SENATE SUBSTITUTE FOR HOUSE BILL No. 2049

By Committee on Public Health and Welfare

3-7

AN ACT concerning controlled substances; amending K.S.A. 2010 Supp. 21-36a05, 21-36a06 and 65-4105 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2010 Supp. 21-36a05 is hereby amended to read as follows: 21-36a05. (a) It shall be unlawful for any person to cultivate, distribute or possess with the intent to distribute any of the following controlled substances or controlled substance analogs thereof:

(1) Opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto;

(2) any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(3) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(4) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;

(5) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto;

(6) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto; or

(7) any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.

(b) It shall be unlawful for any person to distribute or possess with the intent to distribute a controlled substance or a controlled substance analog designated in K.S.A. 65-4113, and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 3 felony, except that:

(A) Violation of subsection (a) is a drug severity level 2 felony if the trier of fact makes a finding that the offender is 18 or more years of age and the substance was distributed to or possessed with intent to distribute to a minor or the violation occurs on or within 1,000 feet of any school.
property;

   (B) violation of subsection (a)(1) is a drug severity level 2 felony if that person has one prior conviction under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction; and

   (C) violation of subsection (a)(1) is a drug severity level 1 felony if that person has two prior convictions under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction.

   (2) Violation of subsection (b) is a class A nonperson misdemeanor, except that, violation of subsection (b) is a drug severity level 4 felony if the substance was distributed to or possessed with the intent to distribute to a child under 18 years of age.

   (d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

Sec. 2. K.S.A. 2010 Supp. 21-36a06 is hereby amended to read as follows: 21-36a06. (a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or a controlled substance analog thereof.

   (b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

   (1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

   (2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

   (3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;

   (4) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto;

   (5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto; or

   (6) any substance designated in K.S.A. 65-4113, and amendments thereto; or

   (7) any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.

   (c) (1) Violation of subsection (a) is a drug severity level 4 felony;

   (2) violation of subsection (b) is a class A nonperson misdemeanor,
except that, violation of subsection (b)(1) through (b)(5) or (b)(7) is a
drug severity level 4 felony if that person has a prior conviction under
such subsection, under K.S.A. 65-4162 prior to its repeal, under a
substantially similar offense from another jurisdiction, or under any city
ordinance or county resolution for a substantially similar offense if the
substance involved was 3, 4-methylenedioxyamphetamine
(MDMA), marijuana or tetrahydrocannabinol as designated in subsection
d) of K.S.A. 65-4105, and amendments thereto, or any substance
designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.
(d) It shall not be a defense to charges arising under this section that
the defendant was acting in an agency relationship on behalf of any other
party in a transaction involving a controlled substance.
Sec. 3. K.S.A. 2010 Supp. 65-4105 is hereby amended to read: 65-
4105. (a) The controlled substances listed in this section are included in
schedule I and the number set forth opposite each drug or substance is the
DEA controlled substances code which has been assigned to it.
(b) Any of the following opiates, including their isomers, esters,
ethers, salts, and salts of isomers, esters and ethers, unless specifically
excepted, whenever the existence of these isomers, esters, ethers and salts
is possible within the specific chemical designation:
(1) Acetyl-alpha-methylfentanyl
(N-[1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylaceetamide...............................9815
(2) Acetylmethadol.................................................................9601
(3) Allylprodine...............................................................9602
(4) Alphacetylmethadol.................................................................9603
(except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl
acetate or LAAM)
(5) Alphameprodine.................................................................9604
(6) Alphamethadol.................................................................9605
(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]
propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)...............9814
(8) Alpha-methylothiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-
phenylpropanamide).................................................................................9832
(9) Benzethidine.............................................................................9606
(10) Betacetylmethadol.................................................................9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-
phenylpropanamide.................................................................................9830
(12) Beta-hydroxy-3-methylfentanyl
(other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-
N-phenylpropanamide ..................................................................................9831
(13) Betameprodine............................................................................9608
(14) Betamethadol..............................................................................9609
(15) Betaprodine.................................................................................9611
1 (16) Clonitazene.................................................................9612
2 (17) Dextromoramide.......................................................9613
3 (18) Diampromide...........................................................9615
4 (19) Diethylthiambutene..................................................9616
5 (20) Difenoxin.................................................................9168
6 (21) Dimenoxadol............................................................9617
7 (22) Dimephtanol.............................................................9618
8 (23) Dimethylthiambutene................................................9619
9 (24) Dioxaphetyl butyrate................................................9621
10 (25) Dipipanone.............................................................9622
11 (26) Ethylmethylthiambutene........................................9623
12 (27) Etonitazene............................................................9624
13 (28) Etoxeridine.............................................................9625
14 (29) Furethidine.............................................................9626
15 (30) Hydroxypethidine....................................................9627
16 (31) Ketobemidone........................................................9628
17 (32) Levomoramide.........................................................9629
18 (33) Levoephencylmornphan..........................................9631
19 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide) .................................................................9813
20 (35) 3-Methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide) .................................................................9833
21 (36) Morpheridine..........................................................9632
22 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) .................................................................9661
23 (38) Noracymethadol......................................................9633
24 (39) Norlevorphanol.......................................................9634
25 (40) Normethadone........................................................9635
26 (41) Norpipanone...........................................................9636
27 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]-propanamide) .................................................................9812
28 (43) PEPA (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine) .................................................................9663
29 (44) Phenadoxone..........................................................9637
30 (45) Phenampromide.......................................................9638
31 (46) Phenomorphan........................................................9647
32 (47) Phenoperidine........................................................9641
33 (48) Piritramide..............................................................9642
34 (49) Proheptazine..........................................................9643
35 (50) Properidine..............................................................9644
36 (51) Propiram.................................................................9649
37 (52) Racemoramide........................................................9645
38 (53) Thiocentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4- piperidinyl]-propanamide) .................................................................9835
39 (54) Tilidine.................................................................9750
40 (55) Trimeperidine........................................................9646
(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

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

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

1. 4-bromo-2,5-dimethoxy-amphetamine
2. 2,5-dimethoxyamphetamine
3. 4-methoxyamphetamine
4. 5-methoxy-3,4-methylenedioxy-amphetamine
5. 4-methyl-2,5-dimethoxy-amphetamine
and "STP".

(6) 3,4-methylenedioxyamphetamine..............................................................7400
(7) 3,4-methylenedioxymethamphetamine (MDMA) ...........................................7405
(8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
(methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA) .................7404
(9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-
methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA) ....................7402
(10) 3,4,5-trimethoxyamphetamine.....................................................................7390
(11) Bufotenine......................................................................................................7433

Some trade or other names: 3-(Beta-Dimethyl- aminoethyl)-5-hydroxyindole;
3-(2-dimethyl- aminoethyl)-5-indolol; N,N-dimethylserotonin;
5-hydroxy-N,N-dimethyltryptamine; mappine.
(12) Diethyltryptamine........................................................................................7434
Some trade or other names: N,N-Diethyltryptamine; DET.
(13) Dimethyltryptamine........................................................................................7435
Some trade or other names: DMT.
(14) Ibogaine.........................................................................................................7260
Some trade or other names: 7-Ethyl-6,6 Beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-
methano -5H-pyrido[1',2':1,2] azepino [5,4-b]indole; Tabernanthe iboga
(15) Lysergic acid diethylamide............................................................................7315
(16) Marihuana........................................................................................................7360
(17) Mescaline.........................................................................................................7381
(18) Parahexyl.........................................................................................................7374
Some trade or other names: 3-Hexyl-l-hydroxy-7,8,9,10-tetrahydro-6,6,9-
dibenzof[b,d]pyran; Synhexyl.
(19) Peyote...........................................................................................................7415
Meaning all parts of the plant presently classified botanically as Lophophora williamsii
Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant,
and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its
seeds or extracts.
(20) N-ethyl-3-piperidyl benzilate...........................................................................7482
(21) N-methyl-3-piperidyl benzilate........................................................................7484
(22) Psilocybin........................................................................................................7437
(23) Psilocyn............................................................................................................7438
(24) Tetrahydrocannabinol ......................................................................................7370
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 and pharmacological activity such as the following: Delta 1 cis or trans
tetrahydrocannabinol, and their optical isomers: Delta 6 cis or trans tetrahydrocannabinol,
and their optical isomers 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 covered.)
(2S)(24) Ethylamine analog of phencyclidine.........................................................7455
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Some trade or other names: N-ethyl-1-phenyl-cyclo-hexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE. 

Pyrrrolidine analog of phencyclidine.................................................................7458

Some trade or other names: 1-(1-phenylcyclo-hexyl)-pyrrrolidine; PCPy; PHP. 

Thiophene analog of phencyclidine........................................................................7470

Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP. 

1-[1-(2-thienyl)-cyclohexyl] pyrrrolidine.............................................................7473

Some other names: TCPy. 

2,5-dimethoxy-4-ethylamphetamine....................................................................7399

Some trade or other names: DOET. 

Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts. 

Datura stramonium, commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as datura stramonium, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts. 

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzocchromen-1-ol..........................................................7370

Some trade or other names: HU-210, HU 211. 

Pentyl 3-(1-naphthoyl)indole 

Some trade or other names: JWH 018. 

Butyl 3-(1-naphthoyl)indole 

Some trade or other names: JWH 073. 

N-benzylpiperazine..............................................................................................7493

Some trade or other names: BZP. 

1-(3-[trifluoromethylphenyl)piperazine 

Some trade or other names: TFMPP. 

(e) Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone.................................................................2572

Methaqualone.................................................................2565

Gamma hydroxybutyric acid 

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

Fenethylline.................................................................1503
(2) N-ethylamphetamine

(3) (+)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)

(4) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine)

(5) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-amino propiophenone, 2-amino propiophenone and norphedrone)

(6) Substituted cathinones

Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, napthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

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

(B) by substitution at the 3-position with an acyclic alkyl substituent;

(C) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or

(D) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(g) Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers.

(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

(3) Methcathinone (some other names: 2-methylamino-1-phenylpropan-1-one: Ephedrine: Monomethylpropion: UR 1431, its salts, optical isomers and salts of optical isomers)

(4) Aminorex (some other names: Aminoxaphen 2-amino-5-phenyl-2-oxazoline or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers and salts of optical isomers)

(5) Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers.

Some other names: etryptamine, alpha-methyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

(h) Any of the following cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Tetrahydrocannabinols.

Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as 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 and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis
or trans-tetrahydrocannabinol, and their optical isomers 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 covered.)

(2) Naphthoylindoles
Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(3) Naphthylmethylnidoles
Any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(4) Naphthoylpyrroles
Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(5) Naphthylmethylnidenes
Any compound containing a naphthylidenindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

(6) Phenylacetylindoles
Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

(7) Cyclohexylphenols
Any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent.

(8) Benzoylindoles
Any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further
substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

(9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone.

Some trade or other names: WIN 55,212-2.

Sec. 4. K.S.A. 2010 Supp. 21-36a05, 21-36a06 and 65-4105 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.