administrative warrant issued in accordance with subsection
 10 (2) nor does it prevent entries and administrative
 11 inspections, including seizures of property, without a
 12 warrant:

13 (i) if the owner, operator, or agent in charge of the
 14 controlled premises consents;

15 (ii) in situations presenting imminent danger to health
 16 or safety;

17 (iii) in situations involving inspection of conveyances
 18 if there is reasonable cause to believe that the mobility of
 19 the conveyance makes it impracticable to obtain a warrant;

20 (iv) in an emergency or other exceptional circumstance
 21 in which time or opportunity to apply for a warrant is
 22 lacking; or

23 (v) in all other situations in which a warrant is not
 24 constitutionally required.

25 (d) An inspection authorized by this section may not

1 extend to financial data, sales data, other than shipment
 2 data, or pricing data unless the owner, operator, or agent
 3 in charge of the controlled premises consents in writing. AN
 4 INSPECTION AUTHORIZED BY THIS SECTION MAY NOT EXTEND TO
 5 COMMUNICATIONS BETWEEN A PHARMACIST AND HIS PATIENT
 6 INVOLVING DRUG USE COUNSELING EXCEPT AS MAY BE DISCLOSED
 7 UNDER 50-16-535 AND 50-16-536.

8 NEW SECTION. Section 34. Injunctions. (1) A district
 9 court has jurisdiction to restrain or enjoin violations of
 10 [sections 7 through 19 and 22 through 74].

11 (2) The defendant may demand trial by jury for an
 12 alleged violation of an injunction or restraining order
 13 under this section.

14 NEW SECTION. Section 35. Cooperative arrangements and
 15 confidentiality. (1) The department of justice shall
 16 cooperate with federal and other state agencies in
 17 discharging that department's responsibilities concerning
 18 traffic in controlled substances and in suppressing the
 19 abuse of controlled substances. To this end, the department
 20 of justice may:

21 (a) arrange for the exchange of information among
 22 governmental officials concerning the use and abuse of
 23 controlled substances;

24 (b) coordinate and cooperate in training programs
 25 concerning controlled substance law enforcement at local and

1 state levels;

2 (c) cooperate with the drug enforcement administration
3 by establishing a centralized unit to accept, catalog, file,
4 and collect statistics, including records of drug-dependent
5 persons and other controlled substance law offenders within
6 this state, and make information available for federal,
7 state, and local law enforcement purposes but may not
8 furnish the name or identity of a patient or research
9 subject whose identity could not be obtained under
10 subsection (3); and

11 (d) conduct programs of eradication aimed at destroying
12 wild growth or unlawful propagation of plant species from
13 which controlled substances may be extracted.

14 (2) Results, information, and evidence received from
15 the drug enforcement administration relating to the
16 regulatory functions of [sections 7 through 19 and 22
17 through 74], including results of inspections conducted by
18 it, may be relied and acted upon by the department of
19 justice in the exercise of its regulatory functions under
20 [sections 7 through 19 and 22 through 74].

21 (3) A practitioner engaged in medical practice or
22 research is not required or compelled to furnish the name or
23 identity of a patient or research subject to the department
24 of justice, nor may the practitioner be compelled in any
25 state or local civil, criminal, administrative, legislative,

1 or other proceeding to furnish the name or identity of an
2 individual that the practitioner is obligated to keep
3 confidential.

4 NEW SECTION. Section 36. Pleadings -- presumptions --
5 liabilities. (1) It is not necessary for the state to negate
6 any exemption or exception in [sections 7 through 19 and 22
7 through 74] in any complaint, information, indictment, or
8 other pleading or in any trial, hearing, or other proceeding
9 under [sections 7 through 19 and 22 through 74].

10 (2) A person is not presumed to be the holder of an
11 appropriate registration or order form issued under
12 [sections 7 through 19 and 22 through 74].

13 (3) [Sections 7 through 19 and 22 through 74] do not
14 impose civil or criminal liability on any authorized state,
15 county, or municipal officer engaged in the lawful
16 administration or enforcement of [sections 7 through 19 and
17 22 through 74].

18 NEW SECTION. Section 37. Judicial review. Final
19 determinations, findings, and conclusions of the department
20 of justice under [sections 7 through 19 and 22 through 74]
21 are subject to judicial review under the Montana
22 Administrative Procedure Act.

23 NEW SECTION. Section 38. Continuing criminal
24 enterprise -- civil action. (1) The department of justice
25 may maintain a civil action against a person who violates

1 [section 24] to obtain a judgment for damages in an amount
 2 equal to three times the gross income and the value of
 3 assets acquired directly or indirectly by the person by
 4 reason of violation of [section 24], together with costs
 5 incurred for resources and personnel used in the
 6 investigation and prosecution of the proceedings through
 7 which liability was established.

8 (2) The standard of proof in actions brought under this
 9 section is a preponderance of the evidence.

10 **NEW SECTION. Section 39.** Statute of limitations. A
 11 civil action under [sections 7 through 19 and 22 through 74]
 12 must be commenced within 7 years after the claim for relief
 13 became known or should have become known, excluding any time
 14 during which a party is out of the state or in confinement
 15 or during which criminal proceedings relating to a party are
 16 in progress.

17 **Section 40.** Section 50-32-101, MCA, is amended to read:

18 "50-32-101. **Definitions.** As used in this chapter, the
 19 following definitions apply:

20 (1) "Administer" means ~~the direct application of a~~
 21 dangerous drug to apply a controlled substance, whether by
 22 injection, inhalation, ingestion, or any other means,
 23 directly to the body of a patient or research subject by:

24 (a) a practitioner for, in the practitioner's presence,
 25 by his the practitioner's authorized agent}; or

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

3 ~~{2} "Agent" means an authorized person who acts on~~
 4 ~~behalf of or at the direction of a manufacturer,~~
 5 ~~distributor, or dispenser; it does not include a common or~~
 6 ~~contract carrier, public warehouseman, or employee of the~~
 7 ~~carrier or warehouseman.~~

8 ~~{3}~~(2) "Board" means the board of pharmacy provided for
 9 in 2-15-1843.

10 ~~{4} "Bureau" means the drug enforcement administration,~~
 11 ~~United States department of justice, or its successor~~
 12 ~~agency.~~

13 (3) "Controlled substance" means a drug, substance, or
 14 immediate precursor listed in Schedules I through V in Title
 15 50, chapter 32, part 2.

16 (4) (a) "Controlled substance analog" means a substance
 17 the chemical structure of which is substantially similar to
 18 the chemical structure of a controlled substance listed in
 19 or added to Schedule I or Schedule II and:

20 (i) that has a stimulant, depressant, or hallucinogenic
 21 effect on the central nervous system substantially similar
 22 to the stimulant, depressant, or hallucinogenic effect on
 23 the central nervous system of a controlled substance
 24 included in Schedule I or Schedule II; or

25 (ii) with respect to a particular individual, that the

1 individual represents or intends to have a stimulant,
 2 depressant, or hallucinogenic effect on the central nervous
 3 system of a controlled substance included in Schedule I or
 4 Schedule II.

5 (b) The term does not include:

6 (i) a controlled substance;

7 (ii) a substance for which there is an approved new drug
 8 application;

9 (iii) a substance with respect to which an exemption is
 10 in effect for investigational use by a particular person
 11 under section 505 of the federal Food, Drug, and Cosmetic
 12 Act, 21 U.S.C. 355, to the extent that conduct with respect
 13 to the substance is permitted by the exemption; or

14 (iv) any substance to the extent not intended for human
 15 consumption before an exemption takes effect with respect to
 16 the substance.

17 (5) ~~“Counterfeit substance” means a dangerous drug~~
 18 ~~which or the container or labeling of which without~~
 19 ~~authorization bears the trademark, trade name, or other~~
 20 ~~identifying mark, imprint, number, or device or any likeness~~
 21 ~~thereof of a manufacturer, distributor, or dispenser other~~
 22 ~~than the person who in fact manufactured, distributed, or~~
 23 ~~dispensed the drug.~~

24 (6) ~~“Dangerous drug” means a drug, substance, or~~
 25 ~~immediate precursor in Schedules I through V hereinafter set~~

1 forth:

2 (7)(5) ~~“Deliver” or “delivery” means the actual,~~
 3 ~~constructive, or attempted to transfer a substance, actually~~
 4 ~~or constructively, from one person to another of a dangerous~~
 5 ~~drug, whether or not there is an agency relationship.~~

6 (8)(6) ~~“Department” means the department of commerce~~
 7 ~~provided for in Title 2, chapter 15, part 18.~~

8 (9)(7) ~~“Dispense” means to deliver a dangerous drug~~
 9 ~~controlled substance to an ultimate user, patient, or~~
 10 ~~research subject by or pursuant to the lawful order of a~~
 11 ~~practitioner, including the prescribing, administering,~~
 12 ~~packaging, labeling, or compounding necessary to prepare the~~
 13 ~~drug substance for that delivery.~~

14 (10)(8) ~~“Dispenser” means a practitioner who dispenses.~~

15 (11)(9) ~~“Distribute” means to deliver other than by~~
 16 ~~administering or dispensing a dangerous drug controlled~~
 17 ~~substance.~~

18 (12)(10) ~~“Distributor” means a person who distributes.~~

19 (13)(11) (a) ~~“Drug” means:~~

20 (i) ~~a substance recognized as a drug in the official~~
 21 ~~United States Pharmacopoeia, National Formulary, the~~
 22 ~~official Homeopathic Pharmacopoeia of the United States, or~~
 23 ~~any a supplement to it either of them;~~

24 (ii) ~~a substance intended for use in the diagnosis,~~
 25 ~~cure, mitigation, treatment, or prevention of disease in man~~

1 individuals or animals;

2 (iii) a substance, ~~other than food~~, intended to affect
3 the structure or any a function of the body of man
4 individuals or animals; and

5 (iv) a substance intended for use as a component of any
6 an article specified in (11)(a)(i), (11)(a)(ii), or
7 (11)(a)(iii) of this subsection.

8 (b) "Drug" The term does not include a device or its
9 components, parts, or accessories.

10 (12) "Drug enforcement administration" means the drug
11 enforcement administration of the United States department
12 of justice or its successor agency.

13 ~~(14) "Hashish", as distinguished from marijuana, means~~
14 ~~the mechanically processed or extracted plant material that~~
15 ~~contains tetrahydrocannabinol (THC) and is composed of resin~~
16 ~~from the cannabis plant.~~

17 ~~(15)(13) "Immediate precursor" means a substance:~~

18 (a) which that the board finds has found to be and has
19 by rule designates as being designated to be the principal
20 compound commonly used, or produced primarily for use, and
21 which is an immediate chemical intermediary used or likely
22 to be used in the manufacture of a dangerous drug,
23 controlled substance;

24 (b) that is an immediate chemical intermediary used or
25 likely to be used in the manufacture of the controlled

1 substance; and

2 (c) the control of which is necessary to prevent,
3 curtail, or limit the manufacture of the controlled
4 substance.

5 (14) "Isomer" means an optical isomer, but in
6 45-9-101(2)(b)(ii), 50-32-222(1)(l) and (1)(hh),
7 50-32-224(1)(d), and subsection (17)(e) of this section, the
8 term includes a geometric isomer; in 50-32-222(1)(h) and
9 (1)(pp) and 50-32-229(1)(c), the term includes a positional
10 isomer; and in 50-32-222(1)(ii) and (3) and 50-32-226(1),
11 the term includes a positional or geometrical isomer.

12 ~~(16)(15) (a) "Manufacture" means the production,~~
13 ~~preparation, propagation, compounding, conversion, or~~
14 ~~processing of a dangerous drug either to produce, prepare,~~
15 ~~propagate, compound, convert, or process a controlled~~
16 ~~substance, directly or indirectly, by extraction from~~
17 ~~substances of natural origin, independently by means of~~
18 ~~chemical synthesis, or by a combination of extraction and~~
19 ~~chemical synthesis and includes any packaging or repackaging~~
20 ~~of the drug substance or labeling or relabeling of its~~
21 ~~container.~~

22 (b) "Manufacture" The term does not include the
23 preparation, or compounding, packaging, repackaging,
24 labeling, or relabeling of a dangerous drug by an individual
25 for his own use or the preparation, compounding, packaging,

1 or-labeling-of-a-dangerous-drug controlled substance:

2 (i) by a practitioner as an incident to his the
3 practitioner's administering or dispensing of a dangerous
4 drug controlled substance in the course of his the
5 practitioner's professional practice; or

6 (ii) by a practitioner, or his the practitioner's
7 authorized agent under his the practitioner's supervision,
8 for the purpose of, or as an incident to, research,
9 teaching, or chemical analysis and not for sale.

10 ~~{17}~~(16) (a) "Marijuana ~~{merihuana}~~" means all parts of
11 the plant material--from--the--genus cannabis containing
12 tetrahydrocannabinol--{THC}--or--seeds--of--the--genus--capable--of
13 germination whether growing or not; its seeds; the resin
14 extracted from any part of the plant; and any compound,
15 salt, derivative, mixture, or preparation of the plant or
16 its seeds or resin.

17 (b) The term does not include the mature stalks of the
18 plant; fiber produced from the stalks; oil or cake made from
19 the seeds of the plant; any other compound, salt,
20 derivative, mixture, or preparation of the mature stalks,
21 except resin extracted from the mature stalks; fiber, oil,
22 or cake; or the sterilized seed of the plant that is
23 incapable of germination.

24 ~~{18}~~(17) "Narcotic drug" means any of the following,
25 whether-produced-directly-or-indirectly-by--extraction--from

1 substances--of--vegetable--origin--independently-by-means-of
2 chemical-synthesis,--or--by--a--combination--of--extraction--and
3 chemical-synthesis however manufactured:

4 (a) opium and--opiate--and--any--salt,--compound, opium
5 derivative, or--preparation--of--opium--or--opiate and any
6 derivative of either, including their salts, isomers, and
7 salts of isomers,;

8 ~~{b}~~--any--salt,--compound,--isomer,--derivative,--or
9 preparation--thereof--which--is--chemically--equivalent--or
10 identical--with--any--of--the--drugs--referred--to--in--{18}{a}--of
11 this--section, but not including--the isoquinoline alkaloids
12 of opium;

13 (b) synthetic opiate and any derivative of synthetic
14 opiate, including their isomers, esters, ethers, salts, and
15 salts of isomers, esters, and ethers;

16 (c) opium poppy straw and concentrate of poppy straw;
17 or

18 (d) coca leaves, and--any--salt,--compound,--derivative,--or
19 preparation--of--coca-leaves--and--any--salt,--compound,--isomer,
20 derivative,--or--preparation--thereof--which--is--chemically
21 equivalent--or--identical--with--any--of--these--drugs,--but--not
22 including--decocainized--coca-leaves--or--extractions--of except
23 coca leaves from which do-not-contain cocaine, or ecgonine,
24 and derivatives of ecgonine or their salts have been
25 removed;

1 (e) cocaine or any salt, isomer, or salt of isomer of
2 cocaine;

3 (f) cocaine base;

4 (g) ecgonine or any derivative, salt, isomer, or salt
5 of isomer of ecgonine; or

6 (h) a compound, mixture, or preparation containing any
7 quantity of a substance listed in this subsection (17).

8 ~~(19)~~(18) (a) "Opiate" means any drug a substance having
9 an addiction-forming or addiction-sustaining liability
10 similar to morphine or being capable of conversion into a
11 drug having addiction-forming or addiction-sustaining
12 liability. The term includes opium, opium derivatives, and
13 synthetic opiates.

14 (b) ~~It~~ The term does not include, unless specifically
15 designated scheduled as a dangerous--drug--under controlled
16 substance pursuant to 50-32-202, the dextrorotatory isomer
17 of 3-methoxy-n-methylmorphinan and its salts
18 (dextromethorphan); ~~it does include its~~ but does include the
19 racemic and levorotatory forms of dextromethorphan.

20 ~~(20)~~(19) "Opium poppy" means the plant of the species
21 papaver somniferum ~~† L.~~, except its seeds.

22 ~~(21)~~(20) "Person" means an individual, corporation,
23 government or governmental subdivision or agency, business
24 trust, estate, trust, partnership, association, joint
25 venture, or any other legal or commercial entity.

1 ~~(22)~~(21) "Poppy straw" means all parts, except the
2 seeds, of the opium poppy after mowing.

3 ~~(23)~~(22) "Practitioner" means:

4 (a) a physician, dentist, veterinarian, scientific
5 investigator, pharmacist, pharmacy, hospital, or other
6 person licensed, registered, or otherwise permitted, by this
7 state, to distribute, dispense, or conduct research with
8 respect to, or to administer, or use in teaching or chemical
9 analysis a dangerous-drug controlled substance in the course
10 of professional practice or research ~~in this state; and~~

11 (b) ~~a---pharmacy---or---other---institution---licensed,~~
12 ~~registered,---or---otherwise---permitted---to---distribute,---dispense,~~
13 ~~or---conduct---research---with---respect---to---or---to---administer---a~~
14 ~~dangerous--drug--in--the--course--of--professional--practice--or~~
15 ~~research--in--this--state.~~

16 ~~(24)~~The term "prescription" is given the meaning it has
17 in 37-7-101.

18 ~~(25)~~(23) "Production" ~~includes~~ "Produce" means the
19 manufacture, manufacturing of a controlled substance and the
20 planting, cultivation cultivating, growing, or harvesting of
21 a plant from which a controlled substance or drug regulated
22 under the provisions of this chapter is derived.

23 ~~(26)~~(24) "State", ~~when applied to a part~~ means a state
24 of the United States, ~~includes any state, district,~~
25 commonwealth the District of Columbia, the Commonwealth of

1 Puerto Rico, or a territory, or insular possession thereof,
 2 and any area subject to the legal authority jurisdiction of
 3 the United States of America.

4 ~~(27)~~ (25) "Ultimate user" means a person an individual
 5 who lawfully possesses a dangerous-drug-for--his controlled
 6 substance for the individual's own use or for the use of a
 7 member of his the individual's household or for
 8 administering to an animal owned by him the individual or by
 9 a member of his the individual's household."

10 **Section 41.** Section 50-32-105, MCA, is amended to read:

11 **"50-32-105. Board to conduct educational programs.** (1)
 12 The board shall carry out educational programs designed to
 13 prevent and deter misuse and abuse of dangerous-drugs
 14 controlled substances.

15 (2) In connection with these programs, it the board
 16 may:

17 (a) promote better recognition of the problems of
 18 misuse and abuse of dangerous-drugs controlled substances
 19 within the regulated industry and among interested groups
 20 and organizations;

21 (b) assist the regulated industry and interested groups
 22 and organizations in contributing to the reduction of misuse
 23 and abuse of dangerous-drugs controlled substances;

24 (c) consult with interested groups and organizations to
 25 aid them in solving administrative and organizational

1 problems;

2 (d) evaluate procedures, projects, techniques, and
 3 controls conducted or proposed as part of educational
 4 programs on misuse and abuse of dangerous-drugs controlled
 5 substances;

6 (e) disseminate the results of research on misuse and
 7 abuse of dangerous-drugs controlled substances to promote a
 8 better public understanding of what problems exist and what
 9 can be done to combat alleviate them; and

10 (f) assist in the education and training of state and
 11 local law enforcement officials in their efforts to control
 12 misuse and abuse of dangerous-drugs controlled substances."

13 **Section 42.** Section 50-32-106, MCA, is amended to read:

14 **"50-32-106. Board to encourage research.** (1) The board
 15 shall encourage research on misuse and abuse of dangerous
 16 drugs controlled substances.

17 (2) In connection with the research and in furtherance
 18 of the enforcement of this chapter, it the board may:

19 (a) establish methods to assess accurately the effects
 20 of dangerous--drugs controlled substances and identify and
 21 characterize those with potential for abuse;

22 (b) make studies and undertake programs of research to:

23 (i) develop new or improved approaches, techniques,
 24 systems, equipment, and devices to strengthen the
 25 enforcement of this chapter;

1 (ii) determine patterns of misuse and abuse of dangerous
 2 drugs controlled substances and the social effects thereof;
 3 and

4 (iii) improve methods for preventing, predicting,
 5 understanding, and dealing with the misuse and abuse of
 6 dangerous--drugs controlled substances; and

7 (c) request that the department to enter into contracts
 8 with public agencies, institutions of higher education, and
 9 private organizations or individuals for the purpose of
 10 conducting research, demonstrations, or special projects
 11 which that bear directly on misuse and abuse of dangerous
 12 drugs controlled substances.

13 (3) The board may authorize persons engaged in research
 14 on the use and effects of dangerous--drugs controlled
 15 substances to withhold the names and other identifying
 16 characteristics of individuals who are the subjects of the
 17 research. Persons A person who obtain obtains this
 18 authorization are is not compelled in any civil, criminal,
 19 administrative, legislative, or other proceeding to identify
 20 the individuals who are the subjects of research for which
 21 the authorization was obtained.

22 (4) The board may authorize the possession and
 23 distribution of dangerous--drugs controlled substances by
 24 persons engaged in research. Persons A person who obtain
 25 obtains this authorization are is exempt from state

1 prosecution for possession and distribution of dangerous
 2 drugs controlled substances to the extent of the
 3 authorization."

4 **Section 43.** Section 50-32-201, MCA, is amended to read:

5 "50-32-201. General-criteria-to-be-considered Authority
 6 to control. (1) The board shall administer [sections 7
 7 through 19 and 22 through 74] and, pursuant to the Montana
 8 Administrative Procedure Act, may add substances to or
 9 delete or reschedule substances listed in 50-32-222,
 10 50-32-224, 50-32-226, 50-32-229, or 50-32-232.

11 (2) In making a determination regarding a drug
 12 substance, the board shall consider the following:

13 (1)(a) the actual or relative potential for abuse;

14 (2)(b) the scientific evidence of its pharmacological
 15 effect, if known;

16 (3)(c) the state of current scientific knowledge
 17 regarding the drug substance;

18 (4)(d) the history and current pattern of abuse;

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

20 (6)(f) the risk to the public health;

21 (7)(g) the potential of the drug substance to produce
 22 psychic or physiological dependence liability; and

23 (8)(h) whether the drug substance is an immediate
 24 precursor of a drug-already controlled under--this--chapter
 25 substance.

1 (3) The board may consider findings of the federal food
 2 and drug administration or the drug enforcement
 3 administration as prima facie evidence relating to one or
 4 more of the determinative factors."

5 **Section 44.** Section 50-32-202, MCA, is amended to read:

6 "50-32-202. Designation of drug substance as dangerous
 7 drug controlled substance. (1) After considering the factors
 8 enumerated in 50-32-201, the board shall make findings with
 9 respect thereto, to them and if it finds the drug has a
 10 potential for abuse, it shall designate such drug a
 11 dangerous drug in the manner set forth in the Montana
 12 Administrative Procedure Act adopt and publish a rule
 13 controlling the substance upon finding the substance has a
 14 potential for abuse.

15 (2) The board, without regard to the findings required
 16 by 50-32-221, 50-32-223, 50-32-225, 50-32-228, and 50-32-231
 17 or subsection (1) of this section or the procedures
 18 prescribed by 50-32-201 and this section, may add an
 19 immediate precursor to the same schedule in which the
 20 controlled substance of which it is an immediate precursor
 21 is included in any other schedule. If the board designates a
 22 substance as an immediate precursor, substances that are
 23 precursors of the controlled precursor are not subject to
 24 control solely because they are precursors of the controlled
 25 precursor."

1 **Section 45.** Section 50-32-203, MCA, is amended to read:

2 "50-32-203. Effect of rescheduling under federal law.

3 (1) If any drug a substance is designated, rescheduled, or
 4 deleted as a "controlled substance" under federal law and
 5 notice thereof is given to the board, the board shall
 6 similarly control treat the drug substance under this
 7 chapter after the expiration of 30 days from the date of
 8 publication in the federal register of a final order
 9 designating a drug the substance as a "controlled substance"
 10 or rescheduling or deleting a drug the substance or from the
 11 date of issuance of an order of temporary scheduling under
 12 section 508 of the federal Dangerous Drug Diversion Control
 13 Act of 1984 (21 U.S.C. 811(h)), unless, within that the
 14 30-day period, the board or an interested party objects to
 15 inclusion, rescheduling, or deletion the treatment of the
 16 substance. In that case, the board shall cause the reasons
 17 for objection to be published and afford all interested
 18 parties an opportunity to be heard. At the conclusion of the
 19 hearing, the department shall publish the board's decision
 20 which shall be final unless altered thereafter by the board
 21 or by statute. Upon publication of objection to inclusion,
 22 rescheduling, or deletion under this chapter by the board,
 23 control under this chapter is stayed until the board's
 24 decision is published. If no objection is made, the board
 25 shall adopt and publish, without making the determinations

1 or findings required by 50-32-201 and 50-32-202 or
 2 50-32-221, 50-32-223, 50-32-225, 50-32-228, or 50-32-231, a
 3 final rule scheduling the substance. If an objection is
 4 made, the board shall make a determination with respect to
 5 the treatment of the substance as provided by 50-32-201 and
 6 50-32-202. Upon receipt of an objection to the treatment by
 7 the board, the board shall publish notice of the receipt of
 8 the objection, and action by the board under this chapter is
 9 stayed until the board adopts a rule as provided by
 10 50-32-202.

11 (2) The board, by rule and without regard to the
 12 requirements of 50-32-201, may include a substance in
 13 Schedule I, whether or not the substance is substantially
 14 similar to a controlled substance included in Schedule I or
 15 Schedule II, if the board finds that scheduling of the
 16 substance on an emergency basis is necessary to avoid an
 17 imminent hazard to the public safety and the substance is
 18 not in any other schedule or no exemption or approval is in
 19 effect for the substance under section 505 of the federal
 20 Food, Drug, and Cosmetic Act (21 U.S.C. 355). Upon receipt
 21 of notice under [section 60], the board shall initiate
 22 scheduling of the controlled substance analog on an
 23 emergency basis pursuant to this subsection. The scheduling
 24 of a substance under this subsection expires 1 year after
 25 the adoption of the scheduling rule. With respect to the

1 finding of an imminent hazard to the public safety, the
 2 board shall consider whether the substance has been
 3 scheduled on a temporary basis under federal law or factors
 4 set forth in 50-32-201(2)(d) through (2)(f) and may also
 5 consider clandestine importation, manufacture, or
 6 distribution and, if available, information concerning the
 7 other factors set forth in 50-32-201(2). A rule may not be
 8 adopted under this subsection until the board initiates a
 9 rulemaking proceeding under 50-32-201 with respect to the
 10 substance. A rule adopted under this subsection lapses upon
 11 the conclusion of the rulemaking proceeding initiated under
 12 50-32-201 with respect to the substance.

13 (3) Authority of the board to control under this
 14 section does not extend to distilled spirits, wine, malt
 15 beverages, or tobacco."

16 **Section 46.** Section 50-32-206, MCA, is amended to read:
 17 "50-32-206. Use----of----names---of---scheduled---drugs
 18 Nomenclature. The dangerous--drugs controlled substances
 19 listed in or to-be-listed--in added to the schedules in
 20 50-32-222, 50-32-224, 50-32-226, 50-32-229, and 50-32-232
 21 are included listed or added by whatever any official,
 22 common, usual, chemical, or trade name designated used."

23 **Section 47.** Section 50-32-207, MCA, is amended to read:
 24 "50-32-207. Order forms for--drugs-in-Schedules-I-and
 25 II. Dangerous--drugs--in--Schedules--I--and--II--shall---be

1 ~~distributed--by--a--registrant~~ A registrant may distribute a
 2 substance included in Schedule I or Schedule II to another
 3 registrant only pursuant--to by means of an order form.
 4 ~~Compliance with the provisions--of~~ federal law respecting
 5 ~~order forms shall--be--deemed~~ constitutes compliance with this
 6 ~~section unless--the--board--prescribes--particular--forms--to--be~~
 7 ~~used."~~

8 **Section 48.** Section 50-32-208, MCA, is amended to read:

9 "50-32-208. ~~Prescription--and--medical--requirements--for~~
 10 ~~scheduled--drugs-----penalty~~ Prescriptions. (1) As used in
 11 this section, "medical treatment" includes dispensing or
 12 administering a narcotic drug for pain, including
 13 intractable pain.

14 (2) A person may dispense a controlled substance only
 15 as provided in this section.

16 ~~{1}{3}~~ No--dangerous--drug Except when dispensed directly
 17 by a practitioner, other than a pharmacy, to an ultimate
 18 user, a substance included in Schedule II may not be
 19 dispensed without the written prescription of a
 20 practitioner.

21 ~~{2}{4}~~ In an emergency situations, as defined by rule
 22 of the board, a substance included in Schedule II drugs may
 23 be dispensed upon a--practitioner's oral prescription of a
 24 practitioner, reduced promptly to writing, signed by the
 25 practitioner, and filed by the pharmacy. Prescriptions--shall

1 ~~be--retained~~ The pharmacy shall keep prescriptions in
 2 conformity with the--requirements--of 50-32-309. No A
 3 prescription for a Schedule II drug may not be refilled.

4 ~~{3}{5}~~ A--dangerous--drug Except when dispensed directly
 5 by a practitioner, other than a pharmacy, to an ultimate
 6 user, a substance included in Schedule III or IV, which is a
 7 prescription drug as determined under the federal or Montana
 8 ~~food--drug--and--cosmetic--acts~~ Food, Drug, and Cosmetic Act,
 9 shall may not be dispensed without a written or oral
 10 prescription of a practitioner. The prescription shall may
 11 not be filled or refilled more than 6 months after the its
 12 date thereof or be refilled more than five times unless
 13 renewed by the practitioner.

14 ~~{4}{6}~~ A dangerous--drug substance included in Schedule
 15 V shall--not may be distributed or dispensed other--than only
 16 for a medical purpose, including medical treatment or
 17 authorized research.

18 ~~{5}--Any--person--who--violates--the--provisions--of--this~~
 19 ~~section--is--guilty--of--a--misdemeanor--and--upon--conviction--may~~
 20 ~~be--fined--not--to--exceed--\$1,000--or--be--imprisoned--in--county~~
 21 ~~jail--for--a--term--not--to--exceed--1--year,--or--both--fined--and~~
 22 ~~imprisoned.~~

23 (7) A practitioner may dispense or deliver a controlled
 24 substance to or for an individual or animal only for medical
 25 treatment or authorized research in the ordinary course of

1 that practitioner's profession.

2 (8) A civil or criminal liability or administrative
 3 sanction may not be imposed on a pharmacist for action taken
 4 in reliance on a reasonable belief that an order purporting
 5 to be a prescription was issued by a practitioner in the
 6 usual course of professional treatment or in authorized
 7 research.

8 (9) An individual practitioner may not dispense a
 9 substance include in Schedule II, III, or IV for that
 10 individual practitioner's personal use except in a medical
 11 emergency."

12 **Section 49.** Section 50-32-209, MCA, is amended to read:

13 "50-32-209. Annual---republication Publishing of
 14 schedules. The board shall revise and the department shall
 15 republish the publish updated schedules of dangerous drugs
 16 annually. For the purposes of this section, the mandate to
 17 republish may be satisfied by publication in the
 18 Administrative Rules of Montana pursuant to Title 2, chapter
 19 4: Failure to publish updated schedules is not a defense in
 20 any administrative or judicial proceeding under [sections 7
 21 through 19 and 22 through 74]."

22 **Section 50.** Section 50-32-221, MCA, is amended to read:

23 "50-32-221. Criteria for placement of drug in Schedule
 24 I tests. (1) The board shall place add a drug in substance
 25 to Schedule I if it finds upon finding that the drug

1 substance:

2 (1)(a) has high potential for abuse; and

3 (2)(b) has no accepted medical use in treatment in the
 4 United States; or and

5 (c) lacks accepted safety for use in treatment under
 6 medical supervision.

7 (2) The board may add a substance to Schedule I without
 8 making the findings required by subsection (1) if the
 9 substance is controlled under Schedule I of the federal
 10 Controlled Substances Act by a federal agency as the result
 11 of an international treaty, convention, or protocol."

12 **Section 51.** Section 50-32-222, MCA, is amended to read:

13 "50-32-222. Specific dangerous drugs included in
 14 Schedule I. Schedule I consists of the drugs and other
 15 substances, by whatever official, common, usual, chemical,
 16 or brand name designated, listed in this section; Unless
 17 specifically excepted by state or federal law or state or
 18 federal regulation or more specifically included in another
 19 schedule, the following controlled substances are listed in
 20 Schedule I:

21 (1) Opiates; Unless specifically excepted or listed in
 22 another schedule, any of the following synthetic opiates,
 23 including its their isomers, esters, ethers, salts, and
 24 salts of isomers, esters, and ethers whenever the existence
 25 of such isomers, esters, ethers, and salts is possible

1 ~~within-the-specific-chemical-designation:~~

2 (a) acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-

3 phenethyl)-4-piperidinyl]-N-phenylacetamide);

4 (b) acetylmethadol;

5 (b)(c) allylprodine;

6 (c)(d) alphacetylmethadol;

7 (d)(e) alphameprodine;

8 (e)(f) alphamethadol;

9 (f)(g) alpha-methylfentanyl (N-[1-(alpha-methyl-

10 beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-

11 2-phenylethyl)-4-(N-propanilido) piperidine);

12 (h) alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)

13 ethyl-4-piperidinyl]-N-phenylpropanamide);

14 (g)(i) benzethidine;

15 (h)(j) betacetylmethadol;

16 (i)(k) beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-

17 phenethyl)-4-piperidinyl]-N-phenylpropanamide);

18 (l) beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-

19 hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-

20 phenylpropanamide);

21 (m) betameprodine;

22 (j)(n) betamethadol;

23 (k)(o) betaprodine;

24 (i)(p) clonitazene;

25 (m)(q) dextromoramide;

1 (n)(r) diampromide;

2 (o)(s) diethylthiambutene;

3 (p)(t) difenoxin;

4 (q)(u) dimenoxadol;

5 (r)(v) dimepheptanol;

6 (s)(w) dimethylthiambutene;

7 (t)(x) dioxaphetyl butyrate;

8 (u)(y) dipipanone;

9 (v)(z) ethylmethylthiambutene;

10 (w)(aa) etonitazene;

11 (x)(bb) etoxeridine;

12 (y)(cc) furethidine;

13 (z)(dd) hydroxypethidine;

14 (aa)(ee) ketobemidone;

15 (bb)(ff) levomoramide;

16 (cc)(gg) levophenacylmorphan;

17 (hh) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-

18 piperidinyl]-N-phenylpropanamide);

19 (ii) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)

20 ethyl-4-piperidinyl]-N-phenylpropanamide);

21 (dd)(jj) morpheridine;

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

23 (ee)(ll) noracymethadol;

24 (ff)(mm) norlevorphanol;

25 (gg)(nn) normethadone;

1 {hh}{oo} norpipanone;
 2 {pp} para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
 3 phenethyl)-4-piperidinyl]-propanamide);
 4 {qq} PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
 5 {ii}{rr} phenadoxone;
 6 {jj}{ss} phenampromide;
 7 {kk}{tt} phenomorphan;
 8 {ii}{uu} phenoperidine;
 9 {mm}{vv} piritramide;
 10 {nn}{ww} proheptazine;
 11 {oo}{xx} properidine;
 12 {pp}{yy} propiram;
 13 {qq}{zz} racemoramide;
 14 {rr}-sufentanil;
 15 {aaa} thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-
 16 piperidinyl]-propanamide);
 17 {ss}{bbb} tilidine; and
 18 {tt}{ccc} trimeperidine;
 19 (2) ~~Opium--derivatives--Unless--specifically--excepted--or~~
 20 ~~listed--in--another--schedule;~~ any of the following opium
 21 derivatives, its including their salts, isomers, and salts
 22 of isomers ~~whenever--the--existence--of--such--salts--isomers,~~
 23 ~~and--salts--of--isomers--is--possible--within--the--specific~~
 24 ~~chemical--designation:~~
 25 (a) acetorphine;

1 (b) acetyldihydrocodeine;
 2 (c) benzylmorphine;
 3 (d) codeine methylbromide;
 4 (e) codeine-n-oxide codeine-N-oxide;
 5 (f) cyprenorphine;
 6 (g) desomorphine;
 7 (h) dihydromorphine;
 8 (i) drotebanol;
 9 (j) etorphine, except hydrochloride salt;
 10 (k) heroin;
 11 (l) hydromorphenol;
 12 (m) methyl-desorphine;
 13 (n) methyldihydromorphine;
 14 (o) morphine methylbromide;
 15 (p) morphine methylsulfonate;
 16 (q) morphine-n-oxide morphine-N-oxide;
 17 (r) myrophine;
 18 (s) nicocodeine;
 19 (t) nicomorphine;
 20 (u) normorphine;
 21 (v) pholcodine; and
 22 (w) thebacon;
 23 (3) ~~Hallucinogenic--substances--Unless--specifically~~
 24 ~~excepted--or--listed--in--another--schedule;~~ any material,
 25 compound, mixture, or preparation that contains any quantity

1 of the following hallucinogenic substances ~~or any of its~~
 2 including their salts, isomers, and salts of isomers
 3 ~~whenever the existence of such salts, isomers, and salts of~~
 4 ~~isomers is possible within the specific chemical~~
 5 designation:

6 (a) 4-bromo-2,5-dimethoxyamphetamine (other names:
 7 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-
 8 2,5-DMA);

9 (b) 2,5-dimethoxyamphetamine (other names: 2,5-
 10 dimethoxy-alpha-methylphenethylamine; 2,5-DMA);

11 (c) 4-methoxyamphetamine (other names: 4-methoxy-alpha-
 12 methylphenethylamine; paramethoxyamphetamine, PMA);

13 (d) 5-methoxy-3,4-methylenedioxy amphetamine;

14 (e) 4-methyl-2,5-dimethoxy-amphetamine (other names: 4-
 15 methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM; and
 16 STP);

17 (f) 3,4-methylenedioxy amphetamine;

18 (b)(g) 5-methoxy-3,4-methylenedioxyamphetamine 3,4-
 19 methylenedioxymethamphetamine (MDMA);

20 (c)(h) 3,4,5-trimethoxy amphetamine;

21 (d)(i) bufotenine (other names: 3-(beta-
 22 dimethylaminoethyl)-5-hydroxyindole; 3-(2-
 23 dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin;
 24 5-hydroxy-N,N-dimethyltryptamine; mappine);

25 (e)(j) diethyltryptamine (other names: N,N-

1 diethyltryptamine; DET);

2 (f)(k) dimethyltryptamine (other names: DMT);

3 (g)(l) 4-methyl-2,5-dimethoxy-amphetamine;

4 (h)(m) ibogaine (other names: 7-ethyl-
 5 6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-
 6 pyrido [1',2':1,2] azepine [5,4-b] indole; tabernanthe
 7 iboga);

8 (i)(n) lysergic acid diethylamide;

9 (j)(o) marijuana;

10 (k)(p) mescaline;

11 (g) parahexyl (other names: 3-hexyl-1-hydroxy-7,8,9,10-
 12 tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl);

13 (t)(r) peyote (all parts of the plant classified
 14 botanically as lophophora williamsii lemaire, whether
 15 growing or not, its seeds, any extract from any part of the
 16 plant, and every compound, salt, derivative, mixture, or
 17 preparation of the plant or its seeds or extracts);

18 (m)(s) n-ethyl-3-piperidyl N-ethyl-3-piperidyl
 19 benzilate;

20 (n)(t) n-methyl-3-piperidyl N-methyl-3-piperidyl
 21 benzilate;

22 (o)(u) psilocybin;

23 (p)(v) psilocyn;

24 (q)(w) tetrahydrocannabinols;

25 (r) 2,5-dimethoxyamphetamine;

1 ~~{s}~~--4-bromo-2,5-dimethoxy-amphetamine;

2 ~~{t}~~--4-methoxyamphetamine;

3 ~~{u}~~~~{x}~~ ethylamine analog of phencyclidine (other names:

4 N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)

5 ethylamine, N-(1-phenylcyclohexyl)ethylamine; cyclohexamine;

6 PCE};

7 ~~{v}~~~~{y}~~ pyrrolidine analog of phencyclidine (other

8 names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; PHP}; and

9 ~~{w}~~~~{z}~~ thiophene analog of phencyclidine (other names:

10 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of

11 phencyclidine; TPCP, TCP}.

12 (4) ~~Depressants,--Unless-specifically-expected-or-listed~~

13 ~~in--another--schedule,~~ any material, compound, mixture, or

14 preparation that contains any quantity of the following

15 substance substances having a depressant effect on the

16 central nervous system, including its their salts, isomers,

17 and salts of isomers ~~whenever-the-existence-of-such-salts,~~

18 ~~isomers,--and--salts--of--isomers--is--possible--within--the~~

19 ~~specific-chemical-designation:~~

20 (a) mecloqualone; and

21 (b) methaqualone;

22 (5) ~~Stimulants,--Unless-specifically-expected-or--listed~~

23 ~~in--another--schedule,~~ any material, compound, mixture, or

24 preparation that contains any quantity of the following

25 substances having a stimulant effect on the central nervous

1 system, including its their salts, isomers, and salts of

2 isomers:

3 (a) fenethylamine; and

4 (b) n-ethylamphetamine N-ethylamphetamine.

5 ~~{6}~~--~~Per--purposes--of--subsection--{3}--only,~~ the term

6 ~~"isomer"~~--~~includes--the--optical,~~ position, and geometric

7 isomers:

8 ~~{7}~~--~~if-prescription-or-administration-is-authorized--by~~

9 ~~the--Federal-Food, Drug-and-Cosmetic-Act,~~ then any material,

10 ~~compound,-----mixture,-----or-----preparation-----containing~~

11 ~~tetrahydrocannabinols--listed--in--subsection--{3}--shall~~

12 ~~automatically--be--rescheduled--from--Schedule-I-to-Schedule~~

13 ~~II--"~~

14 **Section 52.** Section 50-32-223, MCA, is amended to read:

15 ~~"50-32-223. Criteria-for-placement-of-drug-in Schedule~~

16 ~~II tests. (1) The board shall place add a drug-in substance~~

17 ~~to Schedule II if-it-finds upon finding that:~~

18 ~~{1}~~(a) the drug substance has high potential for abuse;

19 ~~{2}~~(b) the drug substance has currently accepted

20 medical use in treatment in the United States or currently

21 accepted medical use with severe restrictions; and

22 ~~{3}~~(c) the abuse of the drug substance may lead to

23 severe psychic psychological or physical dependence.

24 (2) The board may add a substance to Schedule II

25 without making the findings required by subsection (1) if

1 the substance is controlled under Schedule II of the federal
 2 Controlled Substances Act by a federal agency as the result
 3 of an international treaty, convention, or protocol."

4 **Section 53.** Section 50-32-224, MCA, is amended to read:

5 "50-32-224. ~~Specific--dangerous---drugs---included---in~~
 6 Schedule II. Schedule--II--consists-of-the-drugs-and-other
 7 substances,--by-whatever-official,--common,--usual,--chemical,
 8 or--brand--name--designated,--listed-in-this-section; Unless
 9 specifically excepted by state or federal law or state or
 10 federal regulation or more specifically included in another
 11 schedule, the following controlled substances are listed in
 12 Schedule II:

13 (1) ~~Substances,--vegetable-origin-or-chemical-synthesis;~~
 14 ~~Unless--specifically-excepted-or-listed-in-another-schedule,~~
 15 ~~any-of-the-following-substances,--whether--produced--directly~~
 16 ~~or--indirectly--by--extraction--from-substances-of-vegetable~~
 17 ~~origin,--independently-by-means-of-chemical-synthesis,--or--by~~
 18 ~~a--combination--of--extraction-and-chemical-synthesis~~ any of
 19 the following substances, however manufactured:

20 (a) opium and opiate opium derivative and any salt,
 21 compound, derivative, or preparation of opium or opiate
 22 opium derivative, excluding apomorphine, dextrorphan,
 23 nalbuphine, butorphanol, nalmefene, naloxone, and naltrexone
 24 and their respective salts, but including the following:

25 (i) raw opium;

1 (ii) opium extracts;
 2 (iii) opium fluid extracts;
 3 (iv) powdered opium;
 4 (v) granulated opium;
 5 (vi) tincture of opium;
 6 (vii) codeine;
 7 (viii) ethylmorphine;
 8 (ix) etorphine hydrochloride;
 9 (x) hydrocodone;
 10 (xi) hydromorphone;
 11 (xii) metopon;
 12 (xiii) morphine;
 13 (xiv) oxycodone;
 14 (xv) oxymorphone; and
 15 (xvi) thebaine;
 16 (b) any a salt, compound, derivative, or preparation
 17 thereof that is chemically equivalent or identical with any
 18 of the substances referred to listed in subsection (1)(a) of
 19 this--section, except--that--these--substances--do but not
 20 include-the isoquinoline alkaloids of opium;
 21 (c) opium poppy and poppy straw;
 22 (d) coca leaves and any salt, compound, derivative, or
 23 preparation of coca leaves, including cocaine and ecgonine
 24 and their salts, isomers, derivatives, and salts of isomers
 25 and derivatives, and any salt, compound, derivative, or

1 preparation thereof that is chemically equivalent or
 2 identical with any of these the substances listed in this
 3 subsection, except that these substances do but not include
 4 including decocainized coca leaves or extraction extractions
 5 of coca leaves,--which--extractions that do not contain
 6 cocaine or ecgonine; and

7 (e) concentrate of poppy straw, [the crude extract of
 8 poppy straw in either liquid, solid, or powder form that
 9 contains the phenanthrene alkaloids of the opium poppy];

10 (2) ~~Opiates;--Unless specifically excepted or listed--in~~
 11 ~~another--schedule,~~ any of the following synthetic opiates,
 12 including its their isomers, esters, ethers, salts, and
 13 salts of isomers, esters, and ethers ~~whenever the existence~~
 14 ~~of such isomers,--esters,--ethers,--and--salts--is--possible~~
 15 ~~within--the--specific--chemical--designation,--dextrorphan--and~~
 16 ~~levopropoxyphene--excepted;~~

17 (a) alfentanil;
 18 (b) alphaprodine;
 19 (b)(c) anileridine;
 20 (c)(d) bezitramide;
 21 (d)(e) dihydrocodeine;
 22 (e)(f) diphenoxylate;
 23 (f)(g) fentanyl;
 24 (g)(h) isomethadone;
 25 (h)(i) levomethorphan;

1 (i)(j) levorphanol;
 2 (j)(k) metazocine;
 3 (k)(l) methadone;
 4 (i)(m) methadone-intermediate,
 5 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
 6 (m)(n) moramide-intermediate, 2-methyl-3-morpholino-1,
 7 1-diphenylpropane-carboxylic acid;
 8 (n)(o) pethidine (meperidine);
 9 (o)(p) pethidine-intermediate-A, 4-cyano-1-methyl-4-
 10 phenylpiperidine;
 11 (p)(q) pethidine-intermediate-B, ethyl-4-
 12 phenylpiperidine-4-carboxylate;
 13 (q)(r) pethidine-intermediate-C, 1-methyl-4-
 14 phenylpiperidine-4-carboxylic acid;
 15 (r)(s) phenazocine;
 16 (s)(t) piminodine;
 17 (t)(u) racemethorphan;
 18 (u)(v) racemorphan; and
 19 (v)(w) bulk---dextropropoxyphene---{nondosage---forms}-
 20 sufentanil;

21 (3) ~~Stimulants;--Unless specifically excepted or--listed~~
 22 ~~in--another--schedule,~~ any material, compound, mixture, or
 23 preparation that contains any quantity of the following
 24 substances having a stimulant effect on the central nervous
 25 system, including their salts, isomers, and salts of

1 isomers:

2 (a) ~~amphetamine, its salts, optical isomers, and salts~~

3 ~~of its optical isomers;~~

4 (b) ~~phenmetrazine and its salts;~~

5 (c) ~~methamphetamine, its salts, isomers, and salts of~~

6 ~~its isomers; and~~

7 (d) ~~methylphenidate;~~

8 (4) ~~Depressants--Unless specifically excepted or listed~~

9 ~~in another schedule, any material, compound, mixture, or~~

10 ~~preparation that contains any quantity of the following~~

11 ~~substances having a depressant effect on the central nervous~~

12 ~~system, including its their salts, isomers, and salts of~~

13 ~~isomers whenever the existence of such salts, isomers, and~~

14 ~~salts of isomers is possible within the specific chemical~~

15 ~~designation:~~

16 (a) ~~amobarbital;~~

17 (b) ~~methaqualone;~~

18 (c) ~~pentobarbital;~~

19 (d) (c) ~~phencyclidine; and~~

20 (e) (d) ~~secobarbital;~~

21 (5) (a) dronabinol (synthetic) in sesame oil and

22 encapsulated in a soft gelatin capsule in a drug product

23 approved by the federal food and drug administration (other

24 names: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-

25 pentyl-6H-dibenzo[b,d]pyran-1-01, (-)-delta-9-(trans)-

1 tetrahydrocannabinol);

2 (b) nabilone (other name: (*)trans-3-(1,1-

3 demethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6

4 -dimethyl-9Hdibenzo [b,d] pyran-9-one); and

5 (c) ~~Immediate precursors--Unless specifically--excepted~~

6 ~~or--listed--in--another--schedule, any material, compound,~~

7 ~~mixture, or preparation that contains any quantity of the~~

8 ~~following substances:~~

9 (i) ~~immediate precursor to amphetamine and~~

10 ~~methamphetamine:~~

11 (i) ~~phenylacetone (other names: phenyl-w-propanone;~~

12 ~~P2P; benzyl methyl ketone; methyl benzyl ketone;~~

13 (ii) ~~immediate precursors to phencyclidine (PCP):~~

14 (i) (A) ~~1-phenylcyclohexylamine; and~~

15 (ii) (B) ~~1-piperidinocyclohexanecarbonitrile (PCC)."~~

16 **Section 54.** Section 50-32-225, MCA, is amended to read:

17 "50-32-225. ~~Criteria--for-placement-of-drug-in Schedule~~

18 ~~III tests. (1) The board shall place add a drug-in substance~~

19 ~~to Schedule III if-it-finds upon finding that:~~

20 (i) (a) ~~the drug substance has a potential for abuse~~

21 ~~less than the drugs substances listed in Schedules Schedule~~

22 ~~I and Schedule II;~~

23 (ii) (b) ~~the drug substance has currently accepted~~

24 ~~medical use in treatment in the United States; and~~

25 (iii) (c) ~~abuse of the drug substance may lead to moderate~~

1 or low physical dependence or high psychological dependence.

2 (2) The board may add a substance to Schedule III
 3 without making the findings required by subsection (1) if
 4 the substance is controlled under Schedule III of the
 5 federal Controlled Substances Act by a federal agency as the
 6 result of an international treaty, convention, or protocol."

7 **Section 55.** Section 50-32-226, MCA, is amended to read:
 8 "50-32-226. ~~Specific dangerous drugs included in~~
 9 ~~Schedule III. Schedule III consists of the drugs and other~~
 10 ~~substances, by whatever official, common, usual, chemical,~~
 11 ~~or brand name designated, listed in this section. Unless~~
 12 specifically excepted by state or federal law or state or
 13 federal regulation or more specifically included in another
 14 schedule, the following controlled substances are listed in
 15 Schedule III:

16 (1) ~~Stimulants: Unless specifically excepted or listed~~
 17 ~~in another schedule,~~ any material, compound, mixture, or
 18 preparation that contains containing any quantity of the
 19 following substances having a stimulant effect on the
 20 central nervous system, including its their salts, isomers
 21 ~~(whether optical, position, or geometric), and salts of such~~
 22 ~~isomers whenever the existence of such salts, isomers, and~~
 23 ~~salts of isomers is possible within the specific chemical~~
 24 designation:

25 (a) a compound, mixture, or preparation in dosage unit

1 form containing any stimulant substance included in Schedule
 2 II and that was listed as an accepted compound on August 25,
 3 1971, pursuant to the federal Controlled Substances Act, and
 4 any other substance of the quantitative composition shown in
 5 that list for those substances or that is the same except
 6 for containing a lesser quantity of controlled substances:

7 (a)(i) benzphetamine;
 8 (b)(ii) chlorphentermine;
 9 (c)(iii) clortermine; and
 10 (d)(iv) phendimetrazine;
 11 (2)(b) Depressants: Unless specifically excepted or
 12 listed in another schedule, any a material, compound,
 13 mixture, or preparation that contains containing any
 14 quantity of the following substances having a depressant
 15 effect on the central nervous system:

16 (i) a compound, mixture, or preparation containing any
 17 of the following substances or their salts and one or more
 18 other active medicinal ingredients not included in any
 19 schedule:

20 (A) amobarbital;
 21 (B) secobarbital; and
 22 (C) pentobarbital;
 23 (ii) any of the following substances or their salts, in
 24 suppository dosage form, approved by the federal food and
 25 drug administration for marketing only as a suppository:

1 (A) amobarbital;
 2 (B) secobarbital; and
 3 (C) pentobarbital;
 4 ~~{a}{iii}~~ any a substance that--contains containing any
 5 quantity of a derivative of barbituric acid or any salt
 6 thereof of a derivative of barbituric acid;
 7 ~~{b}{iv}~~ chlorhexadol;
 8 ~~{c}{v}~~ glutethimide;
 9 ~~{d}{vi}~~ lysergic acid;
 10 ~~{e}{vii}~~ lysergic acid amide;
 11 ~~{f}{viii}~~ methyprylon;
 12 ~~{g}{ix}~~ sulfondiethylmethane;
 13 ~~{h}{x}~~ sulfonethylmethane;
 14 ~~{i}{xi}~~ sulfonmethane;
 15 (xii) tiletamine and zolazepam or any of their salts
 16 (other names for a tiletamine-zolazepam combination product:
 17 telazol; other names for tiletamine: 2-(ethylamino)-2-
 18 (2-thienyl)-cyclohexanone; other names for zolazepam:
 19 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e]
 20 [1,4]-diazepin-7(1H)-one; flupyrzapon);
 21 ~~{j}--any--compound,--mixture,--or--preparation--containing~~
 22 ~~amobarbital,--secobarbital,--or--pentobarbital--or--any--salt--of~~
 23 ~~any--of--these--drugs--and--one--or--more--other--active--medicinal~~
 24 ~~ingredients--that--are--not--listed--in--any--schedule,--and~~
 25 ~~{k}--any--suppository--dosage--form--containing--amobarbital,~~

1 ~~secobarbital,--or--pentobarbital--or--any--salt--of--any--of--these~~
 2 ~~drugs--approved--by--the--federal--food--and--drug--administration~~
 3 ~~for--marketing--only--as--a--suppository;~~
 4 ~~{3}{c}~~ Nalorphine: nalorphine; and
 5 ~~{4}{d}~~ Narcotic drugs--Unless specifically excepted--or
 6 listed--in--another--schedule,--any a material, compound,
 7 mixture, or preparation containing any of the following
 8 narcotic drugs or its their salts calculated as the free
 9 anhydrous base or alkaloid in the--following limited
 10 quantities, as set forth below:
 11 ~~{a}{i}~~ not more than 1.8 grams of codeine per 100
 12 milliliters or not more than 90 milligrams per dosage unit,
 13 with an equal or greater quantity of an isoquinoline
 14 alkaloid of opium;
 15 ~~{b}{ii}~~ not more than 1.8 grams of codeine per 100
 16 milliliters or not more than 90 milligrams per dosage unit,
 17 with one or more active, nonnarcotic ingredients in
 18 recognized therapeutic amounts;
 19 ~~{c}{iii}~~ not more than 300 milligrams of
 20 dihydrocodeinone per 100 milliliters or not more than 15
 21 milligrams per dosage unit, with a fourfold or greater
 22 quantity of an isoquinoline alkaloid of opium;
 23 ~~{d}{iv}~~ not more than 300 milligrams of dihydrocodeinone
 24 per 100 milliliters or not more than 15 milligrams per
 25 dosage unit, with one or more active, nonnarcotic

1 ingredients in recognized therapeutic amounts;

2 ~~f~~(v) not more than 1.8 grams of dihydrocodeine per

3 100 milliliters or not more than 90 milligrams per dosage

4 unit, with one or more active, nonnarcotic ingredients in

5 recognized therapeutic amounts;

6 ~~f~~(vi) not more than 300 milligrams of ethylmorphine

7 per 100 milliliters or not more than 15 milligrams per

8 dosage unit, with one or more active, nonnarcotic

9 ingredients in recognized therapeutic amounts;

10 ~~f~~(vii) not more than 500 milligrams of opium per 100

11 milliliters or per 100 grams or not more than 25 milligrams

12 per dosage unit, with one or more active, nonnarcotic

13 ingredients in recognized therapeutic amounts; or

14 ~~f~~(viii) not more than 50 milligrams of morphine per

15 100 milliliters or per 100 grams, with one or more active,

16 nonnarcotic ingredients in recognized therapeutic amounts.

17 (2) The board may exempt by rule a compound, mixture,

18 or preparation containing a stimulant or depressant

19 substance listed in subsections (1)(a) and (1)(b) from the

20 application of all or part of [sections 7 through 19 and 22

21 through 74] if the compound, mixture, or preparation

22 contains one or more active medicinal ingredients not having

23 a stimulant or depressant effect on the central nervous

24 system and the admixtures are in combinations, quantity,

25 proportion, or concentration that vitiate the potential for

1 abuse of the substances having a stimulant or depressant

2 effect on the central nervous system."

3 **Section 56.** Section 50-32-228, MCA, is amended to read:

4 ~~"50-32-228. Criteria--for-placement-of-drug-in Schedule~~

5 ~~IV tests. (1) The board shall place add a drug-in substance~~

6 ~~to Schedule IV if-it-finds upon finding that:~~

7 ~~f~~(a) the drug substance has a low potential for abuse

8 relative to drugs substances included in Schedule III;

9 ~~f~~(b) the drug substance has currently accepted

10 medical use in treatment in the United States; and

11 ~~f~~(c) abuse of the drug substance may lead to limited

12 physical dependence or psychological dependence relative to

13 the-drugs substances included in Schedule III.

14 (2) The board may add a substance to Schedule IV

15 without making the findings required by subsection (1) if

16 the substance is controlled under Schedule IV of the federal

17 Controlled Substances Act by a federal agency as the result

18 of an international treaty, convention, or protocol."

19 **Section 57.** Section 50-32-229, MCA, is amended to read:

20 ~~"50-32-229. Specific---dangerous---drugs---included---in~~

21 ~~Schedule IV. Schedule-IV-consists-of---the---drugs---and---other~~

22 ~~substances,--by--whatever-official,--common,--usual,--chemical,~~

23 ~~or-brand-name-designated,--listed-in-this-section- (1) Unless~~

24 ~~specifically excepted by state or federal law or state or~~

25 ~~federal regulation or more specifically included in another~~

1 schedule, the following controlled substances are listed in
 2 Schedule IV:

3 ~~{1}(a)~~ Narcotic--drugs--Unless--specifically--excepted--or
 4 listed--in--another--schedule,--any a material, compound,
 5 mixture, or preparation containing any of the following
 6 narcotic drugs or its their salts calculated as the free
 7 anhydrous base or alkaloid in the--~~following~~ limited
 8 quantities, as set forth below:

9 ~~{a}(i)~~ not more than 1 milligram of difenoxin and not
 10 less than 25 micrograms of atropine sulfate per dosage unit;
 11 and

12 ~~{b}(ii)~~ dextropropoxyphene (alpha-(+)-4-dimethylamino
 13 -1,2-diphenyl-3-methyl-2-propionoxybutane)-;

14 ~~{2}(b)~~ Depressants--Unless--specifically--excepted--or
 15 listed--in--another--schedule,--any a material, compound,
 16 mixture, or preparation ~~that--contains~~ containing any
 17 quantity of the following substances having a depressant
 18 effect on the central nervous system, including its their
 19 salts, isomers, and salts of isomers whenever--the--existence
 20 of--such--salts,--isomers,--and--salts--of--isomers--is--possible
 21 within--the--specific--chemical--designation:

22 ~~{a}(i)~~ alprazolam;

23 ~~{b}(ii)~~ barbital;

24 (iii) bromazepam;

25 (iv) camazepam;

1 ~~{c}(v)~~ chloral betaine;

2 ~~{d}(vi)~~ chloral hydrate;

3 ~~{e}(vii)~~ chlordiazepoxide;

4 (viii) clobazam;

5 ~~{f}(ix)~~ clonazepam;

6 ~~{g}(x)~~ clorazepate;

7 (xi) clotiazepam;

8 (xii) cloxazolam;

9 (xiii) delorazepam;

10 ~~{h}(xiv)~~ diazepam;

11 (xv) estazolam;

12 ~~{i}(xvi)~~ ethchlorvynol;

13 ~~{j}(xvii)~~ ethinamate;

14 (xviii) ethyl loflazepate;

15 (xix) fludiazepam;

16 (xx) flunitrazepam;

17 ~~{k}(xxi)~~ flurazepam;

18 ~~{l}(xxii)~~ halazepam;

19 (xxiii) haloxazolam;

20 (xxiv) ketazolam;

21 (xxv) loprazolam;

22 ~~{m}(xxvi)~~ lorazepam;

23 (xxvii) lormetazepam;

24 ~~{n}(xxviii)~~ mebutamate;

25 (xxix) medazepam;

1 (xxx) meprobamate;
 2 ~~(o)(xxxi) methohexital;~~
 3 ~~(p)--meprobamate;~~
 4 ~~(q)(xxxii) methylphenobarbital (mephobarbital);~~
 5 (xxxiii) midazolam;
 6 (xxxiv) nimetazepam;
 7 (xxxv) nitrazepam;
 8 (xxxvi) nordiazepam;
 9 ~~(r)(xxxvii) oxazepam;~~
 10 (xxxviii) oxazolam;
 11 ~~(s)(xxxix) paraldehyde;~~
 12 ~~(t)(xl) petrichloral;~~
 13 ~~(u)(xli) phenobarbital;~~
 14 (xlii) pinazepam;
 15 ~~(v)(xlili) prazepam; and~~
 16 (xliv) quazepam;
 17 ~~(w)(xlv) temazepam;~~
 18 (xlvi) tetrazepam; and
 19 (xlvii) triazolam;
 20 ~~(3)(c) Penfluramine--Any a material, compound, mixture,~~
 21 ~~or preparation that--contains containing any quantity of the~~
 22 ~~following--substance fenfluramine, including its salts,~~
 23 ~~isomers (whether optical, position, or geometric), and salts~~
 24 ~~of such isomers whenever--the--existence--of--such--salts,~~
 25 ~~isomers, and salts of isomers is possible;~~

1 ~~(a)--fenfluramine;~~
 2 ~~(4)(d) Stimulants--Unless--specifically--excepted--or~~
 3 ~~listed--in--another--schedule,--any a material, compound,~~
 4 ~~mixture, or preparation that--contains containing any~~
 5 ~~quantity of the following substances having a stimulant~~
 6 ~~effect on the central nervous system, including its their~~
 7 ~~salts, isomers, and salts of isomers:~~
 8 ~~(a)(i) diethylpropion;~~
 9 ~~(b)(ii) mazindol;~~
 10 ~~(c)(iii) pemoline, (including organometallic complexes~~
 11 ~~and chelates thereof);~~
 12 ~~(d)(iv) phentermine;~~
 13 ~~(e)(v) pipradrol; and~~
 14 ~~(f)(vi) SPA ((-)-1-dimethylamino-1,2-diphenylethane);~~
 15 ~~and~~
 16 ~~(5)(e) Other--substances--Unless--specifically--excepted~~
 17 ~~or--listed--in--another--schedule,--any a material, compound,~~
 18 ~~mixture, or preparation that--contains containing any~~
 19 ~~quantity of the--following--substances pentazocine, including~~
 20 ~~its salts:~~
 21 ~~(a)--pentazocine.~~
 22 (2) The board may exempt by rule any compound, mixture,
 23 or preparation containing a depressant substance listed in
 24 subsection (1)(b) from the application of all or part of
 25 [sections 7 through 19 and 22 through 74] if the compound,

1 mixture, or preparation contains one or more active
 2 medicinal ingredients not having a depressant effect on the
 3 central nervous system and the admixtures are in
 4 combinations, quantity, proportion, or concentration that
 5 vitiates the potential for abuse of the substances having a
 6 depressant effect on the central nervous system."

7 **Section 58.** Section 50-32-231, MCA, is amended to read:

8 "50-32-231. Criteria--for-placement-of-drug-in Schedule
 9 V tests. (1) The board shall place add a drug--in substance
 10 to Schedule V if-it-finds upon finding that:

11 {1}(a) the drug substance has a low potential for abuse
 12 relative to the controlled--drugs substances listed in
 13 Schedule IV;

14 {2}(b) the drug substance has currently accepted
 15 medical use in treatment in the United States; and

16 {3}(c) the drug has abuse of the substance may lead to
 17 limited physical dependence or psychological dependence
 18 liability relative to the dangerous-drugs substances listed
 19 in Schedule IV.

20 (2) The board may add a substance to Schedule V without
 21 being required to make the findings required by subsection
 22 (1) if the substance is controlled under Schedule V of the
 23 federal Controlled Substances Act by a federal agency as the
 24 result of an international treaty, convention, or protocol."

25 **Section 59.** Section 50-32-232, MCA, is amended to read:

1 "50-32-232. Specific--dangerous---drugs---included---in
 2 Schedule V. Schedule--V--consists--of--the-drugs-and-other
 3 substances, by-whatever-official, common,--usual,--chemical,
 4 or--brand--name--designated,--listed-in-this-section. Unless
 5 specifically excepted by state or federal law or state or
 6 federal regulation or more specifically included in another
 7 schedule, the following controlled substances are listed in
 8 Schedule V:

9 (1) a material compound, mixture, or preparation
 10 containing buprenorphine and its salts;

11 (2) Narcotic---drugs---containing---nonnarcotic---active
 12 medicinal--ingredients;--Any a compound, mixture, or
 13 preparation containing any of the following narcotic drugs
 14 or its their salts calculated as the free anhydrous base or
 15 alkaloid in limited quantities, as set forth in-subsections
 16 {1}(a)--through--{1}(f) below, which--include that also
 17 contains one or more nonnarcotic, active medicinal
 18 ingredients in sufficient proportion to confer upon the
 19 compound, mixture, or preparation valuable medicinal
 20 qualities other than those possessed by narcotic drugs
 21 alone:

22 (a) not more than 200 milligrams of codeine per 100
 23 milliliters or per 100 grams;

24 (b) not more than 100 milligrams of dihydrocodeine per
 25 100 milliliters or per 100 grams;

1 (c) not more than 100 milligrams of ethylmorphine per
2 100 milliliters or per 100 grams;

3 (d) not more than 2.5 milligrams of diphenoxylate and
4 not less than 25 micrograms of atropine sulfate per dosage
5 unit;

6 (e) not more than 100 milligrams of opium per 100
7 milliliters or per 100 grams; and

8 (f) not more than 0.5 milligram of difenoxin and not
9 less than 25 micrograms of atropine sulfate per dosage
10 unit; and

11 ~~(2) --loperamide;~~

12 (3) a material, compound, mixture, or preparation
13 containing any quantity of the following substances having a
14 stimulant effect on the central nervous system, including
15 their salts, isomers, and salts of isomers:

16 (a) propylhexedrine; and

17 (b) pyrovalerone."

18 **NEW SECTION. Section 60.** Controlled substance analog
19 treated as Schedule I substance. A controlled substance
20 analog, to the extent intended for human consumption, must
21 be treated, for the purposes of [sections 7 through 19 and
22 22 through 74], as a substance included in Schedule I.
23 Within 10 days after the initiation of prosecution with
24 respect to a controlled substance analog by indictment or
25 information, the prosecutor shall notify the board of

1 information relevant to emergency scheduling as provided for
2 in 50-32-203(2). After final determination that the
3 controlled substance analog should not be scheduled, no
4 prosecution relating to that substance as a controlled
5 substance analog may be commenced or continued.

6 **NEW SECTION. Section 61.** Rules. The board may adopt
7 rules and charge reasonable fees relating to the
8 registration and control of the manufacture, distribution,
9 and dispensing of controlled substances in this state.

10 **Section 62.** Section 50-32-301, MCA, is amended to read:

11 ~~"50-32-301. Annual-----registration-----required-----for~~
12 ~~manufacturer,---distributor,---or---dispenser~~ Registration
13 requirements. (1) Every A person who manufactures,
14 distributes, or dispenses ~~any-dangerous-drug~~ a controlled
15 substance within this state or who proposes to engage in the
16 manufacture, distribution, or dispensing of a controlled
17 substance within this state must shall obtain annually a
18 registration issued by the department in accordance with
19 rules adopted by the board rules.

20 (2) Persons A person registered by the board under this
21 chapter to manufacture, distribute, dispense, or conduct
22 research with ~~dangerous--drugs~~ controlled substances may
23 possess, manufacture, distribute, dispense, or conduct
24 research with those drugs substances to the extent
25 authorized by their the registration and in conformity with

1 ~~the other provisions of this chapter."~~

2 **Section 63.** Section 50-32-302, MCA, is amended to read:

3 **"50-32-302. Exceptions to registration requirement.** The
4 following persons need not register and may lawfully possess
5 dangerous-drugs controlled substances under this chapter:

6 (1) an agent or employee of any a registered
7 manufacturer, distributor, or dispenser of any-dangerous
8 drug a controlled substance if he the agent or employee is
9 acting in the usual course of his business or employment;

10 (2) a common or contract carrier or warehouseman or an
11 employee thereof, whose possession of any-dangerous--drug a
12 controlled substance is in the usual course of business or
13 employment; and

14 (3) an ultimate user or a person in possession of any
15 dangerous--drug a controlled substance pursuant to a lawful
16 order of a practitioner or in lawful possession of a
17 substance included in Schedule V drug;

18 ~~{4}--officers--and-employees-of-the-state-or-a-political~~
19 ~~subdivision-of-the-state,while--acting--in--the--course--of~~
20 ~~their-official-duties."~~

21 **Section 64.** Section 50-32-305, MCA, is amended to read:

22 **"50-32-305. Separate registration required.** A separate
23 registration is required at for each principal place of
24 business or professional practice where the applicant
25 manufactures, distributes, or dispenses dangerous--drugs

1 controlled substances."

2 **Section 65.** Section 50-32-306, MCA, is amended to read:

3 **"50-32-306. Criteria-for-registration-of--manufacturers**
4 **and--distributors Registration.** (1) The board shall register
5 an applicant to manufacture or distribute dangerous--drugs
6 substances included in 50-32-2227--50-32-2247--50-32-2267
7 50-32-2297-and-50-32-232 Schedules I through V unless it the
8 board determines that the issuance of that the registration
9 would be inconsistent with the public interest.

10 (2) In determining the public interest, the board shall
11 consider the following factors:

12 (a) maintenance of effective controls against diversion
13 of dangerous-drugs controlled substances into other than
14 legitimate medical, scientific, research, or industrial
15 channels;

16 (b) compliance with applicable state and local law;

17 (c) promotion of technical advances in the art of
18 manufacturing controlled substances and the development of
19 new substances;

20 (d) any convictions of the applicant under any federal
21 and state laws relating to any-dangerous-drug a controlled
22 substance;

23 (d)(e) past experience of the applicant in the
24 manufacture or distribution of dangerous--drugs controlled
25 substances and the existence in the applicant's

1 establishment of effective controls against diversion of
2 controlled substances into other than legitimate medical,
3 scientific, research, or industrial channels;

4 ~~(e)~~(f) furnishing by the applicant of false or
5 fraudulent material in any an application filed under this
6 chapter;

7 ~~(f)~~(g) suspension or revocation of the applicant's
8 federal registration or the applicant's registration in
9 another state to manufacture, distribute, or dispense
10 ~~dangerous--drugs~~ controlled substances as authorized by
11 federal law; and

12 ~~(g)~~(h) any other factors relevant to and consistent
13 with the public health and safety.

14 (3) ~~Compliance--by--manufacturers-and-distributors-with~~
15 ~~the-provisions-of-the-federal--law--respecting--registration~~
16 ~~(excluding--fees)--entities-them-to-be-registered-under-this~~
17 ~~chapter. A manufacturer or distributor registered under the~~
18 federal Controlled Substances Act (21 U.S.C. 801, et seq.)
19 may submit a copy of the federal application as an
20 application for registration as a manufacturer or
21 distributor under this section. The board may require a
22 manufacturer or distributor to submit information in
23 addition to the application for registration under the
24 federal act."

25 **Section 66.** Section 50-32-307, MCA, is amended to read:

1 "50-32-307. Manufacture and distribution limited by
2 registration. Registration under 50-32-306 ~~does-not-entitle~~
3 entitles a registrant to manufacture and distribute
4 ~~dangerous--drugs~~ a substance included in Schedule I or II
5 ~~other--than--those~~ only if it is specified in the
6 registration."

7 **Section 67.** Section 50-32-308, MCA, is amended to read:

8 "50-32-308. Criteria for registration of practitioners.
9 (1) ~~Practitioners--shall~~ A practitioner must be registered
10 with the board to dispense ~~any-dangerous-drugs~~ a controlled
11 substance or to conduct research with ~~dangerous--drugs~~
12 respect to a controlled substance included in Schedules II
13 through V ~~if-they-are--authorized--to--dispense--or--conduct~~
14 ~~research--under--the--laws-of-this-state.~~ The board need not
15 require separate registration for practitioners engaging in
16 research with nonnarcotic ~~dangerous--drugs~~ substances
17 included in Schedules II through V where if the registrant
18 is already registered under this chapter in another
19 capacity.

20 (2) ~~Practitioners~~ A practitioner registered under
21 federal law to conduct research with a substance included in
22 Schedule I ~~drugs~~ may conduct research with ~~Schedule-I-drugs~~
23 within the substance in this state upon furnishing the board
24 evidence of that the federal registration."

25 **Section 68.** Section 50-32-309, MCA, is amended to read:

1 "50-32-309. Registrants---to---maintain---records---and
 2 inventories Records of registrants. Persons A person
 3 registered to manufacture, distribute, or dispense dangerous
 4 drugs controlled substances under this chapter shall keep
 5 records and maintain inventories in conformance compliance
 6 with the--record--keeping--and--inventory--requirements--of
 7 federal law and with--any--additional rules adopted by the
 8 board issues."

9 **Section 69.** Section 50-32-310, MCA, is amended to read:

10 "50-32-310. Inspections authorized. The board may have
 11 inspect the establishment of a registrant or applicant for
 12 registration inspected in accordance with rules adopted by
 13 the board."

14 **Section 70.** Section 50-32-311, MCA, is amended to read:

15 "50-32-311. Revocation or suspension of registration.

16 (1) A registration under 50-32-301 to manufacture,
 17 distribute, or dispense a dangerous--drug controlled
 18 substance may be suspended or revoked by the board upon a
 19 finding that the registrant has:

20 (a) furnished false or fraudulent material information
 21 in any an application filed under this chapter;

22 (b) been convicted of a felony under any a state or
 23 federal law relating to any-dangerous-drug-or a controlled
 24 substance; or

25 (c) had his the registrant's federal registration

1 suspended or revoked and is no longer authorized by federal
 2 law to manufacture, distribute, or dispense controlled
 3 substances; or

4 (d) committed an act that would render registration
 5 under 50-32-306 inconsistent with the public interest as
 6 determined under that section.

7 (2) The board may limit revocation or suspension of a
 8 registration to the particular dangerous-drug controlled
 9 substance with respect to which grounds for revocation or
 10 suspension exist.

11 (3) If the board suspends or revokes a registration,
 12 all dangerous-drugs controlled substances owned or possessed
 13 by the registrant at the time of suspension or of the
 14 effective date of the revocation order may be placed under
 15 seal. No disposition may be made of drugs substances under
 16 seal until the time for taking an appeal has elapsed or
 17 until all appeals have been concluded unless a court, upon
 18 application therefor, orders the sale of perishable drugs
 19 substances and the deposit of the proceeds of the sale with
 20 the court. Upon When a revocation order becoming becomes
 21 final, all-dangerous-drugs-may the court may order that
 22 controlled substances be forfeited to the state.

23 (4) The board may seize or place under seal any
 24 controlled substance owned or possessed by a registrant
 25 whose registration has expired or who has ceased to practice

1 or do business in the manner permitted by the registration.
 2 The controlled substance must be held for the benefit of the
 3 registrant or the registrant's successor in interest. The
 4 board shall notify a registrant, or the registrant's
 5 successor in interest, whose controlled substance is seized
 6 or placed under seal of the procedures to be followed to
 7 secure the return of the controlled substance and the
 8 conditions under which it will be returned. The board may
 9 not dispose of a controlled substance seized or placed under
 10 seal under this subsection until the expiration of 180 days
 11 after the controlled substance was seized or placed under
 12 seal. Costs incurred by the board in seizing, placing under
 13 seal, maintaining custody, and disposing of any controlled
 14 substance under this subsection may be recovered from the
 15 registrant, from any proceeds obtained from the disposition
 16 of the controlled substance, or from both. The board shall
 17 pay to the registrant or the registrant's successor in
 18 interest any balance of the proceeds of any disposition.

19 {4}(5) The board shall promptly cause notify the bureau
 20 to-be-notified drug enforcement administration of all orders
 21 restricting, suspending, or revoking registration and of all
 22 forfeitures of dangerous-drugs controlled substances."

23 **Section 71.** Section 50-32-312, MCA, is amended to read:
 24 "50-32-312. Procedure-----for----denial;----suspension;
 25 revocation-of;--or-refusal-to--renew--registration Order to

1 show cause. (1) Before denying, suspending, or revoking, or
 2 refusing to renew a registration or-refusing--a--renewal--of
 3 registration, the board shall serve upon the applicant or
 4 registrant an order to show cause why registration should
 5 not be denied, suspended, or revoked;--or--suspended or why
 6 the renewal should-not-be refused. The order to--show--cause
 7 shall--contain--a-statement-of-the-basis-therefor must state
 8 its grounds and shall--require direct the applicant or
 9 registrant to appear before the board at a specified time
 10 and place not less than 30 days after the date of service of
 11 the order;--but-in In the case of a denial--of--renewal--of
 12 refusal to renew a registration, the show-cause order shall
 13 must be served not later than 30 days before the expiration
 14 of the registration. The proceedings must be conducted in
 15 accordance with contested case procedures as provided in
 16 Title 2, chapter 4, part 6. These The proceedings shall be
 17 conducted-without-regard-to do not preclude any criminal
 18 prosecution or other proceeding. Proceedings A proceeding to
 19 refuse renewal-of to renew a registration do does not abate
 20 affect the existing registration, which remains in effect
 21 pending--the--outcome--of--the--administrative-hearing until
 22 completion of the proceeding.

23 (2) The board may suspend, without an order to show
 24 cause, any a registration simultaneously with the
 25 institution of proceedings under 50-32-311 or whenever if

1 renewal of registration is refused ~~if-it-finds, upon finding~~
 2 that there is an imminent danger to the public health or
 3 safety which that warrants such the action. The suspension
 4 continues in effect until the conclusion of the proceedings,
 5 including judicial review thereof, unless sooner earlier
 6 withdrawn by the board or dissolved by a court of competent
 7 jurisdiction."

8 NEW SECTION. Section 72. Diversion prevention and
 9 control. (1) As used in this section, "diversion" means the
 10 transfer of a controlled substance from a lawful to an
 11 unlawful channel of distribution or use.

12 (2) The board shall regularly prepare and make
 13 available to other state regulatory, licensing, and law
 14 enforcement agencies a report on the patterns and trends of
 15 distribution, diversion, and abuse of controlled substances.

16 (3) The board shall enter into written agreements with
 17 local, state, and federal agencies to improve identification
 18 of sources of diversion and to improve enforcement of and
 19 compliance with [sections 7 through 19 and 22 through 74]
 20 and other laws and regulations pertaining to unlawful
 21 conduct involving controlled substances. An agreement must
 22 specify the roles and responsibilities of each agency that
 23 has information or authority to identify, prevent, or
 24 control drug diversion and drug abuse. The board shall hold
 25 periodic meetings to coordinate a state diversion prevention

1 and control program. The board shall arrange for cooperation
 2 and exchange of information among agencies and with other
 3 states and the federal government.

4 (4) The board shall report annually to the governor and
 5 to the presiding officer of each house of the legislature on
 6 the outcome of the program with respect to its effect on
 7 distribution and abuse of controlled substances, including
 8 recommendations for improving control and prevention of the
 9 diversion of controlled substances in this state.

10 NEW SECTION. Section 73. Uniformity of application and
 11 construction. [Sections 7 through 19 and 22 through 74] must
 12 be applied and construed to effectuate its general purpose
 13 to make uniform the law with respect to the subject of
 14 [sections 7 through 19 and 22 through 74] among states
 15 enacting it.

16 NEW SECTION. Section 74. Short title. [Sections 7
 17 through 19 and 22 through 74] may be cited as the "Uniform
 18 Controlled Substances Act".

19 **Section 75.** Section 50-32-401, MCA, is amended to read:

20 **"50-32-401. Report required for precursor to controlled**
 21 **substance.** (1) A manufacturer, wholesaler, retailer, or
 22 other person who sells, transfers, or otherwise furnishes
 23 any of the following substances to a person in this state
 24 must submit a report to the department of justice detailing
 25 all such transactions:

- 1 (a) phenyl-2-propanone;
 2 (b) methylamine;
 3 (c) d-lysergic acid;
 4 (d) ergotamine tartrate;
 5 (e) diethyl malonate;
 6 (f) malonic acid;
 7 (g) ethyl malonate;
 8 (h) barbituric acid; and
 9 (i) piperidine.

10 (2) The department of justice may adopt, amend, or
 11 repeal rules in accordance with the Montana Administrative
 12 Procedure Act that add or delete substances to the list of
 13 regulated substances detailed in subsection (1), if the
 14 substance is a precursor to a dangerous-drug controlled
 15 substance as defined in 50-32-101.

16 (3) This section does not apply to any of the
 17 following:

- 18 (a) a pharmacist or other authorized person who sells
 19 or furnishes the substance upon the prescription of a
 20 physician, dentist, podiatrist, or veterinarian;
 21 (b) a physician, dentist, podiatrist, or veterinarian
 22 who administers or furnishes the substance to his patients;
 23 (c) a manufacturer or wholesaler licensed by the board
 24 of pharmacy who sells, transfers, or otherwise furnishes the
 25 substance to a licensed pharmacist, physician, dentist,

1 podiatrist, or veterinarian;

2 (d) transfers of the substances listed in subsection
 3 (1) within any college or university to an employee or
 4 student of the college or university for the purpose of
 5 teaching or research authorized by the college or
 6 university."

7 **Section 76.** Section 77-6-210, MCA, is amended to read:

8 **"77-6-210. Cancellation of leases.** (1) The department
 9 may cancel a lease for any of the following causes:

10 (a) fraud, misrepresentation, or concealment of facts
 11 relating to its issue, which if known would have prevented
 12 its issue in the form or to the party issued;

13 (b) subleasing state land contrary to the provisions of
 14 77-6-212;

15 (c) using the land for other purposes than those
 16 authorized by the lease;

17 (d) conviction of the lessee for a felony offense
 18 involving a dangerous-drug controlled substance, as defined
 19 in Title 50, chapter 32, and involving the planting,
 20 propagating, cultivating, growing, harvesting,
 21 manufacturing, compounding, converting, producing,
 22 processing, preparing, testing, analyzing, packaging,
 23 repackaging, storing, or concealing of a dangerous--drug
 24 controlled substance on any portion of the unit; however,
 25 when a state land lease is held by an association, company,

1 or corporation, conviction of a member of the association,
 2 company, or corporation under this subsection does not
 3 result in cancellation of the lease unless it appears that
 4 the operator, manager, or family in control of the
 5 association, company, or corporation is a consenting party
 6 or privy to the violation of this subsection;

7 (e) for any other cause which in the judgment of the
 8 department makes the cancellation of the lease necessary in
 9 order to do justice to all parties concerned and to protect
 10 the interests of the state.

11 (2) Cancellation of a lease under this section does not
 12 entitle the lessee to any refund of rentals paid or
 13 exemption from the payment of any rentals, penalties, or
 14 other compensation due the state."

15 **Section 77.** Section 77-6-212, MCA, is amended to read:

16 "77-6-212. Loss of preference right -- cancellation of
 17 lease -- subleasing -- pasturing agreements. (1) Except as
 18 provided in subsections (3) and (4), a lessee of state land
 19 classed as agricultural or grazing land may not exercise the
 20 preference right provided in 77-6-205 if he subleases the
 21 land for more than 2 years in the term of the lease.

22 (2) The department shall cancel a lease of state
 23 agricultural or grazing land if the lessee subleases the
 24 land for more than 3 years during the term of the lease,
 25 unless the sublease is made between members of a family as

1 provided in subsection (3).

2 (3) A lessee under subsection (1) or (2) may sublease
 3 the land for a period of not more than 5 years without
 4 losing the preference right or the lease to state land if,
 5 during the term of the lease, the land is subleased only to
 6 a spouse, son, daughter, adopted child, or sibling of the
 7 lessee.

8 (4) The lessee does not lose the preference right or
 9 right to lease because of subleasing as provided under this
 10 section if:

11 (a) the sublease is one-third or less acres of the
 12 lease; or

13 (b) the sublease is considered to be a pasturing
 14 agreement and is approved in writing by the department prior
 15 to the initiation of the agreement.

16 (5) For purposes of this section, a sublease may not be
 17 considered a pasturing agreement unless the lessee
 18 personally retains management and physical control of the
 19 land and livestock. "Management" means but is not limited
 20 to:

21 (a) providing all costs for improvements, land
 22 maintenance, and range renovation, if range renovation is
 23 approved by the department;

24 (b) making all decisions regarding rotation or other
 25 placement of livestock on state land;

1 (c) making all decisions regarding turn-in and turn-out
2 dates of the livestock on state land; and

3 (d) making all decisions regarding proper range
4 management, including placement of water, fencing, and salt.

5 (6) A lessee of state land classified as agricultural
6 or grazing land shall lose the preference right provided in
7 77-6-205 upon conviction of a felony offense involving a
8 dangerous-drug controlled substance, as defined in Title 50,
9 chapter 32, and involving the planting, propagating,
10 cultivating, growing, harvesting, manufacturing,
11 compounding, converting, producing, processing, preparing,
12 testing, analyzing, packaging, repackaging, storing, or
13 concealing of a dangerous-drug controlled substance on any
14 portion of the unit. When a state land lease is held by an
15 association, company, or corporation, conviction of a member
16 of the association, company, or corporation under this
17 subsection does not result in loss of lease preference
18 unless it appears that the operator, manager, or family in
19 control of the association, company, or corporation is a
20 consenting party or privy to the violation of this
21 subsection."

22 NEW SECTION. Section 78. Repealer. Sections 45-9-107,
23 45-9-108, 45-9-111, 45-9-113, 50-32-102, 50-32-103,
24 50-32-104, 50-32-204, 50-32-205, 50-32-227, and 50-32-230,
25 MCA, are repealed.

1 NEW SECTION. Section 79. Prospective application.

2 [This act] applies to violations of law, seizures and
3 forfeitures, injunctive proceedings, administrative
4 proceedings, and investigations that occur on or after
5 October 1, 1991.

6 NEW SECTION. Section 80. Pending proceedings. (1)

7 [This act] does not affect or abate a prosecution for a
8 violation of law occurring before October 1, 1991. If the
9 offense being prosecuted is similar to one set out in Title
10 45, chapter 9, part 1, the penalties under [this act] apply
11 if they are less than those under the former law.

12 (2) [This act] does not affect a civil seizure,
13 forfeiture, or injunctive proceeding commenced before
14 October 1, 1991.

15 (3) An administrative proceeding pending under laws
16 that are superseded by [this act] must be continued and
17 brought to a final determination in accordance with the laws
18 and rules in effect before October 1, 1991. A substance
19 controlled under superseded law but that is not listed in
20 [this act] is automatically controlled without further
21 proceedings and must be added in the appropriate schedule.

22 (4) The board of pharmacy shall initially permit a
23 person to register who owns or operates an establishment
24 engaged in the manufacture, distribution, or dispensing of a
25 controlled substance before October 1, 1991, and who is

1 registered or licensed by the state.

2 NEW SECTION. Section 81. Continuation of rules --
3 application to existing relationships. Orders issued and
4 rules adopted under any law affected by [this act] and in
5 effect on October 1, 1991, and not in conflict with [this
6 act] continue in effect until modified, superseded, or
7 repealed. Rights and duties that matured, penalties that
8 were incurred, and proceedings that were begun before
9 October 1, 1991, continue in effect and are not affected by
10 [section 82].

11 NEW SECTION. Section 82. Severability. If a part of
12 [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this
14 act] is invalid in one or more of its applications, the part
15 remains in effect in all valid applications that are
16 severable from the invalid applications.

17 NEW SECTION. Section 83. Codification instruction --
18 code commissioner instructions. (1) [Sections 17, 18, 22
19 through 39, 60, 61, and 72 through 74] are intended to be
20 codified as an integral part of Title 45, chapter 9, and the
21 provisions of Title 45, chapter 9, apply to [sections 17,
22 18, 22 through 39, 60, 61, and 72 through 74].

23 (2) The code commissioner shall renumber Title 50,
24 chapter 32, as an integral part of Title 45, chapter 9, in
25 order to conform to the Uniform Controlled Substances Act.

1 The code commissioner shall correct internal references to
2 reflect the rearrangement of the current provisions of Title
3 45, chapter 9, and the incorporation of Title 50, chapter
4 32.

5 (3) In 37-29-311, 41-3-609, 41-5-103, and wherever it
6 appears in legislation enacted by the 52nd legislature other
7 than Title 15, chapter 25, part 1, the code commissioner
8 shall substitute references to controlled substance for
9 references to dangerous drug.

-End-

1 SENATE BILL NO. 300

2 INTRODUCED BY PINSONEAULT, J. RICE, MAZUREK, B. BROWN,
3 NATHE, MERCER, VAN VALKENBURG
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS GOVERNING DANGEROUS DRUGS TO CONFORM TO THE UNIFORM
7 CONTROLLED SUBSTANCES ACT; UPDATING THE SCHEDULES OF
8 CONTROLLED SUBSTANCES; REVISING THE REGULATION OF THE
9 MANUFACTURE AND DISTRIBUTION OF CONTROLLED SUBSTANCES;
10 CREATING CRIMINAL PENALTIES FOR VIOLATING PROVISIONS
11 REGULATING THE MANUFACTURE AND DISTRIBUTION OF CONTROLLED
12 SUBSTANCES; INCREASING CRIMINAL PENALTIES FOR VIOLATIONS
13 INVOLVING MINORS OR OCCURRING NEAR A SCHOOL; CREATING THE
14 OFFENSE OF MONEY LAUNDERING; PROVIDING AN APPROPRIATION OF
15 AN ASSESSMENT FOR VIOLATION OF CONTROLLED SUBSTANCES LAWS
16 FOR FUNDING EDUCATION AND TREATMENT PROGRAMS; AUTHORIZING
17 CIVIL ACTIONS FOR VIOLATIONS OF CONTROLLED SUBSTANCES LAWS
18 AND CONTINUING CRIMINAL ENTERPRISES INVOLVING CONTROLLED
19 SUBSTANCES; AMENDING SECTIONS 15-25-102, 15-25-111,
20 17-7-502, 37-20-404, 41-5-206, 45-7-307, 45-9-101, 45-9-102,
21 45-9-103, 45-9-104, 45-9-105, 45-9-106, 45-9-112, 45-9-114,
22 45-9-115, 45-9-116, 45-9-202, 45-10-101, 45-10-107,
23 50-32-101, 50-32-105, 50-32-106, 50-32-201, 50-32-202,
24 50-32-203, 50-32-206, 50-32-207, 50-32-208, 50-32-209,
25 50-32-221, 50-32-222, 50-32-223, 50-32-224, 50-32-225,

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.