

## South Carolina Drug Statutes (listed in numerical order)

### § 44-53-180. Tests for inclusion of substance in Schedule I.

- The Department shall place a substance in Schedule I if it finds that the substance has:
  - (a) A high potential for abuse;
  - (b) No accepted medical use in treatment in the United States; and
  - (c) A lack of accepted safety for use in treatment under medical supervision.

### § 44-53-190 Schedule I.

- (A) The controlled substances listed in this section are included in Schedule I.
- (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 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. [Deleted]
  - 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. Levophenacylmorphane
  - 29. Morpheridine
  - 30. Noracymethadol
  - 31. Norlevorphanol
  - 32. Normethadone
  - 33. Norpipanone
  - 34. Phenadoxone

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- 35. Phenampromide
- 36. Phenomorphan
- 37. Phenoperidine
- 38. Piritramide
- 39. Proheptazine
- 40. Properidine
- 41. Racemoramide
- 42. Trimeperidine
- 43. Propiram
- 44. Difenoxin
- 45. Alfentanyl
- 46. Tilidine
- 47. Alphamethylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl-4-(N-pro-panilido) piperidine).
- (C) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such 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. Etorphine
  - 10. Heroin
  - 11. Hydromorphanol
  - 12. Methyldesorphine
  - 13. Methylhydromorphine
  - 14. Morphine methylbromide
  - 15. Morphine methylsulfonate
  - 16. Morphine-N-Oxide
  - 17. Myrophine
  - 18. Nicocodeine
  - 19. Nicomorphine
  - 20. Normorphine
  - 21. Pholcodine
  - 22. Thebacon
  - 23. Drotebanol
- (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 such salts, isomers, and salts of isomers is possible within the specific chemical designation:
  - 1. 3,4-methylenedioxy amphetamine
  - 2. 5-methoxy-3,4-methylenedioxy amphetamine
  - 3. 3,4-methylenedioxymethamphetamine (MDMA)
  - 4. 3,4,5-trimethoxy amphetamine
  - 5. Bufotenine
  - 6. Diethyltryptamine (DET)
  - 7. Dimethyltryptamine (DMT)
  - 8. 4-methyl-2,5-dimethoxyamphetamine (STP)

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- 9. Ibogaine
- 10. Lysergic acid diethylamide (LSD)
- 11. Marijuana
- 12. Mescaline
- 13. Peyote
- 14. N-ethyl-3-piperidyl benzilate
- 15. N-methyl-3-piperidyl benzilate
- 16. Psilocybin
- 17. Psilocyn
- 18. Tetrahydrocannabinol (THC)
- 19. 2,5-dimethoxyamphetamine
- 20. 4-bromo-2,5-dimethoxyamphetamine
- 21. 4-Methoxyamphetamine
- 22. Thiophene analog of phencyclidine
- 23. Parahexyl
- 24. **Synthetic cannabinoids.**-- Any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedule I through V, is not an FDA-approved drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues, and salts of isomers and homologues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, and salts of isomers and homologues is possible within the specific chemical designation:
  - a. Naphthoylindoles. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an 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. Including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-2201, WIN 55-212, AM-2201 (C1 analog), AM-1220.
  - b. Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an 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.
  - c. Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Including, but not limited to, JWH-307, JWH-370, JWH-176.
  - d. Naphthylmethylindenenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an 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 and whether or not substituted in the naphthyl ring to any extent.

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- **e.** Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an 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. Including, but not limited to, SR-18, RCS-8, JWH-203, JWH-250, JWH-251.
- **f.** Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an 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. Including, but not limited to, CP 47,497 (and homologues), cannabicyclohexanol, CP-55, 940.
- **g.** Benzoylindoles. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an 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. Including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, AM-630, AM-1241, AM-2233.
- **h.** 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1, 4-benzoxazin-6-yl]-1-naphthalenylmethanone (WIN 55,212-2).
- **i.** 9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol 7370 (HU-210, HU-211).
- **j.** Adamantoylindoles. Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an 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 adamantyl ring system to any extent.
- **(E)** Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers if possible within the specific chemical designation:
  - **(1)** Mecloqualone;
  - **(2)** Methaqualone; or
  - **(3)** Gamma Hydroxybutyric Acid.
- **(F)** Stimulants. 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:
  - **(1)** Fenethylamine;
  - **(2)** N-ethylamphetamine;
  - **(3)** Cathinone; or
  - **(4)** Substituted Cathinones.

Any compound (not being bupropion) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:

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- (a) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
- (b) by substitution at the 3-position with an alkyl substituent;
- (c) by substitution at the nitrogen atom with alkyl or dialkyl groups, benzyl or methoxybenzyl groups; or
- (d) by inclusion of the nitrogen atom in a cyclic structure.

Including, but not limited to: Methylone, Mephedrone, 3,4-Methylenedioxypropylone (MDPV), Butylone, Methedrone, 4-Methylethcathinone, Flephedrone, Pentylone, Pentedrone, Buphedrone.

### § 44-53-200. Tests for inclusion of substance in Schedule II.

- The Department shall place a substance in Schedule II if it finds that:
  - (a) It has a high potential for abuse;
  - (b) It has a currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
  - (c) Abuse may lead to severe psychic or physical dependence.

### § 44-53-210. Schedule II.

- (a) The controlled substances listed in this section are included in Schedule II.
- (b) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:
  - (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding Apomorphine, Nalbuphine, Naloxone, and Naltrexone, and their respective salts;
  - (2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (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, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.
- (c) 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 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

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- 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-diphenylpropane-carboxylic acid
- 14. Pentazocine (to be administered by injection only)
- 15. Pethidine (meperidine).
- 16. Pethidine - Intermediate-A, 4-cyano-1-methyl-4-phenyl-piperidine
- 17. Pethidine - Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
- 18. Pethidine - Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
- 19. Phenazocine
- 20. Piminodine
- 21. Racemethorphan
- 22. Racemorphan
- 23. Dextropropoxyphene [ $\alpha$ -(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane], in bulk form.
- 24. Sufentanil
- (d) 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. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
  - 2. Methamphetamine, its salts, and salts of isomers.
  - 3. Phenmetrazine and its salts.
  - 4. Methylphenidate.
- (e) [Deleted]
- (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 depressant effect on the central nervous system:
  - 1. Amobarbital
  - 2. Secobarbital
  - 3. Pentobarbital
  - 4. Phencyclidine
  - 5. Phencyclidine immediate precursors:
    - (a) 1-phenylcyclohexylamine
    - (b) 1-piperidinocyclohexanecarbonitrile (PCC).
- (g) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance:
  - (1) Immediate precursor to amphetamine and methamphetamine:
    - (i) Phenylacetone, also known as phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

### § 44-53-220. Tests for inclusion of substance in Schedule III.

- The Department shall place a substance in Schedule III if it finds that:

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- (a) It has a potential for abuse less than the substances listed in Schedules I and II;
- (b) It has a currently accepted medical use in treatment in the United States; and
- (c) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

### § 44-53-230. Schedule III.

- (a) The controlled substances listed in this section are included in Schedule III.
- (b) Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
  - 1. Benzphetamine
  - 2. Chlorphentermine
  - 3. Clortermine
  - 4. (Deleted)
  - 5. Phendimetrazine
- (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 compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active ingredients which are not listed in any schedule;
  - 2. any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the United States Food and Drug Administration for marketing only as a suppository;
  - 3. any substance which contains any quantity of a derivative or barbituric acid or any salt thereof;
  - 4. Chlorhexadol;
  - 5. Gamma Hydroxybutyric Acid, and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug and Cosmetic Act;
  - 6. Glutehimide;
  - 7. Lysergic Acid;
  - 8. Lysergic Acid Amide;
  - 9. Methyprylon;
  - 10. Sulfondiethylmethane;
  - 11. Sulfonethylmethane;
  - 12. Sulfonmethane.
- (d) Nalorphene
- (e) 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 or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
  - 2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

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- **3.** Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.
- **4.** Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- **5.** Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- **6.** Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- **7.** Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- **8.** Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

### § 44-53-240. Tests for inclusion of substance in Schedule IV.

- The Department shall place a substance in Schedule IV if it finds that:
  - **(a)** It has a low potential for abuse relative to the substances in Schedule III;
  - **(b)** It has a currently accepted medical use in treatment in the United States; and
  - **(c)** Abuse of the substance may lead to limited physical or psychological dependence relative to substances in Schedule III.

### § 44-53-250. Schedule IV.

- The controlled substances in this section are included in Schedule IV.
  - **(a)** Depressants. 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, including its salts, isomers (whether position, geometric, or optical), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
    - **(1)** Alprazolam
    - **(2)** Barbitol
    - **(3)** Bromazepam
    - **(4)** Camazepam
    - **(5)** Chloral Betaine
    - **(6)** Chloral Hydrate
    - **(7)** Chlordiazepoxide
    - **(8)** Clobazam
    - **(9)** Clonazepam
    - **(10)** Clorazepate
    - **(11)** Clotiazepam
    - **(12)** Cloxazolam
    - **(13)** Delorazepam

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- (14) Diazepam
- (15) Estazolam
- (16) Ethchlorvynol
- (17) Ethinamate
- (18) Ethyl Loflazepate
- (19) Fludiazepam
- (20) Flunitrazepam
- (21) Flurazepam
- (22) Halazepam
- (23) Haloxazolam
- (24) Ketazolam
- (25) Loprazolam
- (26) Lorazepam
- (27) Lormetazepam
- (28) Mebutamate
- (29) Medazepam
- (30) Meprobamate
- (31) Methohexital
- (32) Methylphenobarbital
- (33) Nimetazepam
- (34) Nitrazepam
- (35) Nordiazepam
- (36) Oxazepam
- (37) Oxazolam
- (38) Paraldehyde
- (39) Petrichloral
- (40) Phenobarbital
- (41) Pinazepam
- (42) Prazepam
- (43) Temazepam
- (44) Tetrazepam
- (45) Triazolam.
- (b) Stimulants. 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 (whether position, geometric, or optical), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
  - (1) Diethylpropion
  - (2) Mazindol
  - (3) Phentermine
  - (4) Pemoline, including organometallic complexes and chelates thereof
  - (5) Pipradol
  - (6) SPA [(-)-1-Dimethylamino-1, 2-diphenylethane].
- (c) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts, isomers (whether position, geometric, or optical) and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible:
  - (1) Fenfluramine.

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- (d) 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;
  - (1) [Blank]
- (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 one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.
  - (2) Dosage forms of Dextropropoxyphene [Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane].
- (f) Pentazocine hydrochloride and acetaminophen, pentazocine hydrochloride and aspirin, and pentazocine and naloxone hydrochloride (all for oral administration only).
- (g) Butorphanol

### § 44-53-260. Tests for inclusion of substance in Schedule V.

- The Department shall place a substance in Schedule V if it finds that:
  - (a) It has a low potential for abuse relative to the substances listed in Schedule IV;
  - (b) It has a currently accepted medical use in treatment in the United States; and
  - (c) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule IV.

### § 44-53-270. Schedule V.

- (a) The controlled substances listed in this section are included in Schedule V.
- (b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more non-narcotic 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 milliliter or per 100 grams;
  - (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
  - (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
  - (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.
  - (6) Not more than one-half milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

### § 44-53-370. Prohibited acts A; penalties.

- (a) Except as authorized by this article it shall be unlawful for any person:
  - (1) to manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or

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- purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;
- **(2)** to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.
  - **(b)** A person who violates subsection (a) with respect to:
    - **(1)** a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty-five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;
    - **(2)** any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, or, if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, or, if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand

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- dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;
- **(3)** a substance classified in Schedule IV except for flunitrazepam is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than three years or fined not more than three thousand dollars, or both. In the case of second or subsequent offenses, the person is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than six thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;
  - **(4)** a substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than one year or fined not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence must be twice the first offense. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;
  - **(c)** It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article.
  - **(d)** A person who violates subsection (c) with respect to:

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- **(1)** a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;
- **(2)** any other controlled substance classified in Schedules I through V is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than two thousand dollars, or both, except as provided in subsection (d)(4). Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;
- **(3)** cocaine is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense, the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;
- **(4)** possession of more than: one gram of cocaine, one hundred milligrams of alpha- or beta-eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipecaine, twenty-eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4-methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two

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hundred dollars. Conditional discharge may be granted in accordance with the provisions of [44-53-450](#) upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of [17-22-10](#) through 17-22-160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant [14-1-206](#), [-1-207](#), or [-1-208](#), whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in [14-1-205](#). The assessment portion of the bail must be distributed as provided in [14-1-206](#), [-1-207](#), or [-1-208](#), whichever is applicable.

- **(e)** Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of:
  - **(1)** ten pounds or more of marijuana is guilty of a felony which is known as "trafficking in marijuana" and, upon conviction, must be punished as follows if the quantity involved is:
    - **(a)** ten pounds or more, but less than one hundred pounds:
      1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;
      2. for a second offense, a term of imprisonment of not less than five years nor more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifteen thousand dollars;
      3. for a third or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
    - **(b)** one hundred pounds or more, but less than two thousand pounds, or one hundred to one thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
    - **(c)** two thousand pounds or more, but less than ten thousand pounds, or more than one thousand marijuana plants, but less than ten thousand marijuana plants regardless of weight, a mandatory term of

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- imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- **(d)** ten thousand pounds or more, or ten thousand marijuana plants, or more than ten thousand marijuana plants regardless of weight, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;
  - **(2)** ten grams or more of cocaine or any mixtures containing cocaine, as provided [44-53-210\(b\)\(4\)](#), is guilty of a felony which is known as "trafficking in cocaine" and, upon conviction, must be punished as follows if the quantity involved is:
    - **(a)** ten grams or more, but less than twenty-eight grams:
      1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
      2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
      3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - **(b)** twenty-eight grams or more, but less than one hundred grams:
      1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
      2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
      3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - **(c)** one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - **(d)** two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;
    - **(e)** four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a

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- mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;
- **(3)** four grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin, as described in [44-53-190](#) or [-53-210](#), or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as "trafficking in illegal drugs" and, upon conviction, must be punished as follows if the quantity involved is:
    - **(a)** four grams or more, but less than fourteen grams:
      1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
      2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;
    - **(b)** fourteen grams or more but less than twenty-eight grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;
    - **(c)** twenty-eight grams or more, a mandatory term of imprisonment of not less than twenty-five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;
  - **(4)** fifteen grams or more of methaqualone is guilty of a felony which is known as "trafficking in methaqualone" and, upon conviction, must be punished as follows if the quantity involved is:
    - **(a)** fifteen grams but less than one hundred fifty grams:
      1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;
      2. for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
    - **(b)** one hundred fifty grams but less than fifteen hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
    - **(c)** fifteen hundred grams but less than fifteen kilograms, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - **(d)** fifteen kilograms or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

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- (5) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of lysergic acid diethylamide (LSD) is guilty of a felony which is known as "trafficking in LSD" and, upon conviction, must be punished as follows if the quantity involved is:
  - (a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:
    1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;
    2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;
    3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
  - (b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:
    1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
  - (c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;
- (6) one gram or more of flunitrazepam is guilty of a felony which is known as "trafficking in flunitrazepam" and, upon conviction, must be punished as follows if the quantity involved is:
  - (a) one gram but less than one hundred grams:
    1. for a first offense a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;
    2. for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

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- (b) one hundred grams but less than one thousand grams, a mandatory term of imprisonment of twenty years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
- (c) one thousand grams but less than five kilograms, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (d) five kilograms or more, a term of imprisonment of not less than twenty-five years, nor more than thirty years, with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;
- (7) fifty milliliters or milligrams or more of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid is guilty of a felony which is known as "trafficking in gamma hydroxybutyric acid" and, upon conviction, must be punished as follows:
  - (a) for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;
  - (b) for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars.

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty-five years, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release, as provided in Section 24-13-610, or supervised furlough, as provided [24-13-710](#). Notwithstanding [44-53-420](#), a person convicted of conspiracy pursuant to this subsection must be sentenced as provided in this section with a full sentence or punishment and not one-half of the sentence or punishment prescribed for the offense.

The weight of any controlled substance in this subsection includes the substance in pure form or any compound or mixture of the substance.

The offense of possession with intent to distribute described in [44-53-370\(a\)](#) is a lesser included offense to the offenses of trafficking based upon possession described in this subsection.
- (8) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of 3, 4-methalenedioxymethamphetamine (MDMA) is guilty of a felony which is known as "trafficking in MDMA or ecstasy" and, upon conviction, must be punished as follows if the quantity involved is:
  - (a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:
    - (i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;
    - (ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may

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- be suspended nor probation granted, and a fine of forty thousand dollars;
- **(iii)** for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
  - **(b)** five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:
    - **(i)** for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - **(ii)** for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - **(iii)** for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
  - **(c)** one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars.
- **(f)** It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:
    - **(1)** kidnapping, [16-3-910](#);
    - **(2)** trafficking in persons, [16-3-930](#);
    - **(3)** criminal sexual conduct in the first, second, or third degree, [16-3-652](#), [-3-653](#), and [-3-654](#);
    - **(4)** criminal sexual conduct with a minor in the first, second, or third degree, [16-3-655](#);
    - **(5)** criminal sexual conduct where victim is legal spouse (separated), [16-3-658](#);
    - **(6)** spousal sexual battery, [16-3-615](#);
    - **(7)** engaging a child for a sexual performance, [16-3-810](#);
    - **(8)** petit larceny, [16-13-30 \(A\)](#); or
    - **(9)** grand larceny, [16-13-30 \(B\)](#).
  - **(g)** A person who violates subsection (f) with respect to:
    - **(1)** a controlled substance classified in Schedule I (b) or (c) which is a narcotic drug or lysergic acid diethylamide (LSD), or in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, must be:
      - **(a)** for a first offense, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;
      - **(b)** for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

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- (c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this item must not be suspended and probation must not be granted;

- (2) any other controlled substance or gamma hydroxybutyrate is guilty of a felony and, upon conviction, must be:
  - (a) for a first offense, imprisoned not more than fifteen years or fined not more than twenty-five thousand dollars, or both;
  - (b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;
  - (c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than twenty-five years, or fined not more than forty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this item must not be suspended and probation must not be granted.

### **§ 44-53-375. Possession, manufacture and trafficking of methamphetamine and cocaine base and other controlled substances; penalties.**

- (A) A person possessing less than one gram of methamphetamine or cocaine base, as defined in [44-53-110](#), is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.
- (B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of [44-53-370](#), is guilty of a felony and, upon conviction:

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- (1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty-five thousand dollars, or both;
- (2) for a second offense or if, in the case of a first conviction of a violation of this section, the offender has been convicted of any of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;
- (3) for a third or subsequent offense or if the offender has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

- (C) A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in [44-53-110](#), [-53-210\(d\)\(1\)](#), or [-53-210\(d\)\(2\)](#), is guilty of a felony which is known as "trafficking in methamphetamine or cocaine base" and, upon conviction, must be punished as follows if the quantity involved is:
  - (1) ten grams or more, but less than twenty-eight grams:
    - (a) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
    - (b) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - (c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
  - (2) twenty-eight grams or more, but less than one hundred grams:

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- (a) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (b) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (3) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (4) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;
- (5) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.
- (D) Possession of equipment or paraphernalia used in the manufacture of cocaine, cocaine base, or methamphetamine is prima facie evidence of intent to manufacture.
- (E) (1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains nine grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony known as "trafficking in ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances" and, upon conviction, must be punished as follows if the quantity involved is:
  - (a) nine grams or more, but less than twenty-eight grams:
    - (i) for a first offense, a term of imprisonment of not more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
    - (ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - (iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
  - (b) twenty-eight grams or more, but less than one hundred grams:
    - (i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - (ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
    - (iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more

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- than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;
- (e) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.
  - (2) This subsection does not apply to:
    - (a) a consumer who possesses products:
      - (i) containing ephedrine, pseudoephedrine, or phenylpropanolamine in a manner consistent with typical medicinal or household use, as indicated by storage location, and possession of the products in a variety of strengths, brands, types, purposes, and expiration dates; or
      - (ii) for agricultural use containing anhydrous ammonia if the consumer has reformulated the anhydrous ammonia by means of additive so as effectively to prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors' salts, isomers, or salts of isomers, or a combination of any of these substances; or
    - (b) products labeled for pediatric use pursuant to federal regulations and according to label instructions primarily intended for administration to children under twelve years of age; or
    - (c) products that the Drug Enforcement Administration and the Department of Health and Environmental Control, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors' salts, isomers, or salts of isomers, or a combination of any of these substances.
  - (3) This subsection preempts all local ordinances or regulations governing the possession of any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine.
- (F) Sentences for violation of the provisions of subsections (C) or (E) may not be suspended and probation may not be granted. A person convicted and sentenced under subsection (C) or (E) to a mandatory term of imprisonment of twenty-five years, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release as provided in Section 24-13-610, or supervised furlough as provided in [24-13-710](#).
- (G) A person eighteen years of age or older may be charged with unlawful conduct toward a child pursuant to [63-5-70](#), if a child was present at any time during the unlawful manufacturing of methamphetamine.

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### § 44-53-376. Disposal of waste from production of methamphetamine; penalty; emergency or environmental response restitution; exemptions.

- (A) It is unlawful for a person to knowingly cause to be disposed any waste from the production of methamphetamine or knowingly assist, solicit, or conspire with another to dispose of methamphetamine waste.
- (B) A person who violates subsection (A) is guilty of a felony and, upon conviction for a first offense, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. Upon conviction for a second or subsequent offense, a person must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both.
- (C) If a person is convicted of a violation of this section, in a manner that requires an emergency or environmental response, the person convicted must be required to make restitution to all public entities involved in the emergency response, to cover the reasonable cost of their participation in the emergency response. The convicted person shall make the restitution in addition to any other fine or penalty required by law.
- (D) Exempt from the provisions of this section are the individuals, entities, agencies, law enforcement groups, and those otherwise authorized, who are lawfully tasked with the proper disposal of the waste created from methamphetamine production.

### § 44-53-378. Exposing child to methamphetamine.

- (A) It is unlawful for a person who is eighteen years of age or older to:
  - (1) either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufacture amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of its isomers in the presence of a minor child; or
  - (2) knowingly permit a child to be in an environment where a person is selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture amphetamine or methamphetamine; or
  - (3) knowingly permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture amphetamine or methamphetamine.
- (B) A person who violates subsection (A)(1), (2), or (3), upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. Upon conviction for a second or subsequent offense, the person must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both.

### § 44-53-380. Prohibited acts B; penalties.

- (a) It shall be unlawful for any person:
  - (1) Who is subject to the requirements of [§§ 44-53-280 to -53-360](#) to distribute or dispense a controlled substance in violation of [§ 44-53-360](#);
  - (2) Who is a registrant to manufacture, distribute, or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

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- (3) To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or this article;
- (4) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this article;
- (5) To refuse any entry into any premises or inspection authorized by this article;
- (6) Knowingly to keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled substances in violation of this article for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this article; or
- (7) Who is subject to the requirements of this article to fail to register as provided in [§ 44-53-280](#) to manufacture, distribute, or dispense controlled substances prior to his engaging in such manufacturing, distribution, or dispensing.
- (b) Any person who violates this section is punishable by a civil fine of not more than one thousand dollars; provided, that, if the violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person shall be deemed guilty of a felony and, upon conviction, shall be imprisoned for not more than five years, or fined not more than ten thousand dollars, except that if such person is a corporation it shall be subject to a civil penalty of not more than one hundred thousand dollars. Imposition of a civil penalty pursuant to this item shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

### § 44-53-390. Prohibited acts C; penalties.

- (a) It is unlawful for a person knowingly or intentionally to:
  - (1) distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by [44-53-350](#);
  - (2) use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;
  - (3) acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;
  - (4) furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this article, or any record required to be kept by this article;
  - (5) make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render the drug a counterfeit substance;
  - (6) distribute or deliver a noncontrolled substance or an imitation controlled substance:
    - (A) with the expressed or implied representation that the substance is a narcotic or nonnarcotic controlled substance, or with the expressed or implied representation that the substance is of such nature

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or appearance that the recipient of the distribution or delivery will be able to dispose of the substance as a controlled substance;

- **(B)** when the physical appearance of the finished product is substantially similar to a specific controlled substance, or if in a tablet or capsule dosage form as a finished product it is similar in color, shape, and size to any controlled substances' dosage form, or its finished dosage form has similar, but not necessarily identical, markings on each dosage unit as any controlled substances' dosage form, or if its finished dosage form container bears similar, but not necessarily identical, markings or printed material as any controlled substances which is commercially manufactured and commercially packaged by a manufacturer or repackager registered under the provisions of Title 21, Section 823 of the United States Code. In any prosecution for unlawful delivery of a noncontrolled substance, it is no defense that the accused believed the noncontrolled substance to actually be a controlled substance.
- **(b)** A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years, or fined not more than ten thousand dollars, or both. If such person is a corporation, it is subject to a civil penalty of not more than one hundred thousand dollars.
- **(c)** The provisions of [44-53-390\(a\)\(6\)](#) do not apply to any transaction in the ordinary course of professional practice of a practitioner registered to dispense controlled substances under this article, nor do they apply to a pharmacy acting in the normal course of business, or pursuant to the lawful order of a placebo prescription.

### **§ 44-53-391. Unlawful to advertise for sale, manufacture, possess, sell or deliver, or to possess with intent to sell or deliver, paraphernalia.**

- **(a)** It shall be unlawful for any person to advertise for sale, manufacture, possess, sell or deliver, or to possess with the intent to deliver, or sell paraphernalia.
- **(b)** In determining whether an object is paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:
  - **(1)** Statements by an owner or by anyone in control of the object concerning its use;
  - **(2)** The proximity of the object to controlled substances;
  - **(3)** The existence of any residue of controlled substances on the object;
  - **(4)** Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of law; the innocence of an owner, or of anyone in control of the object, as to a direct violation of law shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
  - **(5)** Instructions, oral or written, provided with the object concerning its use;
  - **(6)** Descriptive materials accompanying the object which explain or depict its use;
  - **(7)** National and local advertising concerning its use;
  - **(8)** The manner in which the object is displayed for sale;
  - **(9)** Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

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- (10) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (11) The existence and scope of legitimate uses for the object in the community;
- (12) Expert testimony concerning its use.
- (c) Any person found guilty of violating the provisions of this section shall be subject to a civil fine of not more than five hundred dollars except that a corporation shall be subject to a civil fine of not more than fifty thousand dollars. Imposition of such fine shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

### § 44-53-395. Prohibited acts; penalties.

- (A) It shall be unlawful:
  - (1) for any practitioner to issue any prescription document signed in blank. The issuance of such document signed in blank shall be prima facie evidence of a conspiracy to violate this section. The possession of prescription document signed in blank by a person other than the person whose signature appears thereon shall be deemed prima facie evidence of a conspiracy between the possessor and the signer to violate the provisions of this section;
  - (2) for any person other than a practitioner registered with the Department under this article to possess a blank prescription not completed and signed by the practitioner whose name appears printed thereon;
  - (3) for any person to withhold the information from a practitioner that such person is obtaining controlled substances of like therapeutic use in a concurrent time period from another practitioner.
- (B) Any person who knowingly and intentionally violates this section a first time shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a term of imprisonment for not more than two years or by a fine of not more than two thousand dollars, or both. Any person who knowingly and intentionally violates this section a second or subsequent time shall be deemed guilty of a felony and upon conviction shall be punished by a term of imprisonment for not more than five years.

### § 44-53-398. Sale of products containing ephedrine or pseudoephedrine; penalties; training of sales personnel.

- (A) Nonprescription products whose sole active ingredient is ephedrine, pseudoephedrine, or phenylpropanolamine may be offered for retail sale only if sold in blister packaging. The retailer shall ensure that such products are not offered for retail sale by self-service but only from behind a counter or other barrier so that such products are not directly accessible by the public but only by an employee or agent of the retailer.
- (B)
  - (1) A retailer may not sell to an individual in any single day a nonprescription product or a combination of nonprescription products containing more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine; and a retailer may not sell to an individual in a thirty-day period a nonprescription product or a combination of nonprescription products containing more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine.
  - (2) An individual may not purchase in any single day a nonprescription product or a combination of nonprescription products containing more than 3.6 grams of ephedrine, pseudoephedrine, or

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- phenylpropanolamine; and an individual may not purchase in a thirty-day period a nonprescription product or a combination of nonprescription products containing more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine.
- **(C)** It is unlawful for a retailer to purchase any product containing ephedrine, pseudoephedrine, or phenylpropanolamine from any person or entity other than a manufacturer or a wholesale distributor registered by the United States Drug Enforcement Administration.
  - **(D)**
    - **(1)** A retailer selling nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall require the purchaser to produce a government issued photo identification showing the date of birth of the person and require the purchaser to sign an electronic log showing the date and time of the transaction, the person's name and address, the type, issuing governmental entity, identification number, and the amount of the compound, mixture, or preparation. The retailer shall determine that the name entered in the log corresponds to the name on the identification and that the date and time entered are correct and shall enter in the log the name of the product and the quantity sold. The retailer shall ensure that the product is delivered directly into the custody of that purchaser. The log must include a notice to purchasers that entering false statements or misrepresentations in the log may subject the purchaser to criminal penalties.
    - **(2)** Before completing a sale of a product regulated by this section, the retailer electronically shall transmit the information entered in the log to a data collection system provided by the National Association of Drug Diversion Investigators, or a successor or similar entity. The system must collect this data in real time and generate a stop sale alert if the sale would result in a violation of subsection (B) or a federal quantity restriction, which must be assessed on the basis of sales or purchases made in any state to the extent that information is available in the data collection system. If the retailer receives a stop sale alert, the retailer must not complete the sale unless the retailer, upon notifying the purchaser the sale cannot be completed, reasonably fears bodily harm if he denies the sale due to the stop sale alert. A product regulated by this section may not be sold without being reported to the data collection system unless the system is experiencing temporary technical difficulties that prevent a retailer from reporting the information to the system, and in that case, the retailer shall enter the necessary information in a written log, which must subsequently be entered into the electronic log within three business days of each business day that the electronic log was not operational. A retailer using a written log under these circumstances is immune from liability during the time the system is temporarily disabled.
    - **(3)** Any information entered in the electronic log that is retained by a retailer, or information maintained by a retailer pursuant to subsection (J)(2), is confidential and not a public record as defined in [30-4-20\(C\)](#) of the Freedom of Information Act. A retailer or an employee or agent of a retailer who in good faith releases information in a log to federal, state, or local law enforcement authorities is immune from civil liability for the release unless the release constitutes gross negligence or intentional, wanton, or wilful misrepresentation.
  - **(E)** Except as authorized by this section, it is unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute, any

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substance containing any amount of ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers which have been altered from their original condition so as to be powdered, liquefied, dissolved, solvated, or crushed. This subsection does not apply to any of the substances identified within this subsection which are possessed or altered for a legitimate medical purpose as directed by a person licensed under Title 40 and authorized to prescribe legend drugs.

- **(F)** It is unlawful for a person to enter false statements or misrepresentations on the log required pursuant to subsection (D)(1).
- **(G)** This section preempts all local ordinances or regulations governing the retail sale or purchase of nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine except such local ordinances or regulations that existed on or before December 31, 2004.
- **(H)**
  - **(1)** Except as otherwise provided in this section, it is unlawful for a retailer knowingly to violate subsection (A), (B)(1), (C), (D)(1), or (D)(2), and it is unlawful for a person knowingly to violate subsection (B)(2), (E), or (F).
  - **(2)** A retailer convicted of a violation of subsection (A) or (B)(1) is guilty of a misdemeanor and, upon conviction for a first offense, must be fined not more than five thousand dollars and, upon conviction for a second or subsequent offense, must be fined not more than ten thousand dollars.
  - **(3)** A retailer convicted of a violation of subsection (C) is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than one year or fined not more than one thousand dollars, or both and, upon conviction for a second or subsequent offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both.
  - **(4)** A retailer convicted of a violation of subsection (D)(1), (D)(2), or (J)(2) is guilty of a misdemeanor and, upon conviction for a first offense, must be fined not more than one thousand dollars and not less than five hundred dollars. Upon conviction for a second offense, a retailer must be fined not more than five thousand dollars and not less than one thousand dollars. Upon conviction for a third or subsequent offense, a person must be fined not more than ten thousand dollars and not less than five thousand dollars.
  - **(5)** A person convicted of a violation of subsection (B)(2) or (E) is guilty of a felony and, upon conviction for a first offense, must be imprisoned not more than five years and fined not more than five thousand dollars. The court, upon approval from the solicitor, may request as part of the sentence, that the offender enter and successfully complete a drug treatment program. For a second or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not less than ten thousand dollars.
  - **(6)** A person convicted of a violation of subsection (F), upon conviction for a first offense, is guilty of a misdemeanor and must be fined not more than one thousand dollars and, upon conviction for a second or subsequent offense, is guilty of a felony and must be fined not more than five thousand dollars.
  - **(7)** It is an affirmative defense to a violation of subsection (A), (C), or (D)(1) if a retailer provided the training, maintained records, and obtained employee and agent statements of agreement required by subsection (I) for all employees and agents at the retail location where the violation occurred and at the time the violation occurred.

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- **(8)** It is an affirmative defense to completing a sale following receipt of a stop sale alert received pursuant to subsection (D)(2) if the retailer, upon notifying the purchaser the sale cannot be completed, reasonably fears bodily harm if he denies the sale due to the stop sale alert.
- **(I)** A retailer shall provide training on the requirements of this section to all agents and employees who are responsible for delivering the products regulated by this section into the custody of purchasers or who deal directly with purchasers by obtaining payments for the products. A retailer shall obtain a signed, written agreement from each employee or agent that the employee or agent agrees to comply with the requirements of this section. The retailer shall maintain records demonstrating that these employees and agents have been provided this training and the documents executed by the retailer's employees and agents agreeing to comply with this section.
- **(J)** (1) The following are exempt from the electronic log requirements of this section but shall maintain a written log containing the information required to be entered in the electronic log, as provided for in subsection (D)(1):
  - **(a)** a retailer that only sells single dose packages of nonprescription ephedrine, pseudoephedrine, or phenylpropanolamine;
  - **(b)** a pharmacy that does not have a compatible point of sale system.
    - **(2)** A retailer who maintains a written log pursuant to this subsection shall retain the written log for two years after which the log may be destroyed. The log must be made available for inspection within twenty-four hours of a request made by a local, state, or federal law enforcement officer.
    - **(3)** A retailer who violates the requirements of maintaining a written log as provided for in subsection (J)(2) is subject to the penalties provided for in subsection (H)(4).
- **(K)** The sheriff or chief of police shall monitor and determine if retailers, other than licensed pharmacies, are in compliance with the provisions of this section by ensuring that a retailer:
  - **(1)** is entering all sales of a product regulated by this section in an electronic log as required by this section;
  - **(2)** if not maintaining an electronic log, is exempt as provided for in subsection (J)(1), and is continuing to maintain the written log as provided for in subsection (J);
  - **(3)** is not selling products regulated by this section.
- **(L)** This section does not apply to:
  - **(1)** pediatric products labeled pursuant to federal regulation as primarily intended for administration to children under twelve years of age according to label instructions;
  - **(2)** products that the Board of Pharmacy, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors; and
  - **(3)** a purchase of a single sales package containing not more than sixty milligrams of pseudoephedrine.
- **(M)** For purposes of this section "retailer" means a retail distributor, including a pharmacy, where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale and does not include an employee or agent of a retailer.

**§ 44-53-440. Distribution to persons under eighteen.**

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Any person eighteen years of age or over who violates [§ 44-53-370\(a\)](#) by distributing a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug, or who violates [§ 44-53-375\(B\)](#) by distributing crack cocaine to a person under eighteen years of age is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years or fined not more than thirty thousand dollars, or both, and the sentence may not be suspended and probation may not be granted. Any person eighteen years of age or over who violates [§ 44-53-370\(a\)](#) and (b) by distributing any other controlled substance listed in Schedules I through V to a person under eighteen years of age is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than ten years or fined not more than ten thousand dollars, or both. Any violation of this section constitutes a separate offense.

### **§ 44-53-445. Distribution of controlled substance within proximity of school.**

- **(A)** It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.
- **(B)** For a person to be convicted of an offense pursuant to subsection (A), the person must:
  - **(1)** have knowledge that he is in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university; and
  - **(2)** actually distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, the controlled substance within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.
- **(C)** A person must not be convicted of an offense pursuant to subsection (A) if the person is stopped by a law enforcement officer for the controlled substance offense within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university, but did not actually commit the controlled substance offense within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.
- **(D)**
  - **(1)** A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.
  - **(2)** When a violation involves only the purchase of a controlled substance, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

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- (E) For the purpose of creating inferences of intent to distribute, the inferences set out [44-53-370](#) and [-53-375](#) apply to criminal prosecutions under this section.

### § 44-53-450. Conditional discharge; eligibility for expungement.

- (A) Whenever any person who has not previously been convicted of any offense under this article or any offense under any state or federal statute relating to marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under [44-53-370\(c\)](#) and (d), or [44-53-375\(A\)](#), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a state-supported facility or a facility approved by the commission, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.
- (B) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (A)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.
- (C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court

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programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

### **§ 44-53-460. Reduced sentence for accommodation offenses.**

Any person who enters a plea of guilty to or is found guilty of a violation of [§ 44-53-370\(a\)](#) or (c) may move for and the court shall grant a further hearing at which evidence may be presented by the person, and by the prosecution if it so desires, relating to the nature of the act on the basis of which the person has been convicted. If the convicted person establishes by clear and convincing evidence that he delivered or possessed with intent to deliver a controlled substance, except a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug, only as an accommodation to another individual and not with intent to profit thereby nor to induce the recipient or intended recipient of the controlled or counterfeit substance to use or become addicted to or dependent upon the substance, the court shall sentence the person as if he had been convicted of a violation of [§ 44-53-370\(c\)](#).

### **§ 44-53-475. Financial transactions, monetary instruments, or financial institutions involving property or proceeds of unlawful activities in narcotic drugs or controlled substances; penalties.**

- **(A)** (1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of unlawful activity relating to narcotic drugs or controlled substances, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds:
  - **(a)** with the intent to promote the carrying on of unlawful activity relating to narcotic drugs or controlled substances; or
  - **(b)** knowing that the transaction is designed in whole or in part to conceal or disguise the nature, location, sources, ownership, or control of the proceeds of the unlawful activity is guilty of a felony and, upon conviction, must be punished by a fine of not more than five hundred thousand dollars or twice the value of the property involved in the transaction, whichever is greater, or by imprisonment for not more than twenty years, or both.
- **(2)** Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in South Carolina to or through a place outside the United States or to a place in South Carolina from or through a place outside the United States:
  - **(a)** with the intent to promote the carrying on of unlawful activity relating to narcotic drugs or to controlled substances; or
  - **(b)** knowing that the monetary instrument or funds involved in the transportation represent the proceeds of the unlawful activity and knowing that the transportation is designed in whole or in

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part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of the unlawful activity is guilty of a felony and, upon conviction, must be punished by a fine of five hundred thousand dollars or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or by imprisonment for not more than twenty years, or both.

- **(3)** Whoever, with the intent:
  - **(a)** to promote the carrying on of unlawful activity relating to narcotic drugs or to controlled substances; or
  - **(b)** to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of the unlawful activity, conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of the unlawful activity, or property used to conduct or facilitate the unlawful activity is guilty of a felony and, upon conviction, must be punished by a fine of five hundred thousand dollars or twice the value of the property involved, whichever is greater, or by imprisonment for not more than twenty years, or both. For purposes of this subitem, the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a state official authorized to investigate or prosecute violations of this section.
- **(B)** Whoever conducts or attempts to conduct a transaction described in subsection (A)(1), or transportation described in subsection (A)(2), is liable to the State for a civil penalty of not more than the greater of:
  - **(1)** the value of the property, funds, or monetary instruments involved in the transaction; or
  - **(2)** ten thousand dollars.
- **(C)** As used in this section:
  - **(1)** the term "conducts" includes initiating, concluding, or participating in initiating or concluding a transaction;
  - **(2)** the term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition and, with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;
  - **(3)** the term "financial transaction" means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments;
  - **(4)** the term "monetary instruments" means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in that form that title to it passes upon delivery, and negotiable instruments in bearer form or otherwise in that form that title to it passes upon delivery;
  - **(5)** the term "financial institution" has the definition given that term in Section 5312(a)(2) of Title 31, United States Code, and the regulations promulgated thereunder.
- **(D)** Nothing in this section supersedes any provision of law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

## South Carolina Drug Statutes

### § 44-53-577. Illegal acts involving persons under seventeen years of age; penalties; separate offense.

- (A) It is unlawful for any person at least seventeen years of age to knowingly and intentionally:
  - (1) use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under seventeen years of age to violate [44-53-370](#) or [-53-375\(B\)](#);
  - (2) receive a controlled substance from a person under seventeen years of age in violation of this chapter; or
  - (3) conspire to use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under seventeen years of age to violate [44-53-370](#) or [-53-375\(B\)](#).
- (B) Any person who violates subsection (A)(1), (A)(2), or (A)(3) is guilty of a felony and, upon conviction, must be punished by a term of imprisonment of not less than five years nor more than fifteen years. A violation of this section constitutes a separate offense.

### § 44-53-1530. Possessing anabolic steroids without a prescription, or prescribing anabolic steroids, by non-practitioner, pharmacist, or veterinarian unlawful; penalties.

- It is unlawful for any person who is not a practitioner, pharmacist, or veterinarian to knowingly or intentionally possess anabolic steroids as defined in this article unless the steroids were obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice. It is unlawful for any person who is not a practitioner, pharmacist, or veterinarian to knowingly or intentionally prescribe, dispense, deliver, or administer anabolic steroids to a person. Any person who violates this article with respect to:
  - (1) prescription, dispensation, delivery, or administration of an anabolic steroid, or delivery of an anabolic steroid to a person for human use without any purpose other than a valid medical purpose, or the sale or delivery of an anabolic steroid to a person for human use without a valid prescription, or the prescription, dispensation, delivery, or administration of an anabolic steroid to a person by any person who is not a practitioner, pharmacist, or veterinarian, is guilty of a felony and, upon conviction, must be punished as follows:
    - (a) for a first offense, imprisoned for a term not to exceed five years or fined in an amount not to exceed five thousand dollars, or both;
    - (b) for a second or subsequent offense, imprisoned for a term not to exceed ten years or fined in an amount not to exceed ten thousand dollars, or both;
  - (2) possession of ten or fewer dosage units of anabolic steroids without a valid prescription is guilty of a misdemeanor and, upon conviction, must be punished as follows:
    - (a) for a first offense, imprisoned for a term not to exceed six months or fined in an amount not to exceed one thousand dollars;
    - (b) for a second or subsequent offense, imprisoned for a term not to exceed one year or fined in an amount not to exceed two thousand dollars, or both;

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- (3) possession of more than ten but fewer than one hundred dosage-units of anabolic steroids without a valid prescription is guilty of a misdemeanor and, upon conviction, must be punished as follows:
  - (a) for a first offense, imprisoned for a term not to exceed one year or fined in an amount not to exceed two thousand dollars, or both;
  - (b) for a second or subsequent offense, imprisoned for a term not to exceed two years or fined in an amount not to exceed three thousand dollars, or both;
- (4) possession of more than one hundred dosage-units of anabolic steroids without a valid prescription is guilty of a felony and, upon conviction, must be punished as follows:
  - (a) for a first offense, imprisoned for a term not to exceed five years or fined in an amount not to exceed five thousand dollars, or both;
  - (b) for a second or subsequent offense, imprisoned for a term not to exceed ten years or fined in an amount not to exceed ten thousand dollars, or both.