

No. 2042

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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DEPT. OF STATE

ENROLLED

Com. Sub. for
HOUSE BILL No. 2042

(By Mr. Speaker, Mr. Albright)

Passed April 13, 1985

In Effect From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2042

(By MR. SPEAKER, MR. ALBRIGHT)

[Passed April 13, 1985; in effect from passage.]

AN ACT to amend and reenact sections two hundred one, two hundred four, two hundred six and two hundred twelve, article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three hundred eight, article three of said chapter, all relating to controlled substances; authority of board of pharmacy, emergency changes of schedules of controlled substances between legislative sessions; changing certain substances between schedules; adding buprenorphine to schedule five; and prescriptions for controlled substances.

Be it enacted by the Legislature of West Virginia:

That sections two hundred one, two hundred four, two hundred six and two hundred twelve, article two, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section three hundred eight, article three of said chapter 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.

1. (a) The state board of pharmacy shall administer the

2 provisions of this chapter. It shall also, on the first day of each
3 regular legislative session, recommend to the Legislature which
4 substances should be added to or deleted from the schedules
5 of controlled substances contained in this article or reschedule
6 therein. The state board of pharmacy shall also have the
7 authority between regular legislative sessions, on an emergency
8 basis, to add to or delete from the schedules of controlled
9 substances contained in this article or reschedule such
10 substances based upon the recommendations and approval of
11 the federal food, drug and cosmetic agency, and shall report
12 such actions on the first day of the regular legislative session
13 immediately following said actions.

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

17 (1) The actual or relative potential for abuse;

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

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

22 (4) The history and current pattern of abuse;

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

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

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

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

37 (c) If the state board of pharmacy designates a substance
38 as an immediate precursor, substances which are precursor of

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39 the controlled precursors shall not be subject to the control
40 solely because they are precursors of the controlled precursor.

41 (d) If any substance is designated, rescheduled or deleted as
42 a controlled substance under federal laws and notice thereof
43 is given to the state board of pharmacy, the board shall
44 recommend similar control of such substance to the Legisla-
45 ture, specifically stating that such recommendation is based on
46 federal action and the reasons why the federal government
47 deemed such action necessary and proper.

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

§60A-2-204. Schedule I.

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

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

- 8 (1) Acetylmethadol;
- 9 (2) Allylprodine;
- 10 (3) Alphacetylmethadol;
- 11 (4) Alphameprodine;
- 12 (5) Alphamethadol;
- 13 (6) Alpha-methylfentanyl;
- 14 (7) Benzethidine;
- 15 (8) Betacetylmethadol;
- 16 (9) Betameprodine;
- 17 (10) Betamethadol;

- 18 (11) Betaprodine;
- 19 (12) Clonitazene;
- 20 (13) Dextromoramide;
- 21 (14) Diampromide;
- 22 (15) Diethylthiambutene;
- 23 (16) Difenoxin;
- 24 (17) Dimenoxadol;
- 25 (18) Dimepheptanol;
- 26 (19) Dimethylthiambutene;
- 27 (20) Dioxaphetylbutyrate;
- 28 (21) Dipipanone;
- 29 (22) Ethylmethylthiambutene;
- 30 (23) Etonitazene;
- 31 (24) Etoxeridine;
- 32 (25) Fenethylline;
- 33 (26) Furethidine;
- 34 (27) Hydroxypethidine;
- 35 (28) Ketobemidone;
- 36 (29) Levomoramide;
- 37 (30) Levophenacylmorphan;
- 38 (31) Morpheridine;
- 39 (32) Noracymethadol;
- 40 (33) Norlevorphanol;
- 41 (34) Normethadone;
- 42 (35) Norpipanone;
- 43 (36) Phenadoxone;
- 44 (37) Phenampromide;
- 45 (38) Phenomorphan;

- 46 (39) Phenoperidine;
- 47 (40) Piritramide;
- 48 (41) Proheptazine;
- 49 (42) Properidine;
- 50 (43) Propiram;
- 51 (44) Racemoramide;
- 52 (45) Tilidine;
- 53 (46) Trimeperidine.

54 (c) Unless specifically excepted or unless listed in another
55 schedule, any of the following opium derivatives, its salts,
56 isomers and salts of isomers whenever the existence of such
57 salts, isomers and salts of isomers is possible within the specific
58 chemical designation:

- 59 (1) Acetorphine;
- 60 (2) Acetyldihydrocodeine;
- 61 (3) Benzylmorphine;
- 62 (4) Codeine methylbromide;
- 63 (5) Codeine-N-Oxide;
- 64 (6) Cyprenorphine;
- 65 (7) Desomorphine;
- 66 (8) Dihydromorphine;
- 67 (9) Drotebanol;
- 68 (10) Etorphine (except HCl Salt);
- 69 (11) Heroin;
- 70 (12) Hydromorphenol;
- 71 (13) Methyldesorphine;
- 72 (14) Methyldihydromorphine;
- 73 (15) Morphine methylbromide;
- 74 (16) Morphine methylsulfonate;
- 75 (17) Morphine-N-Oxide;

- 76 (18) Myrophine;
- 77 (19) Nicocodeine;
- 78 (20) Nicomorphine;
- 79 (21) Normorphine;
- 80 (22) Phoclodine;
- 81 (23) Thebacon.

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

- 91 (1) 2,5-dimethoxyamphetamine; also known by these trade
92 or other names: 2,5-dimethoxy-a-methylphenethyl-amine; 2,5-
93 DMA;
- 94 (2) 3,4-methylenedioxy amphetamine;
- 95 (3) 4-bromo-2, 5-dimethoxyamphetamine or 4-bromo-2,5-
96 dimethoxy-a-methylphenethylamine, or 4-bromo-2,5-DMA;
- 97 (4) 5-methyloxy-3, 4-methylenedioxy amphetamine;
- 98 (5) 4-methoxyamphetamine; also known by these trade or
99 other names: 4-methoxy-amethylphenethylamine; paramen-
100 hoxamphetamine; PMA;
- 101 (6) 3,4,5-trimethoxy amphetamine;
- 102 (7) Bufotenine; known also by these trade and other
103 names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-
104 dimethylamino-ethyl)-5 indolol; N-N-dimethylserotonin; 5-
105 hydroxy-N-dimethyltryptamine; mappine;
- 106 (8) Diethyltryptamine; known also by these trade and
107 other names: N-N-Diethyltryptamine; "DET";
- 108 (9) Dimethyltryptamine; known also by the name "DMT";
- 109 (10) 4-methyl-2,5-dimethoxy amphetamine; known also by

- 110 these trade and other names: 4-methyl-2,5-dimethoxy-a-
111 methylphenethylamine; "DOM"; "STP";
- 112 (11) Ibogaine; known also by these trade and other names:
113 7-Ethyl-6, 6a, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6,9-
114 methano-5H-pyrido (1', 2': 1, 2 azepino 4,5b) indole;
115 tabernanthe iboga;
- 116 (12) Lysergic acid diethylamide;
- 117 (13) Marihuana;
- 118 (14) Mescaline;
- 119 (15) Peyote; meaning all parts of the plant presently
120 classified botanically as *Lophophora Williamsii* Lematre,
121 whether growing or not; the seeds thereof; any extract from
122 any part of such plant; and every compound, manufacture,
123 salt, derivative, mixture or preparation of such plant, its seeds
124 or extracts;
- 125 (16) N-ethyl-3-piperidyl benzilate;
- 126 (17) N-methyl-3-piperidyl benzilate;
- 127 (18) Psilocybin;
- 128 (19) Psilocyn;
- 129 (20) Tetrahydrocannabinols; including synthetic equival-
130 ents of the substances contained in the plant or in the resinous
131 extractives of *Cannabis* or synthetic substances, derivatives
132 and their isomers with similar chemical structure and
133 pharmacological activity such as the following:
- 134 Delta 1
- 135 Cis or trans tetrahydrocannabinol, and their optical isomers;
- 136 Delta 6
- 137 Cis or trans tetrahydrocannabinol, and their optical isomers;
- 138 Delta 3, 4
- 139 Cis or trans tetrahydrocannabinil tetrahydrocannabinol, and
140 their optical isomers;
- 141 (21) Thiophene analog of phencyclidine; also known by
142 these trade or other names: (A) (1-(2-thienyl) cyclohexyl)
143 piperidine; (B) Thienyl analog of phencyclidine; TPCP;

144 (22) Ethylamine analog of phencyclidine. . . Some trade or
145 other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclo-
146 lohexyl)ethylamine, N-(1phenylcyclohexyl) ethylamine, cyclo-
147 hexamine, PCE;

148 (23) Pyrrolidine analog of phencyclidine. . . Some trade or
149 other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

150 (24) N-ethylamphetamine;

151 (25) Parahexyl.

152 (e) Unless specifically excepted or unless listed in another
153 schedule, any of the following depressants, its salts, isomers
154 and salts of isomers whenever the existence of such salts,
155 isomers and salts of isomers is possible within the specific
156 chemical designation:

157 (1) Mecloqualone.

158 (2) Methaqualone.

§60A-2-206. Schedule II.

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

3 (b) Unless specifically excepted or unless listed in another
4 schedule, any of the following substances whether produced
5 directly or indirectly by extraction from substances of
6 vegetable origin, or independently by means of chemical
7 synthesis, or by a combination of extraction and chemical
8 synthesis:

9 (1) Opium and opiate, and any salt, compound, derivative
10 or preparation of opium or opiate excluding nalorphine,
11 naloxone and naltrexone and their respective salts, but
12 including the following:

13 (A) Raw opium;

14 (B) Opium extracts;

15 (C) Opium fluid extracts;

16 (D) Powdered opium;

17 (E) Granulated opium;

18 (F) Tincture of opium;

19 (G) Codeine;

20 (H) Ethylmorphine;

21 (I) Ethrophine HCL;

- 22 (J) Hydrocodone;
- 23 (K) Hydromorphone;
- 24 (L) Metopon;
- 25 (M) Morphine;
- 26 (N) Oxycodone;
- 27 (O) Oxymorphone;
- 28 (P) Thebaine;

29 (2) Any salt, compound, isomer derivative or preparation
30 thereof which is chemically equivalent or identical with any
31 of the substances referred to in subdivision (1) of this
32 subsection, except that these substances shall not include the
33 isoquinoline alkaloids of opium;

34 (3) Opium poppy and poppy straw;

35 (4) Coca leaves and any salt, compound, derivative or
36 preparation of coca leaves, and any salt, compound, derivative
37 or preparation thereof which is chemically equivalent or
38 identical with any of these substances, except that the
39 substances shall not include decocainized coca leaves or
40 extractions of coca leaves, which extractions do not contain
41 cocaine or ecgonine;

42 (5) Concentrate of poppy straw (the crude extract of poppy
43 straw in either liquid, solid or powder form which contains
44 the phenanthrine alkaloids of the opium poppy).

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

- 50 (1) Alphaprodine;
- 51 (2) Anileridine;
- 52 (3) Bezitramide;
- 53 (4) Dextrorphan — excepted;
- 54 (5) Dihydrocodeine;
- 55 (6) Diphenoxylate;
- 56 (7) Fentanyl;
- 57 (8) Isomethadone;

- 58 (9) Levopropoxyphene — excepted;
- 59 (10) Levomethorphan;
- 60 (11) Levorphanol;
- 61 (12) Metazocine;
- 62 (13) Methadone;
- 63 (14) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,
64 4-diphenyl butane;
- 65 (15) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-
66 diphenyl-propane-carboxylic acid;
- 67 (16) Pethidine; (meperidine);
- 68 (17) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
69 phenylpiperidine;
- 70 (18) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-
71 ethyl-4-phenylpiperidin-4-carboxylate;
- 72 (19) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperi-
73 dine-4-carboxylic acid;
- 74 (20) Phenazocine;
- 75 (21) Piminodine;
- 76 (22) Racemethorphan;
- 77 (23) Racemorphan;
- 78 (24) Bulk Dextropropoxyphene (non dosage forms).
- 79 (25) Sufentanil.
- 80 (d) Unless specifically excepted or unless listed in another
81 schedule, any material, compound, mixture or preparation
82 which contains any quantity of the following substances having
83 a stimulant effect on the central nervous system:
- 84 (1) Methamphetamine, including its salts, isomers and salts
85 of isomers:
- 86 (2) Amphetamine, its salts, optical isomers and salts of its
87 optical isomers;
- 88 (3) Phenmetrazine and its salts;
- 89 (4) Methylphenidate and its salts.

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

97 (1) Amobarbital;

98 (2) Secobarbital;

99 (3) Pentobarbital;

100 (4) Phencyclidine.

101 (f) Immediate precursors. Unless specifically excepted or
102 unless listed in another schedule, any material, compound,
103 mixture or preparation which contains any quantity of the
104 following substances:

105 (1) Immediate precursor to amphetamine and meth-
106 amphetamine:

107 (i) Phenylacetone

108 Some trade or other names: phenyl-2-propanone; P2P;
109 benzylmethyl ketone; methyl benzyl ketone.

110 (2) Immediate precursors to phencyclidine (PCP):

111 (i) 1-phenylcyclohexylamine

112 (ii) 1-piperidinocyclohexanecarbonitrile (PCC).

§60A-2-212. Schedule V.

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

3 (b) Narcotic drugs. Unless specifically excepted or unless
4 listed in another schedule, any material, compound, mixture
5 or preparation containing any of the following narcotic drugs
6 and their salts, as set forth below:

7 (1) Buprenorphine.

8 (c) Narcotic drugs containing nonnarcotic active medicinal
9 ingredients. Any compound, mixture or preparation contain-
10 ing any of the following limited quantities of narcotic drugs

11 or salts thereof, which shall include one or more nonnarcotic
12 active medicinal ingredients in sufficient proportion to confer
13 upon the compound, mixture or preparation valuable
14 medicinal qualities other than those possessed by the narcotic
15 drug alone:

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

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

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

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

27 (5) Not more than 100 milligrams of opium per 100
28 milliliters or per 100 grams;

29 (6) Not more than 0.5 milligram of difenoxin and not less
30 than 25 micrograms of atropine sulfate per dosage unit.

31 (d) Amyl nitrite, isobutyl nitrite and the other organic
32 nitrites are controlled substances and no product containing
33 these compounds as a significant component shall be
34 possessed, bought or sold other than pursuant to a bona fide
35 prescription, or for industrial or manufacturing purposes.

§60A-3-308. Prescriptions.

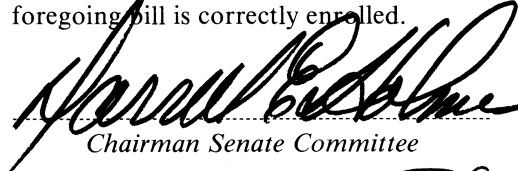
1 (a) Except when dispensed directly by a practitioner, other
2 than a pharmacy, to an ultimate user, no controlled substance
3 in Schedule II may be dispensed without the written
4 prescription of a practitioner.

5 (b) In emergency situations, as defined by rule of the said
6 appropriate department, board or agency, Schedule II drugs
7 may be dispensed upon oral prescription of a practitioner,
8 reduced promptly to writing and filed by the pharmacy.
9 Prescription shall be retained in conformity with the
10 requirements of section 306. No prescription for a Schedule
11 II substance may be refilled.

12 (c) Except when dispensed directly by a practitioner, other
13 than a pharmacy, to an ultimate user, a controlled substance
14 included in Schedule III or IV, which is a prescription drug
15 as determined under appropriate state or federal statute, shall
16 not be dispensed without a written or oral prescription of a
17 practitioner. The prescription shall not be filled or refilled
18 more than six months after the date thereof or be refilled more
19 than five times, unless renewed by the practitioner.

20 (d) A controlled substance included in Schedule V shall not
21 be distributed or dispensed other than for a medicinal purpose:
22 *Provided*, That buprenorphine shall be dispensed only by
23 prescription pursuant to subsections (a), (b) and (c) of this
24 section.

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

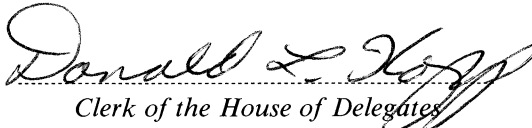

Chairman Senate Committee

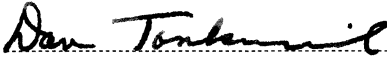

Chairman House Committee

Originating in the House.

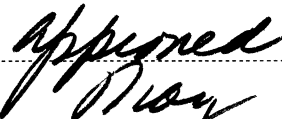
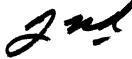
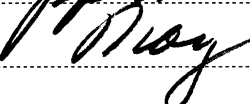
Takes effect from passage.



Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within  this the 
day of , 1985.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/85

Time 6:49 p.m.