WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

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ENROLLED

SENATE BILL NO. 126

(By Mr. Sharpe, Mr. Jones and Mr. Darby)

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PASSED March 9, 1975

In Effect from Passage

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Senate Bill No. 126

(By Mr. Sharpe, Mr. Jones and Mr. Darby)

[Passed March 9, 1975; in effect from passage.]

AN ACT to amend and reenact article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the uniform controlled substances act generally and standards and schedules specifically; removing the authority of the state board of pharmacy to add, reschedule and delete certain controlled substances to and from certain schedules; providing that said state board of pharmacy shall make certain recommendations to the Legislature with regard to the addition, rescheduling and deletion of controlled substances to and from certain statutory schedules; authorizing said state board of pharmacy to administer the regulatory provisions of the uniform controlled substances act; relating to nomenclature; providing certain criteria relative to making recommendations with regard to substances in Schedules I, II, III, IV and V; listing certain controlled substances in Schedules I, II, III, IV and V; relating to a publication of the aforesaid schedules by the state board of pharmacy; prescribing that certain recommendations made by said board of pharmacy to the Legislature shall be public information; and relating to criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-201. Authority of state board of pharmacy; recommendations to Legislature.

(a) The state board of pharmacy shall administer the provisions of this chapter. It shall also, on the first day of

each regular legislative session, recommend to the Legislature which substances should be added to or deleted from the schedules of controlled substances contained in this article or reschedule therein.

In making any such recommendation regarding a substance, the state board of pharmacy shall consider the following factors:

(1) The actual or relative potential for abuse;

(2) The scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the substance;

(4) The history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) The potential of the substance to produce psychic or physiological dependence liability; and

(7) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the state board of pharmacy shall make findings with respect to the substance under consideration. If it finds that any substance not already controlled under any schedule has a potential for abuse, it shall recommend to the Legislature that the substance be added to the appropriate schedule. If it finds that any substance already controlled under any schedule should be rescheduled or deleted, it shall so recommend to the Legislature.

(c) If the state board of pharmacy designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal laws and notice thereof is given to the state board of pharmacy, the board shall recommend similar control of such substance to the Legislature, specifically stating that such recommendation is based on federal action and the reasons why

the federal government deemed such action necessary and proper.

(e) The authority vested in the board by subsection (a) of this section shall not extend to distilled spirits, wine, malt beverages or tobacco as those terms are defined or used in other chapters of this code nor to any nonnarcotic substance if such substance may under the "Federal Food, Drug and Cosmetic Act" and the law of this state lawfully be sold over the counter without a prescription.

§60A-2-202. Nomenclature.

The controlled substances listed in the schedules in this article are included by whatever official, common, usual, chemical or trade name designated.

§60A-2-203. Schedule I criteria.

The state board of pharmacy shall recommend to the Legislature that a substance be included in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

§60A-2-204. Schedule I.

(a) The controlled substances listed in this section are included in Schedule I.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol;
(2) Allylprodine;
(3) Alphacetylmethadol;
(4) Alphameprodine;
(5) Alphamethadol;
(6) Benzethidine;
(7) Betacetylmethadol;
(8) Betameprodine;

(9) Betamethadol;
(10) Betaprodine;
(11) Clonitazene;
(12) Dextromoramide;
(13) Dextrorphan;
(14) Diampromide;
(15) Diethylthiambutene;
(16) Dimenoxadol;
(17) Dimepheptanol;
(18) Dimethylthiambutene;
(19) Dioxaphetyl butyrate;
(20) Dipipanone;
(21) Ethylmethylthiambutene;
(22) Etonitazene;
(23) Etoxeridine;
(24) Furethidine;
(25) Hydroxypethidine;
(26) Ketobemidone;
(27) Levomoramide;
(28) Levophenacylmorphan;
(29) Morpheridine;
(30) Noracymethadol;
(31) Norlevorphanol;
(32) Normethadone;
(33) Norpipanone;
(34) Phenadoxone;
(35) Phenampromide;
(36) Phenomorphan;
(37) Phenoperidine;
(38) Piritramide;
(39) Proheptazine;
(40) Properidine;
(41) Racemoramide;
(42) Trimeperidine.

(c) Unless specifically ~~expected~~ excepted or unless listed in another schedule, any of the following opium derivatives, 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:

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(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Etorphine;
(10) Heroin;
(11) Hydromorphinol;
(12) Methyldesorphine;
(13) Methyldihydromorphine;
(14) Morphine methylbromide;
(15) Morphine methylsulfonate;
(16) Morphine-N-Oxide;
(17) Myrophine;
(18) Nicocodeine;
(19) Nicomorphine;
(20) Normorphine;
(21) Phoclodine;
(22) Thebacon.

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

(1) 3,4-methylenedioxy amphetamine;
(2) 5-methyoxy-3, 4-methylenedioxy amphetamine;
(3) 3,4,5-trimethoxy amphetamine;
(4) Bufotenine; known also by these trade and other names: 3-(S-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylamino-ethyl)-5) indolol; N-N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine; mappine;
(5) Diethyltryptamine; known also by these trade and other names: N,N-Diethyltryptamine; "DET";

(6) Dimethyltryptamine; known also by the name "DMT";

(7) 4-methyl-2,5-dimethoxy amphetamine; known also by these trade and other names; 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; "STP";

(8) Ibogaline; known also by these trade and other names: 7-Ethyl-6, 6a, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido (1', 2': 1, 2 adepino 4,5b) indole; tabernanthe iboga;

(9) Lysergic acid diethylamide;

(10) Marihuana;

(11) Mescaline;

(12) Peyote;

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

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

(15) Psilocybin;

(16) Psilocyn;

(17) Tetrahydrocannabinols; including synthetic equivalents of the substances contained in the plant or in the resinous extractives of Cannabis or synthetic substances, derivatives and their isomers with similar chemical structure and pharmacological activity such as the following:

▲1

(is or trans tetrahydrocannabinol, and their optical isomers;

▲6

(is or trans tetrahydrocannabinol, and their optical isomers;

▲3,4

(is or trans tetrahydrocannabinil tetrahydrocannabinol, and their optical isomers.

§60A-2-205. Schedule II criteria.

The state board of pharmacy shall recommend to the Legislature that a substance be placed in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions;

(3) Abuse of the substance may lead to severe psychic or physical dependence.

§60A-2-206. Schedule II.

(a) The controlled substances listed in this section are included in Schedule II.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, 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, including the following:

(A) Raw opium;
(B) Opium extracts;
(C) Opium fluid extracts;
(D) Powdered opium;
(E) Granulated opium;
(F) Tincture of opium;
(G) Apomorphine;
(H) Codeine;
(I) Ethylmorphine;
(J) Hydrocodone;
(K) Hydromorphone;
(L) Metopon;
(M) Morphine;
(N) Oxycodone;
(O) Oxymorphone;
(P) Thebaine;

(2) Any salt, compound, isomer derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (1) of this subsection, except that these substances shall not include 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, derivative or preparation thereof which is chemically

equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine or ecgonine.

(c) Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Alphaprodine;
(2) Anileridine;
(3) Bezitramide;
(4) Dihydrocodeine;
(5) Diphenoxylate;
(6) Fentanyl;
(7) Isomethadone;
(8) Levomethorphan;
(9) Levorphanol;
(10) Metazocine;
(11) Methadone;
(12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
(14) Pethidine;
(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(18) Phenazocine;
(19) Piminodine;
(20) Racemethorphan;
(21) Racemorphan.

§60A-2-207. Schedule III criteria.

The state board of pharmacy shall recommend to the Legislature that a substance be placed in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

§60A-2-208. Schedule III.

(a) The controlled substances listed in this section are included in Schedule III.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Methamphetamine, including its salts, isomers and salts of isomers;

(2) Amphetamine, its salts, optical isomers and salts of its optical isomers;

(3) Phenmetrazine (Preludin);

(4) Methylphenidate (Ritalin) and any compound, mixture or preparation which contains any quantity of phenmetrazine or methlpenidate.

(c) 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 nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid;

(2) Chlorhexadol;

(3) Glutethimide;

(4) Lysergic acid;

(5) Lysergic acid amide;

(6) Methyprylon;

(7) Phencyclidine;

(8) Sulfondiethylmethane;

(9) Sulfonethylmethane;

(10) Sulfonmethane.

(d) Nalorphine (narcotic drug).

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters and not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinolin alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters and not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters and not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters and not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters and not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters and not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams and not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams and not more than 2.5 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

§60A-2-209. Schedule IV criteria.

The state board of pharmacy shall recommend to the Legislature that a substance be placed in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

§60A-2-210. Schedule IV.

(a) The controlled substances listed in this section are included in Schedule IV.

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

(1) Barbital;
(2) Chloral betaine;
(3) Chloral hydrate;
(4) Ethchlorvynol;
(5) Ethinamate;
(6) Methohexital;
(7) Meprobamate;
(8) Methylphenobarbital;
(9) Paraldehyde;
(10) Petrichloral;
(11) Phenobarbital.

(c) Any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts, isomers (whether optical position or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible: Fenfluramine.

§60A-2-211. Schedule V criteria.

The state board of pharmacy shall recommend to the Legislature that a substance be placed in Schedule V if it finds that:

(1) The substance has a low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

§60A-2-212. Schedule V.

(a) The controlled substances listed in this section are included in Schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams and not more than 10 milligrams per dosage unit;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

§60A-2-213. Review and printing of schedules by board; public information.

The state board of pharmacy shall annually review and cause to be printed the schedules contained in this article, which printed schedules shall be made available to the public.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Christian Jr.
Chairman House Committee

Originated in the Senate.

Takes effect from passage.

J. C. Dillon Jr.
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. B. Brotherton
President of the Senate

Lewis J. McManus
Speaker House of Delegates

The within approved this the 25th day of March, 1975.

Arch A. Moore, Jr.
Governor

RESENTED TO THE
GOVERNOR

ate 3/20/75

me 4:30 p.m.