

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 122

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO HEMP; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 22, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE A TERM, TO PROVIDE FOR RESEARCH AND PRODUCTION OF HEMP, AND TO PROVIDE FOR THE REGULATION OF HEMP; AMENDING SECTION 37-2701, IDAHO CODE, TO REVISE A DEFINITION AND TO DEFINE A TERM; AMENDING SECTION 37-2705, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR CERTAIN HEMP REGARDING TETRAHYDROCANNABINOLS; AND AMENDING SECTION 37-2732, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 22, Idaho Code, and to read as follows:

CHAPTER 17

HEMP RESEARCH AND DEVELOPMENT ACT

22-1701. SHORT TITLE. This act shall be known and may be cited as the "Hemp Research and Development Act."

22-1702. LEGISLATIVE INTENT. (1) It is the policy of this state to allow and encourage the development and research of hemp in Idaho. The legislature finds that the Cannabis sativa L. plant used for the production of hemp is separate and distinct from the forms of cannabis used to produce marijuana. Section 10113 of the farm bill of 2018 has removed hemp from schedule I of the federal controlled substances act and eliminated other barriers at the federal level to hemp research and development.

(2) Hemp is used in products such as building materials, cordage, fiber, food, floor coverings, fuel, paint, animal feed, paper, particle board, plastics, seed meal, cosmetics, seed, and yarn. The university of Idaho, in fulfillment of its land grant mission, leads the nation in many areas of agricultural research and is encouraged to research and study this burgeoning field. Hemp has the potential to be an alternate crop in Idaho's thriving agricultural economy. A growing hemp industry also has the potential to create jobs in production, processing, and research, and Idahoans will benefit from numerous consumer products made from hemp.

22-1703. DEFINITION. As used in this chapter, "hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

1 22-1704. RESEARCH AND PRODUCTION OF HEMP. Subject to the provisions of
 2 this chapter, any person, including institutions of higher education, may
 3 plant, grow, cultivate, harvest, sample, test, research, process, trans-
 4 port, transfer, take possession of, sell, import, and export hemp in this
 5 state to the greatest extent allowed under federal law.

6 22-1705. REGULATION OF HEMP. (1) The Idaho state department of agri-
 7 culture may promulgate rules regulating the activities permitted in this
 8 chapter, provided that those activities be regulated only to the extent re-
 9 quired under federal law, and in a manner that allows the people of this state
 10 to have the greatest possible opportunity to engage in those activities.

11 (2) The director of the Idaho state department of agriculture will ad-
 12 vise the legislature when, in the director's opinion, there is sufficient
 13 need for the establishment of an independent board to regulate hemp in this
 14 state.

15 SECTION 2. That Section 37-2701, Idaho Code, be, and the same is hereby
 16 amended to read as follows:

17 37-2701. DEFINITIONS. As used in this chapter:

18 (a) "Administer" means the direct application of a controlled sub-
 19 stance whether by injection, inhalation, ingestion, or any other means, to
 20 the body of a patient or research subject by:

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

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

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

28 (c) "Board" means the state board of pharmacy created in chapter 17, ti-
 29 tle 54, Idaho Code, or its successor agency.

30 (d) "Bureau" means the drug enforcement administration, United States
 31 department of justice, or its successor agency.

32 (e) "Controlled substance" means a drug, substance or immediate pre-
 33 cursor in schedules I through VI of article II of this chapter.

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

39 (g) "Deliver" or "delivery" means the actual, constructive, or at-
 40 tempted transfer from one (1) person to another of a controlled substance,
 41 whether or not there is an agency relationship.

42 (h) "Director" means the director of the Idaho state police.

43 (i) "Dispense" means to deliver a controlled substance to an ultimate
 44 user or research subject by or pursuant to the lawful order of a practi-
 45 tioner, including the packaging, labeling, or compounding necessary to
 46 prepare the substance for that delivery.

47 (j) "Dispenser" means a practitioner who dispenses.

1 (k) "Distribute" means to deliver other than by administering or dis-
2 pensing a controlled substance.

3 (l) "Distributor" means a person who distributes.

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

13 (n) "Drug paraphernalia" means all equipment, products and materi-
14 als of any kind which are used, intended for use, or designed for use, in
15 planting, propagating, cultivating, growing, harvesting, manufactur-
16 ing, compounding, converting, producing, processing, preparing, testing,
17 analyzing, packaging, repackaging, storing, containing, concealing, in-
18 jecting, ingesting, inhaling, or otherwise introducing into the human body
19 a controlled substance in violation of this chapter. It includes, but is not
20 limited to:

21 (1) Kits used, intended for use, or designed for use in planting, prop-
22 agating, cultivating, growing or harvesting of any species of plant
23 which is a controlled substance or from which a controlled substance can
24 be derived;

25 (2) Kits used, intended for use, or designed for use in manufacturing,
26 compounding, converting, producing, processing or preparing con-
27 trolled substances;

28 (3) Isomerization devices used, intended for use, or designed for use
29 in increasing the potency of any species of plant which is a controlled
30 substance;

31 (4) Testing equipment used, intended for use, or designed for use in
32 identifying, or in analyzing the strength, effectiveness or purity of
33 controlled substances;

34 (5) Scales and balances used, intended for use, or designed for use in
35 weighing or measuring controlled substances;

36 (6) Diluents and adulterants, such as quinine hydrochloride, mannitol,
37 mannite, dextrose and lactose, used, intended for use, or designed for
38 use in cutting controlled substances;

39 (7) Separation gins and sifters used, intended for use, or designed for
40 use in removing twigs and seeds from, or in otherwise cleaning or refin-
41 ing, marijuana;

42 (8) Blenders, bowls, containers, spoons and mixing devices used,
43 intended for use, or designed for use in compounding controlled sub-
44 stances;

45 (9) Capsules, balloons, envelopes and other containers used, intended
46 for use, or designed for use in packaging small quantities of controlled
47 substances;

48 (10) Containers and other objects used, intended for use, or designed
49 for use in storing or concealing controlled substances;

1 (11) Hypodermic syringes, needles and other objects used, intended
 2 for use, or designed for use in parenterally injecting controlled sub-
 3 stances into the human body;

4 (12) Objects used, intended for use, or designed for use in ingesting,
 5 inhaling, or otherwise introducing marijuana, cocaine, hashish, or
 6 hashish oil into the human body, such as:

7 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
 8 pipes with or without screens, permanent screens, hashish heads,
 9 or punctured metal bowls;

10 (ii) Water pipes;

11 (iii) Carburetion tubes and devices;

12 (iv) Smoking and carburetion masks;

13 (v) Roach clips: meaning objects used to hold burning material,
 14 such as a marijuana cigarette, that has become too small or too
 15 short to be held in the hand;

16 (vi) Miniature cocaine spoons, and cocaine vials;

17 (vii) Chamber pipes;

18 (viii) Carburetor pipes;

19 (ix) Electric pipes;

20 (x) Air-driven pipes;

21 (xi) Chillums;

22 (xii) Bongs;

23 (xiii) Ice pipes or chillers;

24 In determining whether an object is drug paraphernalia, a court or other
 25 authority should consider, in addition to all other logically relevant fac-
 26 tors, the following:

27 1. Statements by an owner or by anyone in control of the object concern-
 28 ing its use;

29 2. Prior convictions, if any, of an owner, or of anyone in control of the
 30 object, under any state or federal law relating to any controlled sub-
 31 stance;

32 3. The proximity of the object, in time and space, to a direct violation
 33 of this chapter;

34 4. The proximity of the object to controlled substances;

35 5. The existence of any residue of controlled substances on the object;

36 6. Direct or circumstantial evidence of the intent of an owner, or of
 37 anyone in control of the object, to deliver it to persons whom he knows,
 38 or should reasonably know, intend to use the object to facilitate a vi-
 39 olation of this chapter; the innocence of an owner, or of anyone in con-
 40 trol of the object, as to a direct violation of this chapter shall not
 41 prevent a finding that the object is intended for use, or designed for
 42 use as drug paraphernalia;

43 7. Instructions, oral or written, provided with the object concerning
 44 its use;

45 8. Descriptive materials accompanying the object which explain or de-
 46 pict its use;

47 9. National and local advertising concerning its use;

48 10. The manner in which the object is displayed for sale;

1 11. Whether the owner, or anyone in control of the object, is a legit-
 2 imate supplier of like or related items to the community, such as a li-
 3 censed distributor or dealer of tobacco products;

4 12. Direct or circumstantial evidence of the ratio of sales of the ob-
 5 ject(s) to the total sales of the business enterprise;

6 13. The existence and scope of legitimate uses for the object in the com-
 7 munity;

8 14. Expert testimony concerning its use.

9 (o) "Financial institution" means any bank, trust company, savings and
 10 loan association, savings bank, mutual savings bank, credit union, or loan
 11 company under the jurisdiction of the state or under the jurisdiction of an
 12 agency of the United States.

13 (p) "Hemp" means the plant *Cannabis sativa* L. and any part of that
 14 plant, including the seeds thereof and all derivatives, extracts, cannabi-
 15 noids, isomers, acids, salts, and salts of isomers, whether growing or
 16 not, with a delta-9 tetrahydrocannabinol concentration of not more than
 17 three-tenths of one percent (0.3%) on a dry weight basis, the research and
 18 development of which, among other activities, are expressly authorized by
 19 chapter 17, title 22, Idaho Code.

20 (q) "Immediate precursor" means a substance which the board has found
 21 to be and by rule designates as being the principal compound commonly used or
 22 produced primarily for use, and which is an immediate chemical intermediary
 23 used or likely to be used in the manufacture of a controlled substance, the
 24 control of which is necessary to prevent, curtail or limit manufacture.

25 (r) "Isomer" means the optical isomer, except as used in section
 26 37-2705(d), Idaho Code.

27 (s) "Law enforcement agency" means a governmental unit of one (1) or
 28 more persons employed full-time or part-time by the state or a political sub-
 29 division of the state for the purpose of preventing and detecting crime and
 30 enforcing state laws or local ordinances, employees of which unit are autho-
 31 rized to make arrests for crimes while acting within the scope of their au-
 32 thority.

33 (t) "Manufacture" means the production, preparation, propagation,
 34 compounding, conversion or processing of a controlled substance, and in-
 35 cludes extraction, directly or indirectly, from substances of natural
 36 origin, or independently by means of chemical synthesis, or by a combina-
 37 tion of extraction and chemical synthesis, and includes any packaging or
 38 repackaging of the substance or labeling or relabeling of its container,
 39 except that this term does not include the preparation or compounding of a
 40 controlled substance:

41 (1) By a practitioner as an incident to his administering, dispensing
 42 or, as authorized by board rule, distributing of a controlled substance
 43 in the course of his professional practice; or

44 (2) By a practitioner, or by his authorized agent under his supervi-
 45 sion, for the purpose of, or as an incident to, research, teaching, or
 46 chemical analysis and not for delivery.

47 (u) "Marijuana" means all parts of the plant of the genus *Cannabis*,
 48 regardless of species, and whether growing or not; the seeds thereof; the
 49 resin extracted from any part of such plant; and every compound, manufac-
 50 ture, salt, derivative, mixture, or preparation of such plant, its seeds or

resin. It does not include hemp or the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains more than three-tenths of one percent (0.3%) of any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein.

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

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

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

(3) Opium poppy and poppy straw.

(4) 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 substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(~~w~~x) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 37-2702, Idaho Code, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(~~w~~x) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(~~x~~y) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including, but not limited to, a duly appointed investigator or agent of the Idaho state police, an officer or employee of the board of pharmacy, who is authorized by the board to enforce this chapter, an officer of the Idaho state police, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

(~~y~~z) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(z~~a~~a) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(a~~a~~b~~b~~) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distrib-

1 ute, dispense, conduct research with respect to or to administer a
2 controlled substance in the course of his professional practice or re-
3 search in this state;

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

8 ~~(b)(cc)~~ "Prescribe" means a direction or authorization permitting an ul-
9 timate user to lawfully obtain or be administered controlled substances.

10 ~~(e)(dd)~~ "Prescriber" means an individual currently licensed, reg-
11 istered or otherwise authorized to prescribe and administer controlled
12 substances in the course of professional practice.

13 ~~(d)(ee)~~ "Production" includes the manufacture, planting, cultivation,
14 growing, or harvesting of a controlled substance.

15 ~~(e)(ff)~~ "Simulated controlled substance" means a substance that is not a
16 controlled substance, but which by appearance or representation would lead
17 a reasonable person to believe that the substance is a controlled substance.
18 Appearance includes, but is not limited to, color, shape, size, and markings
19 of the dosage unit. Representation includes, but is not limited to, repre-
20 sentations or factors of the following nature:

21 (1) Statements made by an owner or by anyone else in control of the sub-
22 stance concerning the nature of the substance, or its use or effect;

23 (2) Statements made to the recipient that the substance may be resold
24 for inordinate profit; or

25 (3) Whether the substance is packaged in a manner normally used for il-
26 licit controlled substances.

27 ~~(f)(gg)~~ "State," when applied to a part of the United States, includes
28 any state, district, commonwealth, territory, insular possession thereof,
29 and any area subject to the legal authority of the United States of America.

30 ~~(g)(hh)~~ "Ultimate user" means a person who lawfully possesses a con-
31 trolled substance for his own use or for the use of a member of his household
32 or for administering to an animal owned by him or by a member of his house-
33 hold.

34 ~~(h)(ii)~~ "Utility" means any person, association, partnership or cor-
35 poration providing telephone and/or communication services, electricity,
36 natural gas or water to the public.

37 SECTION 3. That Section 37-2705, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 37-2705. SCHEDULE I. (a) The controlled substances listed in this sec-
40 tion are included in schedule I.

41 (b) Any of the following opiates, including their isomers, esters,
42 ethers, salts, and salts of isomers, esters, and ethers, unless specifically
43 excepted, whenever the existence of these isomers, esters, ethers and salts
44 is possible within the specific chemical designation:

45 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-pip-
46 eridinyl]-N-phenylacetamide);

47 (2) Acetylmethadol;

48 (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylac-
49 etamide);

- 1 (4) Allylprodine;
- 2 (5) Alphacetylmethadol (except levo-alphacetylmethadol also known as
- 3 levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
- 4 (6) Alphameprodine;
- 5 (7) Alphamethadol;
- 6 (8) Alpha-methylfentanyl;
- 7 (9) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-pip-
- 8 eridiny]-N-phenylpropanamide);
- 9 (10) Benzethidine;
- 10 (11) Betacetylmethadol;
- 11 (12) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperid-
- 12 inyl]-N-phenylpropanamide);
- 13 (13) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-
- 14 methyl-4-piperidiny)-N-phenylpropanamide);
- 15 (14) Betameprodine;
- 16 (15) Betamethadol;
- 17 (16) Betaprodine;
- 18 (17) Clonitazene;
- 19 (18) Dextromoramide;
- 20 (19) Diampromide;
- 21 (20) Diethylthiambutene;
- 22 (21) Difenoxin;
- 23 (22) Dimenoxadol;
- 24 (23) Dimepheptanol;
- 25 (24) Dimethylthiambutene;
- 26 (25) Dioxaphetyl butyrate;
- 27 (26) Dipipanone;
- 28 (27) Ethylmethylthiambutene;
- 29 (28) Etonitazene;
- 30 (29) Etoxeridine;
- 31 (30) Furethidine;
- 32 (31) Hydroxypethidine;
- 33 (32) Ketobemidone;
- 34 (33) Levomoramide;
- 35 (34) Levophenacylmorphane;
- 36 (35) 3-Methylfentanyl;
- 37 (36) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-pip-
- 38 eridiny]-N-phenylpropanamide);
- 39 (37) Morpheridine;
- 40 (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 41 (39) Noracymethadol;
- 42 (40) Norlevorphanol;
- 43 (41) Normethadone;
- 44 (42) Norpipanone;
- 45 (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-
- 46 piperidiny] propanamide);
- 47 (44) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 48 (45) Phenadoxone;
- 49 (46) Phenampromide;
- 50 (47) Phenomorphan;

- 1 (48) Phenoperidine;
- 2 (49) Piritramide;
- 3 (50) Proheptazine;
- 4 (51) Properidine;
- 5 (52) Propiram;
- 6 (53) Racemoramide;
- 7 (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-
- 8 propanamide);
- 9 (55) Tilidine;
- 10 (56) Trimeperidine;
- 11 (57) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-
- 12 methylbenzamide).

13 (c) Any of the following opium derivatives, their salts, isomers and
 14 salts of isomers, unless specifically excepted, whenever the existence of
 15 these salts, isomers and salts of isomers is possible within the specific
 16 chemical designation:

- 17 (1) Acetorphine;
- 18 (2) Acetyldihydrocodeine;
- 19 (3) Benzylmorphine;
- 20 (4) Codeine methylbromide;
- 21 (5) Codeine-N-Oxide;
- 22 (6) Cyprenorphine;
- 23 (7) Desomorphine;
- 24 (8) Dihydromorphine;
- 25 (9) Drotebanol;
- 26 (10) Etorphine (except hydrochloride salt);
- 27 (11) Heroin;
- 28 (12) Hydromorphenol;
- 29 (13) Methyldesorphine;
- 30 (14) Methyldihydromorphine;
- 31 (15) Morphine methylbromide;
- 32 (16) Morphine methylsulfonate;
- 33 (17) Morphine-N-Oxide;
- 34 (18) Myrophine;
- 35 (19) Nicocodeine;
- 36 (20) Nicomorphine;
- 37 (21) Normorphine;
- 38 (22) Pholcodine;
- 39 (23) Thebacon.

40 (d) Hallucinogenic substances. Any material, compound, mixture or
 41 preparation which contains any quantity of the following hallucinogenic
 42 substances, their salts, isomers and salts of isomers, unless specifically
 43 excepted, whenever the existence of these salts, isomers, and salts of iso-
 44 mers is possible within the specific chemical designation (for purposes of
 45 this paragraph only, the term "isomer" includes the optical, position and
 46 geometric isomers):

- 47 (1) Dimethoxyphenethylamine, or any compound not specifically
- 48 excepted or listed in another schedule that can be formed from
- 49 dimethoxyphenethylamine by replacement of one (1) or more hydrogen
- 50 atoms with another atom(s), functional group(s) or substructure(s)

including, but not limited to, compounds such as DOB, DOC, 2C-B, 25B-NBOMe;

(2) Methoxyamphetamine or any compound not specifically excepted or listed in another schedule that can be formed from methoxyamphetamine by replacement of one (1) or more hydrogen atoms with another atom(s), functional group(s) or substructure(s) including, but not limited to, compounds such as PMA and DOM;

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

(4) 5-methoxy-N,N-diisopropyltryptamine;

(5) Amphetamine or methamphetamine with a halogen substitution on the benzyl ring, including compounds such as fluorinated amphetamine and fluorinated methamphetamine;

(6) 3,4-methylenedioxy amphetamine;

(7) 3,4-methylenedioxymethamphetamine (MDMA);

(8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-ethyl MDA, MDE, MDEA);

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

(10) 3,4,5-trimethoxy amphetamine;

(11) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[(dimethylamino)ethyl]indole and 5-MeO-DMT);

(12) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-aminoethyl) indole);

(13) Alpha-methyltryptamine;

(14) Bufotenine;

(15) Diethyltryptamine (DET);

(16) Dimethyltryptamine (DMT);

(17) Ibogaine;

(18) Lysergic acid diethylamide;

(19) Marihuana;

(20) Mescaline;

(21) Parahexyl;

(22) Peyote;

(23) N-ethyl-3-piperidyl benzilate;

(24) N-methyl-3-piperidyl benzilate;

(25) Psilocybin;

(26) Psilocyn;

(27) Tetrahydrocannabinols, except in hemp with no more than three-tenths of one percent (0.3%), or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure such as the following:

i. Tetrahydrocannabinols:

a. Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in either a soft gelatin capsule or in an oral solution in a drug product approved by the U.S. Food and Drug Administration.

b. Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.

c. $\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

d. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)], also known as 6aR-trans-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol (HU-210) and its geometric isomers (HU211 or dexanabinol).

ii. The following synthetic drugs:

a. Any compound structurally derived from (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobutan-2-yl) carboxamide by substitution at the nitrogen atoms of the indole ring or carboxamide to any extent, whether or not further substituted in or on the indole ring to any extent, whether or not substituted to any extent in or on the cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the ring may include, but is not limited to, heteroatoms such as nitrogen, sulfur and oxygen).

b. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring to any extent, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring to any extent, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring to any extent, whether or not substituted in the cyclohexyl ring to any extent.

f. Any compound structurally derived from 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

g. [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrol-
o[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone
(WIN-55,212-2).

h. 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-
243).

i. [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-
5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahy-
drophenanthridin-1-yl]acetate (CP 50,5561).

(28) Ethylamine analog of phencyclidine: N-ethyl-1-phenylcy-
clohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcy-
clohexyl) ethylamine, cyclohexamine, PCE;

(29) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) -
pyrrolidine, PCPy, PHP;

(30) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-
piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

(31) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

(32) Spores or mycelium capable of producing mushrooms that contain
psilocybin or psilocin.

(e) Unless specifically excepted or unless listed in another schedule,
any material, compound, mixture or preparation which contains any quantity
of the following substances having a depressant effect on the central ner-
vous system, including its salts, isomers, and salts of isomers whenever the
existence of such salts, isomers, and salts of isomers is possible within the
specific chemical designation:

(1) Gamma hydroxybutyric acid (some other names include GHB; gam-
ma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sod-
ium oxybate; sodium oxybutyrate);

(2) Flunitrazepam (also known as "R2," "Rohypnol");

(3) Mecloqualone;

(4) Methaqualone.

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

(1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-ox-
azoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alp-
ha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

(3) Substituted cathinones. Any compound, except bupropion or com-
pounds listed under a different schedule, structurally derived from
2-aminopropan-1-one by substitution at the 1-position with either
phenyl, naphthyl or thiophene ring systems, whether or not the compound
is further modified in any of the following ways:

i. By substitution in the ring system to any extent with alkyl,
alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide sub-
stituents, whether or not further substituted in the ring system
by one (1) or more other univalent substituents;

ii. By substitution at the 3-position with an acyclic alkyl sub-
stituent;

1 iii. By substitution at the 2-amino nitrogen atom with alkyl,
2 dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the
3 2-amino nitrogen atom in a cyclic structure.

4 (4) Fenethylline;

5 (5) Methcathinone (some other names: 2-(methyl-amino)-propioph-
6 enone, alpha-(methylamino)-propiophenone, N-methylcathinone, AL-
7 464, AL-422, AL-463 and UR1423);

8 (6) (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-
9 phenyl-2-oxazoline];

10 (7) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);

11 (8) N-ethylamphetamine;

12 (9) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-ben-
13 zeneethanamine).

14 SECTION 4. That Section 37-2732, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by
17 this chapter, it is unlawful for any person to manufacture or deliver, or
18 possess with intent to manufacture or deliver, a controlled substance.

19 (1) Any person who violates this subsection with respect to:

20 (A) A controlled substance classified in schedule I which is a
21 narcotic drug or a controlled substance classified in schedule II,
22 except as provided for in section 37-2732B(a) (3), Idaho Code, is
23 guilty of a felony and upon conviction may be imprisoned for a term
24 of years not to exceed life imprisonment, or fined not more than
25 twenty-five thousand dollars (\$25,000), or both;

26 (B) Any other controlled substance which is a nonnarcotic drug
27 classified in schedule I, or a controlled substance classified in
28 schedule III, is guilty of a felony and upon conviction may be im-
29 prisoned for not more than five (5) years, fined not more than fif-
30 teen thousand dollars (\$15,000), or both;

31 (C) A substance classified in schedule IV, is guilty of a felony
32 and upon conviction may be imprisoned for not more than three (3)
33 years, fined not more than ten thousand dollars (\$10,000), or
34 both;

35 (D) A substance classified in schedules V and VI, is guilty of
36 a misdemeanor and upon conviction may be imprisoned for not more
37 than one (1) year, fined not more than five thousand dollars
38 (\$5,000), or both.

39 (b) Except as authorized by this chapter, it is unlawful for any per-
40 son to create, deliver, or possess with intent to deliver, a counterfeit sub-
41 stance.

42 (1) Any person who violates this subsection with respect to:

43 (A) A counterfeit substance classified in schedule I which is a
44 narcotic drug, or a counterfeit substance classified in schedule
45 II, is guilty of a felony and upon conviction may be imprisoned for
46 not more than fifteen (15) years, fined not more than twenty-five
47 thousand dollars (\$25,000), or both;

48 (B) Any other counterfeit substance classified in schedule I
49 which is a nonnarcotic drug contained in schedule I or a counter-

1 feit substance contained in schedule III, is guilty of a felony and
2 upon conviction may be imprisoned for not more than five (5) years,
3 fined not more than fifteen thousand dollars (\$15,000), or both;

4 (C) A counterfeit substance classified in schedule IV, is guilty
5 of a felony and upon conviction may be imprisoned for not more
6 than three (3) years, fined not more than ten thousand dollars
7 (\$10,000), or both;

8 (D) A counterfeit substance classified in schedules V and VI or a
9 noncontrolled counterfeit substance, is guilty of a misdemeanor
10 and upon conviction may be imprisoned for not more than one (1)
11 year, fined not more than five thousand dollars (\$5,000), or both.

12 (c) It is unlawful for any person to possess a controlled substance un-
13 less the substance was obtained directly from, or pursuant to, a valid pre-
14 scription or order of a practitioner while acting in the course of his pro-
15 fessional practice, or except as otherwise authorized by this chapter.

16 (1) Any person who violates this subsection and has in his possession
17 a controlled substance classified in schedule I which is a narcotic
18 drug or a controlled substance classified in schedule II, is guilty of
19 a felony and upon conviction may be imprisoned for not more than seven
20 (7) years, or fined not more than fifteen thousand dollars (\$15,000), or
21 both.

22 (2) Any person who violates this subsection and has in his possession
23 lysergic acid diethylamide is guilty of a felony and upon conviction may
24 be imprisoned for not more than three (3) years, or fined not more than
25 five thousand dollars (\$5,000), or both.

26 (3) Any person who violates this subsection and has in his possession a
27 controlled substance which is a nonnarcotic drug classified in schedule
28 I except lysergic acid diethylamide, or a controlled substance classi-
29 fied in schedules III, IV, V and VI is guilty of a misdemeanor and upon
30 conviction thereof may be imprisoned for not more than one (1) year, or
31 fined not more than one thousand dollars (\$1,000), or both.

32 (d) It shall be unlawful for any person to be present at or on premises
33 of any place where he knows illegal controlled substances are being manufac-
34 tured or cultivated, or are being held for distribution, transportation, de-
35 livery, administration, use, or to be given away. A violation of this sec-
36 tion shall deem those persons guilty of a misdemeanor and upon conviction
37 shall be punished by a fine of not more than three hundred dollars (\$300) and
38 not more than ninety (90) days in the county jail, or both.

39 (e) If any person is found to possess marijuana, which for the purposes
40 of this subsection shall be restricted to all parts of the plants of the
41 genus Cannabis, including the extract or any preparation of cannabis which
42 contains tetrahydrocannabinol, in an amount greater than three (3) ounces
43 net weight, it shall be a felony and upon conviction may be imprisoned for
44 not more than five (5) years, or fined not more than ten thousand dollars
45 (\$10,000), or both.

46 (f) If two (2) or more persons conspire to commit any offense defined
47 in this act, said persons shall be punishable by a fine or imprisonment, or
48 both, which may not exceed the maximum punishment prescribed for the of-
49 fense, the commission of which was the object of the conspiracy.

1 (g) (1) It is unlawful for any person to manufacture or distribute a
2 "simulated controlled substance," or to possess with intent to distrib-
3 ute, a "simulated controlled substance." Any person who violates this
4 subsection shall, upon conviction, be guilty of a misdemeanor and upon
5 conviction thereof shall be punished by a fine of not more than one thou-
6 sand dollars (\$1,000) and not more than one (1) year in the county jail,
7 or both.

8 (2) It is unlawful for any person to possess a "simulated controlled
9 substance." Any person who violates this subsection shall, upon convic-
10 tion, be guilty of a misdemeanor and upon conviction thereof shall be
11 punished by a fine of not more than three hundred dollars (\$300) and not
12 more than six (6) months in the county jail, or both.

13 (h) It is unlawful for any person to cause to be placed in any newspaper,
14 magazine, handbill, or other publication, or to post or distribute in any
15 public place, any advertisement or solicitation offering for sale simulated
16 controlled substances. Any person who violates this subsection is guilty of
17 a misdemeanor and shall be punished in the same manner as prescribed in sub-
18 section (g) of this section.

19 (i) No civil or criminal liability shall be imposed by virtue of this
20 chapter on any person registered under the Uniform Controlled Substances
21 Act who manufactures, distributes, or possesses an imitation controlled
22 substance for use as a placebo or other use by a registered practitioner, as
23 defined in section 37-2701(a**abb**), Idaho Code, in the course of professional
24 practice or research.

25 (j) No prosecution under this chapter shall be dismissed solely by rea-
26 son of the fact that the dosage units were contained in a bottle or other con-
27 tainer with a label accurately describing the ingredients of the imitation
28 controlled substance dosage units. The good faith of the defendant shall be
29 an issue of fact for the trier of fact.

30 (k) Upon conviction of a felony or misdemeanor violation under this
31 chapter or upon conviction of a felony pursuant to the "racketeering act,"
32 section 18-7804, Idaho Code, or the money laundering and illegal investment
33 provisions of section 18-8201, Idaho Code, the court may order restitution
34 for costs incurred by law enforcement agencies in investigating the viola-
35 tion. Law enforcement agencies shall include, but not be limited to, the
36 Idaho state police, county and city law enforcement agencies, the office
37 of the attorney general and county and city prosecuting attorney offices.
38 Costs shall include, but not be limited to, those incurred for the purchase
39 of evidence, travel and per diem for law enforcement officers and witnesses
40 throughout the course of the investigation, hearings and trials, and any
41 other investigative or prosecution expenses actually incurred, including
42 regular salaries of employees. In the case of reimbursement to the Idaho
43 state police, those moneys shall be paid to the Idaho state police for
44 deposit into the drug and driving while under the influence enforcement
45 donation fund created in section 57-816, Idaho Code. In the case of reim-
46 bursement to the office of the attorney general, those moneys shall be paid
47 to the general fund. A conviction for the purposes of this section means that
48 the person has pled guilty or has been found guilty, notwithstanding the form
49 of the judgment(s) or withheld judgment(s).