

3
4 **SENATE BILL No. 243**

5
6 By Committee on Ways and Means

7
8 2-20

9
10 AN ACT concerning the uniform controlled substances act; amending
11 K.S.A. 65-4111, ~~65-4150, 65-4159, 65-4160, 65-4161 and 65-7006~~
12 and repealing the existing ~~section~~ **sections**.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 65-4111 is hereby amended to read as follows: 65-
16 4111. (a) The controlled substances listed in this section are included in
17 schedule IV and the number set forth opposite each drug or substance is
18 the DEA controlled substances code which has been assigned to it.

19 (b) Any material, compound, mixture or preparation which contains
20 any quantity of the following substances including its salts, isomers and
21 salts of isomers whenever the existence of such salts, isomers and salts of
22 isomers is possible within the specific chemical designation and having a
23 potential for abuse associated with a depressant effect on the central
24 nervous system:

25	(1) Alprazolam.....	2882
26	(2) Barbitol	2145
27	(3) Bromazepam	2748
28	(4) Camazepam	2749
29	(5) Chloral betaine.....	2460
30	(6) Chloral hydrate.....	2465
31	(7) Chlordiazepoxide.....	2744
32	(8) Clobazam	2751
33	(9) Clonazepam	2737
34	(10) Clorazepate.....	2768
35	(11) Clotiazepam	2752
36	(12) Cloxazolam	2753
37	(13) Delorazepam	2754
38	(14) Diazepam.....	2765
39	(15) Dichloralphenazone	2467
40	(15) (16) Estazolam	2756
41	(16) (17) Ethchlorvynol	2540
42	(17) (18) Ethinamate.....	2545
43	(18) (19) Ethyl loflazepate	2758

1	(19) (20) Fludiazepam.....	2759
2	(20) (21) Flunitrazepam.....	2763
3	(21) (22) Flurazepam.....	2767
4	(22) (23) Halazepam	2762
5	(23) (24) Haloxazolam.....	2771
6	(24) (25) Ketazolam	2772
7	(25) (26) Loprazolam.....	2773
8	(26) (27) Lorazepam	2885
9	(27) (28) Lormetazepam	2774
10	(28) (29) Mebutamate.....	2800
11	(29) (30) Medazepam	2836
12	(30) (31) Meprobamate	2820
13	(31) (32) Methohexital	2264
14	(32) (33) Methylphenobarbital (mephobarbital)	2250
15	(33) (34) Midazolam.....	2884
16	(34) (35) Nimetazepam	2837
17	(35) (36) Nitrazepam.....	2834
18	(36) (37) Nordiazepam.....	2838
19	(37) (38) Oxazepam	2835
20	(38) (39) Oxazolam	2839
21	(39) (40) Paraldehyde	2585
22	(40) (41) Petrichloral.....	2591
23	(41) (42) Phenobarbital	2285
24	(42) (43) Pinazepam.....	2883
25	(43) (44) Prazepam.....	2764
26	(44) (45) Quazepam	2881
27	(45) (46) Temazepam	2925
28	(46) (47) Tetrazepam.....	2886
29	(47) (48) Triazolam.....	2887
30	(48) (49) Zolpidem	2783
31	(49) (50) Zaleplon	2781

32 (c) Any material, compound, mixture, or preparation which contains
33 any quantity of fenfluramine (1670), including its salts, isomers (whether
34 optical, position or geometric) and salts of such isomers, whenever the
35 existence of such salts, isomers and salts of isomers is possible. The pro-
36 visions of this subsection (c) shall expire on the date fenfluramine and its
37 salts and isomers are removed from schedule IV of the federal controlled
38 substances act (21 United States code 812; 21 code of federal regulations
39 1308.14).

40 (d) Unless specifically excepted or unless listed in another schedule,
41 any material, compound, mixture or preparation which contains any quan-
42 tity of the following substances having a stimulant effect on the central
43 nervous system, including its salts, isomers (whether optical, position or

1 geometric) and salts of such isomers whenever the existence of such salts,
 2 isomers and salts of isomers is possible within the specific chemical des-
 3 ignation:

4	(1) Cathine ((+)-norpseudoephedrine).....	1230
5	(2) Diethylpropion	1610
6	(3) Fencamfamin.....	1760
7	(4) Fenproporex.....	1575
8	(5) Mazindol.....	1605
9	(6) Mefenorex.....	1580
10	(7) Pemoline (including organometallic complexes and chelates	
11	thereof)	1530
12	(8) Phentermine.....	1640

13 The provisions of this subsection (d)(8) shall expire on the date phen-
 14 termine and its salts and isomers are removed from schedule IV of the
 15 federal controlled substances act (21 United States code 812; 21 code of
 16 federal regulations 1308.14).

17	(9) Pipradrol	1750
18	(10) SPA((-)-1-dimethylamino-1,2-diphenylethane)	1635
19	(11) Sibutramine	1675
20	(12) Mondafinil.....	1680

21 (e) Unless specifically excepted or unless listed in another schedule,
 22 any material, compound, mixture or preparation which contains any quan-
 23 tity of the following, including salts thereof:

24	(1) Pentazocine.....	9709
25	(2) Butorphanol (including its optical isomers).....	9720

26 (f) Unless specifically excepted or unless listed in another schedule,
 27 any material, compound, mixture or preparation containing any of the
 28 following narcotic drugs, or their salts calculated as the free anhydrous
 29 base or alkaloid, in limited quantities as set forth below:

30	(1) Not more than 1 milligram of difenoxin and not less than 25 micro-	
31	grams of atropine sulfate per dosage unit.....	9167
32	(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-	
33	methyl-2-propionoxybutane).....	9278

34 (g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

35 (h) The board may except by rule and regulation any compound, mix-
 36 ture or preparation containing any depressant substance listed in subsec-
 37 tion (b) from the application of all or any part of this act if the compound,
 38 mixture or preparation contains one or more active medicinal ingredients
 39 not having a depressant effect on the central nervous system, and if the
 40 admixtures are included therein in combinations, quantity, proportion or
 41 concentration that vitiate the potential for abuse of the substances which
 42 have a depressant effect on the central nervous system.

43 **Sec. 2. K.S.A. 65-4150 is hereby amended to read as follows:**

1 **65-4150. As used in this act:**

2 (a) **“Controlled substance” means any drug, substance or im-**
3 **mediate precursor included in any of the schedules designated in**
4 **K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and**
5 **amendments thereto.**

6 (b) **“Deliver” or “delivery” means actual, constructive or at-**
7 **tempted transfer from one person to another, whether or not there**
8 **is an agency relationship.**

9 (c) **“Drug paraphernalia” means all equipment, products and**
10 **materials of any kind which are used or intended for use in planting,**
11 **propagating, cultivating, growing, harvesting, manufacturing, com-**
12 **pounding, converting, producing, processing, preparing, testing,**
13 **analyzing, packaging, repackaging, storing, containing, concealing,**
14 **injecting, ingesting, inhaling or otherwise introducing into the hu-**
15 **man body a controlled substance in violation of the uniform con-**
16 **trolled substances act. “Drug paraphernalia” shall not include any drug**
17 **product containing ephedrine, pseudoephedrine, red phosphorus, lithium**
18 **metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia**
19 **or phenylpropanolamine, or their salts, isomers or salts of isomers or any**
20 **product containing the same. “Drug paraphernalia” shall include, but**
21 **is not limited to:**

22 (1) **Kits used or intended for use in planting, propagating, cul-**
23 **tivating, growing or harvesting any species of plant which is a con-**
24 **trolled substance or from which a controlled substance can be de-**
25 **derived.**

26 (2) **Kits used or intended for use in manufacturing, compound-**
27 **ing, converting, producing, processing or preparing controlled sub-**
28 **stances.**

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

31 (4) **Testing equipment used or intended for use in identifying or**
32 **in analyzing the strength, effectiveness or purity of controlled sub-**
33 **stances.**

34 (5) **Scales and balances used or intended for use in weighing or**
35 **measuring controlled substances.**

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

39 (7) **Separation gins and sifters used or intended for use in re-**
40 **moving twigs and seeds from or otherwise cleaning or refining mar-**
41 **ihwana.**

42 (8) **Blenders, bowls, containers, spoons and mixing devices used**
43 **or intended for use in compounding controlled substances.**

1 (9) *Capsules, balloons, envelopes and other containers used or*
2 *intended for use in packaging small quantities of controlled sub-*
3 *stances.*

4 (10) *Containers and other objects used or intended for use in*
5 *storing or concealing controlled substances.*

6 (11) *Hypodermic syringes, needles and other objects used or*
7 *intended for use in parenterally injecting controlled substances into*
8 *the human body.*

9 (12) *Objects used or intended for use in ingesting, inhaling or*
10 *otherwise introducing marihuana, cocaine, hashish, or hashish oil*
11 *into the human body, such as:*

12 (A) *Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes*
13 *with or without screens, permanent screens, hashish heads or punc-*
14 *tured metal bowls;*

15 (B) *water pipes;*

16 (C) *carburetion tubes and devices;*

17 (D) *smoking and carburetion masks;*

18 (E) *roach clips (objects used to hold burning material, such as*
19 *a marihuana cigarette, that has become too small or too short to be*
20 *held in the hand);*

21 (F) *miniature cocaine spoons and cocaine vials;*

22 (G) *chamber pipes;*

23 (H) *carburetor pipes;*

24 (I) *electric pipes;*

25 (J) *air-driven pipes;*

26 (K) *chillums;*

27 (L) *bongs; and*

28 (M) *ice pipes or chillers.*

29 (d) *“Person” means any individual, corporation, government or*
30 *governmental subdivision or agency, business trust, estate, trust,*
31 *partnership, association or other legal entity.*

32 (e) *“Simulated controlled substance” means any product which*
33 *identifies itself by a common name or slang term associated with a*
34 *controlled substance and which indicates on its label or accompa-*
35 *nying promotional material that the product simulates the effect of*
36 *a controlled substance.*

37 **Sec. 3. K.S.A. 65-4159 is hereby amended to read as follows:**
38 **65-4159. (a) Except as authorized by the uniform controlled sub-**
39 **stances act, it shall be unlawful for any person to manufacture or**
40 **attempt to manufacture any controlled substance or controlled sub-**
41 **stance analog.**

42 (b) *Any person violating the provisions of this section with re-*
43 *spect to the unlawful manufacturing or attempting to unlawfully*

1 *manufacture any controlled substance or controlled substance an-*
2 *alog, upon conviction, is guilty of a drug severity level 1 felony and*
3 *the sentence for which shall not be subject to statutory provisions*
4 *for suspended sentence, community work service, or probation.*

5 *(c) The provisions of subsection (d) of K.S.A. 21-3301, and*
6 *amendments thereto, shall not apply to a violation of attempting to*
7 *unlawfully manufacture any controlled substance pursuant to this*
8 *section.*

9 *Sec. 4. K.S.A. 65-4160 is hereby amended to read as follows:*
10 *65-4160. (a) Except as authorized by the uniform controlled sub-*
11 *stances act, it shall be unlawful for any person to possess or have*
12 *under such person's control any opiates, opium or narcotic drugs,*
13 *or any stimulant designated in subsection (d)(1); or (d)(3) or ~~(f)(1)~~*
14 *of K.S.A. 65-4107 and amendments thereto. Except as provided in*
15 *subsections (b) and (c), any person who violates this subsection*
16 *shall be guilty of a drug severity level 4 felony.*

17 *(b) If any person who violates this section has one prior convic-*
18 *tion under this section or a conviction for a substantially similar*
19 *offense from another jurisdiction, then that person shall be guilty*
20 *of a drug severity level 2 felony.*

21 *(c) If any person who violates this section has two or more prior*
22 *convictions under this section or substantially similar offenses un-*
23 *der the laws of another jurisdiction, then such person shall be guilty*
24 *of a drug severity level 1 felony.*

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

28 *(e) For purposes of the uniform controlled substances act, the*
29 *prohibitions contained in this section shall apply to controlled sub-*
30 *stance analogs as defined in subsection (bb) of K.S.A. 65-4101 and*
31 *amendments thereto.*

32 *(f) The provisions of this section shall be part of and supple-*
33 *mental to the uniform controlled substances act.*

34 *Sec. 5. K.S.A. 65-4161 is hereby amended to read as follows:*
35 *65-4161. (a) Except as authorized by the uniform controlled sub-*
36 *stances act, it shall be unlawful for any person to sell, offer for sale*
37 *or have in such person's possession with intent to sell, deliver or*
38 *distribute; prescribe; administer; deliver; distribute; dispense or*
39 *compound any opiates, opium or narcotic drugs, or any stimulant*
40 *designated in subsection (d)(1); or (d)(3) or ~~(f)(1)~~ of K.S.A. 65-4107*
41 *and amendments thereto. Except as provided in subsections (b), (c)*
42 *and (d), any person who violates this subsection shall be guilty of*
43 *a drug severity level 3 felony.*

1 ***(b) If any person who violates this section has one prior conviction***
2 ***under this section or a conviction for a substantially similar***
3 ***offense from another jurisdiction, then that person shall be guilty***
4 ***of a drug severity level 2 felony.***

5 ***(c) If any person who violates this section has two or more prior***
6 ***convictions under this section or substantially similar offenses un-***
7 ***der the laws of another jurisdiction, then such person shall be guilty***
8 ***of a drug severity level 1 felony.***

9 ***(d) Notwithstanding any other provision of law, upon conviction***
10 ***of any person for a first offense pursuant to subsection (a), such***
11 ***person shall be guilty of a drug severity level 2 felony if such person***
12 ***is 18 or more years of age and the substances involved were pos-***
13 ***sessed with intent to sell, deliver or distribute; sold or offered for***
14 ***sale in or on, or within 1,000 feet of any school property upon which***
15 ***is located a structure used by a unified school district or an ac-***
16 ***credited nonpublic school for student instruction or attendance or***
17 ***extracurricular activities of pupils enrolled in kindergarten or any***
18 ***of the grades one through 12.***

19 ***Nothing in this subsection shall be construed as requiring that***
20 ***school be in session or that classes are actually being held at the***
21 ***time of the offense or that children must be present within the struc-***
22 ***ture or on the property during the time of any alleged criminal act.***
23 ***If the structure or property meets the description above, the actual***
24 ***use of that structure or property at the time alleged shall not be a***
25 ***defense to the crime charged or the sentence imposed.***

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

29 ***(f) For purposes of the uniform controlled substances act, the***
30 ***prohibitions contained in this section shall apply to controlled sub-***
31 ***stance analogs as defined in subsection (bb) of K.S.A. 65-4101 and***
32 ***amendments thereto.***

33 ***(g) The provisions of this section shall be part of and supple-***
34 ***mental to the uniform controlled substances act.***

35 ***Sec. 6. K.S.A. 65-7006 is hereby amended to read as follows:***
36 ***65-7006. (a) It shall be unlawful for any person to possess ephed-***
37 ***rine, pseudoephedrine, red phosphorus, lithium metal, sodium***
38 ***metal, iodine, anhydrous ammonia, pressurized ammonia or phen-***
39 ***ylpropanolamine, or their salts, isomers or salts of isomers with***
40 ***intent to use the product same to manufacture a controlled sub-***
41 ***stance.***

42 ***(b) It shall be unlawful for any person to market, sell, distrib-***
43 ***ute, advertise, or label any drug product containing ephedrine,***

1 *pseudoephedrine, red phosphorus, lithium metal, sodium metal, io-*
2 *dine, anhydrous ammonia, pressurized ammonia or phenylpropan-*
3 *olamine, or their salts, isomers or salts ~~or~~ of isomers if the person*
4 *knows or reasonably should know that the purchaser will use the*
5 *product same to manufacture a controlled substance.*

6 (c) *It shall be unlawful for any person to market, sell, distribute,*
7 *advertise or label any drug product containing ephedrine, pseudoep-*
8 *hedrine, or phenylpropanolamine, or their salts, isomers or salts*
9 *of isomers for indication of stimulation, mental alertness, weight*
10 *loss, appetite control, energy or other indications not approved pur-*
11 *suant to the pertinent federal over-the-counter drug final mono-*
12 *graph or tentative final monograph or approved new drug appli-*
13 *cation.*

14 (d) *A violation of this section shall be a drug severity level 1*
15 *felony.*

16 Sec. ~~7~~. K.S.A. 65-4111 is, **65-4150, 65-4159, 65-4160, 65-4161**
17 **and 65-7006** are hereby repealed.

18 Sec. ~~8~~. This act shall take effect and be in force from and after
19 its publication in the statute book.

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