

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 18

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO
2 CODE, TO REVISE DEFINITIONS, TO PROVIDE A CORRECT CODE REFERENCE AND
3 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2702, IDAHO CODE,
4 TO PROVIDE FOR THE PROCESS TO EXCEPT FEDERALLY SCHEDULED DRUGS AND TO
5 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2704, IDAHO CODE, TO
6 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2705, IDAHO CODE, TO
7 REVISE THE LISTING OF CONTROLLED SUBSTANCES AND TO INCORPORATE BY REF-
8 ERENCE THE FEDERAL SCHEDULE OF CONTROLLED SUBSTANCES; AMENDING SECTION
9 37-2706, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
10 37-2707, IDAHO CODE, TO REVISE THE LISTING OF CONTROLLED SUBSTANCES
11 AND TO INCORPORATE BY REFERENCE THE FEDERAL SCHEDULE OF CONTROLLED
12 SUBSTANCES; AMENDING SECTION 37-2708, IDAHO CODE, TO MAKE TECHNICAL
13 CORRECTIONS; AMENDING SECTION 37-2709, IDAHO CODE, TO REVISE THE LIST-
14 ING OF CONTROLLED SUBSTANCES, TO INCORPORATE BY REFERENCE THE FEDERAL
15 SCHEDULE OF CONTROLLED SUBSTANCES AND TO MAKE A TECHNICAL CORRECTION;
16 AMENDING SECTION 37-2710, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS;
17 AMENDING SECTION 37-2711, IDAHO CODE, TO REVISE THE LISTING OF CON-
18 TROLLED SUBSTANCES AND TO INCORPORATE BY REFERENCE THE FEDERAL SCHEDULE
19 OF CONTROLLED SUBSTANCES; AMENDING SECTION 37-2712, IDAHO CODE, TO
20 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2713, IDAHO CODE,
21 TO REVISE THE LISTING OF CONTROLLED SUBSTANCES AND TO INCORPORATE BY
22 REFERENCE THE FEDERAL SCHEDULE OF CONTROLLED SUBSTANCES; AMENDING SEC-
23 TION 37-2713A, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; REPEALING
24 SECTION 37-2714, IDAHO CODE, RELATING TO REPUBLISHING OF SCHEDULES;
25 AMENDING SECTION 18-1502C, IDAHO CODE, TO PROVIDE CORRECT CODE REFER-
26 ENCES; AMENDING SECTION 18-2510, IDAHO CODE, TO PROVIDE A CORRECT CODE
27 REFERENCE; AMENDING SECTION 37-2732, IDAHO CODE, TO PROVIDE CORRECT
28 CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
29 37-2732B, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
30 SECTION 37-2732C, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND
31 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-208, IDAHO CODE, TO
32 PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY.
33

34 Be It Enacted by the Legislature of the State of Idaho:

35 SECTION 1. That Section 37-2701, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 37-2701. DEFINITIONS. As used in this ~~act~~ chapter:
38 (a~~1~~) "Administer" means the direct application of a controlled sub-
39 stance whether by injection, inhalation, ingestion, or any other means, to
40 the body of a patient or research subject by:
41 (1~~a~~) A practitioner ~~(or, in his presence, by his authorized agent)~~; or

1 (2b) The patient or research subject at the direction and in the pres-
2 ence of the practitioner.

3 (3b) "Agent" means an authorized person who acts on behalf of or at the
4 direction of a manufacturer, distributor, or dispenser. It does not include
5 a common or contract carrier, public warehouseman, or employee of the car-
6 rier or warehouseman.

7 (e3) "Board" means the state board of pharmacy created in chapter 17,
8 title 54, Idaho Code, or its successor agency.

9 (d4) "Bureau" means the ~~Bureau of Narcotic and Dangerous Drugs~~ drug
10 enforcement administration, United States ~~D~~epartment of ~~J~~justice, or its
11 successor agency.

12 (e5) "Controlled substance" means a drug, substance, or immediate pre-
13 cursor in schedules I through VI of article II of this ~~act~~ chapter.

14 (6) "Counterfeit substance" means a controlled substance which, or
15 the container or labeling of which, without authorization, bears the trade-
16 mark, trade name, or other identifying mark, imprint, number or device, or
17 any likeness thereof, of a manufacturer, distributor, or dispenser other
18 than the person who in fact manufactured, distributed, or dispensed the sub-
19 stance.

20 (7) "Deliver" or "delivery" means the actual, constructive, or at-
21 tempted transfer from one (1) person to another of a controlled substance,
22 whether or not there is an agency relationship.

23 (8) "Director" means the director of the Idaho state police.

24 (9) "Dispense" means to deliver a controlled substance to an ultimate
25 user or research subject by or pursuant to the lawful order of a practi-
26 tioner, including the prescribing, administering, packaging, labeling, or
27 compounding necessary to prepare the substance for that delivery.

28 (10) "Dispenser" means a practitioner who dispenses.

29 (11) "Distribute" means to deliver other than by administering or dis-
30 pensing a controlled substance.

31 (12) "Distributor" means a person who distributes.

32 (13) "Drug" means:

33 (1a) ~~s~~Substances recognized as drugs in the official United States
34 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
35 States, or official National Formulary, or any supplement to any of
36 them;

37 (2b) ~~s~~Substances intended for use in the diagnosis, cure, mitigation,
38 treatment or prevention of disease in man or animals;

39 (3c) ~~s~~Substances (other than food) intended to affect the structure or
40 any function of the body of man or animals; and

41 (4d) ~~s~~Substances intended for use as a component of any article speci-
42 fied in ~~e~~lause paragraph (1a), (2b), or (3c) of this subsection. It does
43 not include devices or their components, parts, or accessories.

44 (14) "Drug paraphernalia" means all equipment, products and mate-
45 rials of any kind which are used, intended for use, or designed for use,
46 in planting, propagating, cultivating, growing, harvesting, manufactur-
47 ing, compounding, converting, producing, processing, preparing, testing,
48 analyzing, packaging, repackaging, storing, containing, concealing, in-
49 jecting, ingesting, inhaling, or otherwise introducing into the human body

1 a controlled substance in violation of this ~~act~~ chapter. It includes, but is
2 not limited to:

3 (1a) Kits used, intended for use, or designed for use in planting,
4 propagating, cultivating, growing or harvesting of any species of plant
5 which is a controlled substance or from which a controlled substance can
6 be derived;

7 (2b) Kits used, intended for use, or designed for use in manufactur-
8 ing, compounding, converting, producing, processing, or preparing con-
9 trolled substances;

10 (3c) Isomerization devices used, intended for use, or designed for use
11 in increasing the potency of any species of plant which is a controlled
12 substance;

13 (4d) Testing equipment used, intended for use, or designed for use in
14 identifying, or in analyzing the strength, effectiveness or purity of
15 controlled substances;

16 (5e) Scales and balances used, intended for use, or designed for use in
17 weighing or measuring controlled substances;

18 (6f) Diluents and adulterants, such as quinine hydrochloride, manni-
19 tol, mannite, dextrose and lactose, used, intended for use, or designed
20 for use in cutting controlled substances;

21 (7g) Separation gins and sifters used, intended for use, or designed
22 for use in removing twigs and seeds from, or in otherwise cleaning or re-
23 fining, marijuana;

24 (8h) Blenders, bowls, containers, spoons and mixing devices used,
25 intended for use, or designed for use in compounding controlled sub-
26 stances;

27 (9i) Capsules, balloons, envelopes and other containers used, intended
28 for use, or designed for use in packaging small quantities of controlled
29 substances;

30 (10j) Containers and other objects used, intended for use, or designed
31 for use in storing or concealing controlled substances;

32 (11k) Hypodermic syringes, needles and other objects used, intended
33 for use, or designed for use in parenterally injecting controlled sub-
34 stances into the human body;

35 (12l) Objects used, intended for use, or designed for use in ingesting,
36 inhaling, or otherwise introducing marijuana, cocaine, hashish, or
37 hashish oil into the human body, such as:

38 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
39 pipes with or without screens, permanent screens, hashish heads,
40 or punctured metal bowls;

41 (ii) Water pipes;

42 (iii) Carburetion tubes and devices;

43 (iv) Smoking and carburetion masks;

44 (v) Roach clips; meaning objects used to hold burning material,
45 such as a marijuana cigarette, that has become too small or too
46 short to be held in the hand;

47 (vi) Miniature cocaine spoons, and cocaine vials;

48 (vii) Chamber pipes;

49 (viii) Carburetor pipes;

50 (ix) Electric pipes;

- 1 (x) Air-driven pipes;
- 2 (xi) Chillums;
- 3 (xii) Bongs; and
- 4 (xiii) Ice pipes or chillers;

5 In determining whether an object is drug paraphernalia, a court or other
6 authority should consider, in addition to all other logically relevant fac-
7 tors, the following:

- 8 1. Statements by an owner or by anyone in control of the object concern-
9 ing its use;
- 10 2. Prior convictions, if any, of an owner, or of anyone in control of the
11 object, under any state or federal law relating to any controlled sub-
12 stance;
- 13 3. The proximity of the object, in time and space, to a direct violation
14 of this act;
- 15 4. The proximity of the object to controlled substances;
- 16 5. The existence of any residue of controlled substances on the object;
- 17 6. Direct or circumstantial evidence of the intent of an owner, or of
18 anyone in control of the object, to deliver it to persons whom he knows,
19 or should reasonably know, intend to use the object to facilitate a vi-
20 olation of this act; the innocence of an owner, or of anyone in control
21 of the object, as to a direct violation of this act shall not prevent a
22 finding that the object is intended for use, or designed for use as drug
23 paraphernalia;
- 24 7. Instructions, oral or written, provided with the object concerning
25 its use;
- 26 8. Descriptive materials accompanying the object ~~which~~ that explain or
27 depict its use;
- 28 9. National and local advertising concerning its use;
- 29 10. The manner in which the object is displayed for sale;
- 30 11. Whether the owner, or anyone in control of the object, is a legit-
31 imate supplier of like or related items to the community, such as a li-
32 censed distributor or dealer of tobacco products;
- 33 12. Direct or circumstantial evidence of the ratio of sales of the ob-
34 ject(s) to the total sales of the business enterprise;
- 35 13. The existence and scope of legitimate uses for the object in the com-
36 munity;
- 37 14. Expert testimony concerning its use.

38 (~~§~~15) "Financial institution" means any bank, trust company, savings
39 and loan association, savings bank, mutual savings bank, credit union, or
40 loan company under the jurisdiction of the state or under the jurisdiction of
41 an agency of the United States.

42 (~~§~~16) "Immediate precursor" means a substance which the board has found
43 to be and by rule designates as being the principal compound commonly used or
44 produced primarily for use, and which is an immediate chemical intermediary
45 used or likely to be used in the manufacture of a controlled substance, the
46 control of which is necessary to prevent, curtail, or limit manufacture.

47 (~~§~~17) "Isomer" means the optical isomer, except as ~~used~~ incorporated by
48 reference in section 37-2705(~~d~~), Idaho Code.

49 (~~§~~18) "Law enforcement agency" means a governmental unit of one (1) or
50 more persons employed full-time or part-time by the state or a political sub-

1 division of the state for the purpose of preventing and detecting crime and
 2 enforcing state laws or local ordinances, employees of which unit are autho-
 3 rized to make arrests for crimes while acting within the scope of their au-
 4 thority.

5 (~~s~~19) "Manufacture" means the production, preparation, propagation,
 6 compounding, conversion or processing of a controlled substance, and in-
 7 cludes extraction, directly or indirectly, from substances of natural
 8 origin, or independently by means of chemical synthesis, or by a combina-
 9 tion of extraction and chemical synthesis, and includes any packaging or
 10 repackaging of the substance or labeling or relabeling of its container,
 11 except that this term does not include the preparation or compounding of a
 12 controlled substance:

13 (~~1~~a) By a practitioner as an incident to his administering or dispens-
 14 ing of a controlled substance in the course of his professional prac-
 15 tice; or

16 (~~2~~b) By a practitioner, or by his authorized agent under his supervi-
 17 sion, for the purpose of, or as an incident to, research, teaching, or
 18 chemical analysis and not for delivery.

19 (~~+~~20) "Marijuana" means all parts of the plant of the genus Cannabis,
 20 regardless of species, and whether growing or not; the seeds thereof; the
 21 resin extracted from any part of such plant; and every compound, manufac-
 22 ture, salt, derivative, mixture, or preparation of such plant, its seeds or
 23 resin. It does not include the mature stalks of the plant unless the same are
 24 intermixed with prohibited parts thereof, fiber produced from the stalks,
 25 oil or cake made from the seeds or the achene of such plant, any other com-
 26 pound, manufacture, salt, derivative, mixture, or preparation of the ma-
 27 ture stalks, ~~(except the resin extracted therefrom or where the same are in-~~
 28 ~~termixed with prohibited parts of such plant),~~ fiber, oil, or cake, or the
 29 sterilized seed of such plant which is incapable of germination. Evidence
 30 that any plant material or the resin or any derivative thereof, regardless
 31 of form, contains any of the chemical substances classified as tetrahydro-
 32 cannabinols shall create a presumption that such material is "marijuana" as
 33 defined and prohibited herein.

34 (~~+~~21) "Narcotic drug" means any of the following, whether produced di-
 35 rectly or indirectly by extraction from substances of vegetable origin, or
 36 independently by means of chemical synthesis, or by a combination of extrac-
 37 tion and chemical synthesis:

38 (~~1~~a) Opium and opiate, and any salt, compound, derivative, or prepara-
 39 tion of opium or opiate-;

40 (~~2~~b) Any salt, compound, isomer, derivative, or preparation thereof
 41 which is chemically equivalent or identical with any of the substances
 42 referred to in ~~clause 1~~ paragraph (a) of this subsection, but not in-
 43 cluding the isoquinoline alkaloids of opium-;

44 (~~3~~c) Opium poppy and poppy straw-;

45 (~~4~~d) Coca leaves and any salt, compound, derivative, or preparation of
 46 coca leaves, and any salt, compound, isomer, derivative, or preparation
 47 thereof which is chemically equivalent or identical with any of these
 48 substances, but not including decocainized coca leaves or extractions
 49 of coca leaves which do not contain cocaine or ecgonine

1 ~~(v) "Opiate" means any substance having an addiction-forming or ad-~~
 2 ~~diction-sustaining liability similar to morphine or being capable of~~
 3 ~~conversion into a drug having addiction-forming or addiction-sustaining~~
 4 ~~liability. It does not include, unless specifically designated as con-~~
 5 ~~trolled under section 37-2702, Idaho Code, the dextrorotatory isomer of~~
 6 ~~3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does in-~~
 7 ~~clude its racemic and levorotatory forms.~~

8 ~~(w) "Opium poppy" means the plant of the species Papaver somniferum L.,~~
 9 ~~except its seeds.~~

10 (~~x~~22) "Peace officer" means any duly appointed officer or agent of a law
 11 enforcement agency, as defined herein, including, but not limited to, a duly
 12 appointed investigator or agent of the Idaho state police, an officer or em-
 13 ployee of the board of pharmacy, who is authorized by the board to enforce
 14 this act, an officer of the Idaho state police, a sheriff or deputy sheriff of
 15 a county, or a marshal or policeman of any city.

16 (~~y~~23) "Person" means individual, corporation, government, or govern-
 17 mental subdivision or agency, business trust, estate, trust, partnership or
 18 association, or any other legal entity.

19 ~~(z) "Poppy straw" means all parts, except the seeds, of the opium poppy,~~
 20 ~~after mowing.~~

21 (~~aa~~24) "Practitioner" means:

22 (~~1a~~) A physician, dentist, veterinarian, scientific investigator,
 23 or other person licensed, registered or otherwise permitted to dis-
 24 tribute, dispense, conduct research with respect to or to administer
 25 a controlled substance in the course of his professional practice or
 26 research in this state;

27 (~~2b~~) A pharmacy, hospital, or other institution licensed, registered,
 28 or otherwise permitted to distribute, dispense, conduct research with
 29 respect to or to administer a controlled substance in the course of
 30 ~~their~~ its professional practice or research in this state.

31 (~~bb~~25) "Production" includes the manufacture, planting, cultivation,
 32 growing, or harvesting of a controlled substance.

33 (~~ee~~26) "Simulated controlled substance" means a substance that is not a
 34 controlled substance, but which by appearance or representation would lead
 35 a reasonable person to believe that the substance is a controlled substance.
 36 Appearance includes, but is not limited to, color, shape, size, and markings
 37 of the dosage unit. Representation includes, but is not limited to, repre-
 38 sentations or factors of the following nature:

39 (~~1a~~) Statements made by an owner or by anyone else in control of the sub-
 40 stance concerning the nature of the substance, or its use or effect;

41 (~~2b~~) Statements made to the recipient that the substance may be resold
 42 for inordinate profit; or

43 (~~3c~~) Whether the substance is packaged in a manner normally used for il-
 44 licit controlled substances.

45 (~~dd~~27) "State," when applied to a part of the United States, includes
 46 any state, district, commonwealth, territory, insular possession thereof,
 47 and any area subject to the legal authority of the United States of America.

48 (~~ee~~28) "Ultimate user" means a person who lawfully possesses a con-
 49 trolled substance for his own use or for the use of a member of his household

1 or for administering to an animal owned by him or by a member of his house-
2 hold.

3 (~~ff~~29) "Utility" means any person, association, partnership or cor-
4 poration providing telephone and/or communication services, electricity,
5 natural gas or water to the public.

6 SECTION 2. That Section 37-2702, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 37-2702. AUTHORITY TO CONTROL. (~~a~~1) The board shall administer the
9 regulatory provisions of this ~~act~~ chapter and may add substances to or
10 delete or reschedule all substances enumerated in the schedules in sections
11 37-2705, 37-2707, 37-2709, 37-2711, or 37-2713, Idaho Code, pursuant to the
12 procedures of chapter 52, title 67, Idaho Code. In making a determination
13 regarding a substance, the board shall consider the following:

14 (~~1~~a) ~~The~~ actual or relative potential for abuse;

15 (~~2~~b) ~~The~~ scientific evidence of its pharmacological effect, if known;

16 (~~3~~c) ~~The~~ state of current scientific knowledge regarding the sub-
17 stance;

18 (~~4~~d) ~~The~~ history and current pattern of abuse;

19 (~~5~~e) ~~The~~ scope, duration, and significance of abuse;

20 (~~6~~f) ~~The~~ risk to the public health;

21 (~~7~~g) ~~The~~ potential of the substance to produce psychic or physiologi-
22 cal dependence liability; and

23 (~~8~~h) ~~w~~Whether the substance is an immediate precursor of a substance
24 already controlled under this article.

25 (~~b~~2) After considering the factors enumerated in subsection (~~a~~1) of
26 this section, the board shall make findings with respect thereto and issue a
27 rule controlling the substance if it finds the substance has a potential for
28 abuse.

29 (~~e~~3) If the board designates a substance as an immediate precursor,
30 substances which are precursors of the controlled precursor shall not be
31 subject to control solely because they are precursors of the controlled pre-
32 cursor.

33 (~~d~~4) ~~If any substance is designated, rescheduled, or deleted as a con-~~
34 ~~trolled substance under federal law and notice thereof is given to the board,~~
35 ~~the board shall similarly control the substance under this act after the ex-~~
36 ~~piration of thirty (30) days from publication in the Federal Register of a~~
37 ~~final order designating a substance as a controlled substance or reschedul-~~
38 ~~ing or deleting a substance, unless within that thirty (30) day period, the~~
39 ~~board objects to inclusion, rescheduling, or deletion. In that case, the~~
40 ~~board shall publish the reasons for objection and afford all interested par-~~
41 ~~ties an opportunity to be heard. At the conclusion of the hearing, the board~~
42 ~~shall publish its decision, which shall be final unless altered by statute.~~
43 ~~Upon publication of objection to inclusion, rescheduling, or deletion un-~~
44 ~~der this act by the board, control under this act is stayed until the board~~
45 ~~publishes its decision~~ The board may except by rule any compound, mixture or
46 preparation containing any stimulant or depressant substance listed in 21
47 CFR 1308.12, 1308.13, 1308.14 and 1308.15 if the compound, mixture or prepa-
48 ration contains one (1) or more active medicinal ingredients not having a
49 stimulant or depressant effect on the central nervous system, and if the mix-

1 tures are included therein in combinations, quantity, proportion or concen-
 2 tration that vitiate the potential for abuse of the substances that have a
 3 stimulant or depressant effect on the central nervous system.

4 (e5) Authority to control under this section does not extend to dis-
 5 tilled spirits, wine, malt beverages, or tobacco.

6 SECTION 3. That Section 37-2704, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 37-2704. SCHEDULE I TESTS. The board shall place a substance in sched-
 9 ule I if it finds that the substance:

10 (a1) Has high potential for abuse; and
 11 (b2) Has no accepted medical use in treatment in the United States or
 12 lacks accepted safety for use in treatment under medical supervision.

13 SECTION 4. That Section 37-2705, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 37-2705. SCHEDULE I. (a1) ~~The controlled substances listed in this~~
 16 ~~section are included in s~~Schedule I shall consist of the drugs and other sub-
 17 stances, by whatever official name, common or usual name, chemical name, or
 18 brand name designated, listed in this section.

19 (2) Substances listed in 21 CFR 1308.11 are incorporated by reference
 20 herein unless:

21 (a) Explicitly excepted by 21 CFR 1308.11 or this act; or

22 (b) Listed in a different schedule in Idaho.

23 ~~(b) Any of the following opiates, including their isomers, esters,~~
 24 ~~ethers, salts, and salts of isomers, esters, and ethers, unless specifically~~
 25 ~~excepted, whenever the existence of these isomers, esters, ethers and salts~~
 26 ~~is possible within the specific chemical designation:~~

27 ~~(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-pip-~~
 28 ~~eridinyl]-N-phenylacetamide);~~

29 ~~(2) Acetylmethadol;~~

30 ~~(3) Allylprodine;~~

31 ~~(4) Alphacetylmethadol (except levo-alphacetylmethadol also known as~~
 32 ~~levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);~~

33 ~~(5) Alphameprodine;~~

34 ~~(6) Alphamethadol;~~

35 ~~(7) Alpha-methylfentanyl;~~

36 ~~(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-pip-~~
 37 ~~eridinyl]-N-phenylpropanamide);~~

38 ~~(9) Benzethidine;~~

39 ~~(10) Betaacetylmethadol;~~

40 ~~(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperid-~~
 41 ~~inyl]-N-phenylpropanamide);~~

42 ~~(12) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-~~
 43 ~~methyl-4-piperidinyl)-N-phenylpropanamide);~~

44 ~~(13) Betameprodine;~~

45 ~~(14) Betamethadol;~~

46 ~~(15) Betaprodine;~~

47 ~~(16) Clonitazene;~~

- 1 ~~(17) Dextromoramide;~~
- 2 ~~(18) Diampromide;~~
- 3 ~~(19) Diethylthiambutene;~~
- 4 ~~(20) DifenoXin;~~
- 5 ~~(21) Dimenoxadol;~~
- 6 ~~(22) Dimepheptanol;~~
- 7 ~~(23) Dimethylthiambutene;~~
- 8 ~~(24) Dioxaphetyl butyrate;~~
- 9 ~~(25) Dipipanone;~~
- 10 ~~(26) Ethylmethylthiambutene;~~
- 11 ~~(27) Etonitazene;~~
- 12 ~~(28) EtoXeridine;~~
- 13 ~~(29) Furethidine;~~
- 14 ~~(30) Hydroxypethidine;~~
- 15 ~~(31) Ketobemidone;~~
- 16 ~~(32) Levomoramide;~~
- 17 ~~(33) Levophenacylemorphin;~~
- 18 ~~(34) 3-Methylfentanyl;~~
- 19 ~~(35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-pip-~~
- 20 ~~eridinyl]-N-phenylpropanamide);~~
- 21 ~~(36) Morpheridine;~~
- 22 ~~(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);~~
- 23 ~~(38) Noracymethadol;~~
- 24 ~~(39) Norlevorphanol;~~
- 25 ~~(40) Normethadone;~~
- 26 ~~(41) Norpipanone;~~
- 27 ~~(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-~~
- 28 ~~piperidinyl] propanamide);~~
- 29 ~~(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);~~
- 30 ~~(44) Phenadoxone;~~
- 31 ~~(45) Phenampromide;~~
- 32 ~~(46) Phenomorphan;~~
- 33 ~~(47) Phenoperidine;~~
- 34 ~~(48) Piritramide;~~
- 35 ~~(49) Proheptazine;~~
- 36 ~~(50) Properidine;~~
- 37 ~~(51) Propiram;~~
- 38 ~~(52) Racemoramide;~~
- 39 ~~(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-~~
- 40 ~~propanamide);~~
- 41 ~~(54) Tilidine;~~
- 42 ~~(55) Trimeperidine.~~
- 43 ~~(c) Any of the following opium derivatives, their salts, isomers and~~
- 44 ~~salts of isomers, unless specifically excepted, whenever the existence of~~
- 45 ~~these salts, isomers and salts of isomers is possible within the specific~~
- 46 ~~chemical designation:~~
- 47 ~~(1) Acetorphine;~~
- 48 ~~(2) Acetyldihydrocodeine;~~
- 49 ~~(3) Benzylmorphine;~~
- 50 ~~(4) Codeine methylbromide;~~

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

20 ~~(d) Hallucinogenic substances.— Any material, compound, mixture or~~
 21 ~~preparation which contains any quantity of the following hallucinogenic~~
 22 ~~substances, their salts, isomers and salts of isomers, unless specifically~~
 23 ~~excepted, whenever the existence of these salts, isomers, and salts of iso-~~
 24 ~~mers is possible within the specific chemical designation (for purposes of~~
 25 ~~this paragraph only, the term "isomer" includes the optical, position and~~
 26 ~~geometric isomers):~~

- 27 ~~(1) 4-bromo-2,5-dimethoxy amphetamine;~~
 28 ~~(2) 2,5-dimethoxyamphetamine;~~
 29 ~~(3) 4-bromo-2,5-dimethoxyphenethylamine (some other names: alpha-~~
 30 ~~desmethyl DOB, 2C-B);~~
 31 ~~(4) 2,5-dimethoxy-4-ethylamphetamine (another name: DOET);~~
 32 ~~(5) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;~~
 33 ~~(6) 4-methoxyamphetamine (PMA);~~
 34 ~~(7) 5-methoxy-3,4-methylenedioxy-amphetamine;~~
 35 ~~(8) 5-methoxy-N,N-diisopropyltryptamine;~~
 36 ~~(9) 4-methyl-2,5-dimethoxy-amphetamine (DOM, STP);~~
 37 ~~(10) 3,4-methylenedioxy amphetamine;~~
 38 ~~(11) 3,4-methylenedioxymethamphetamine (MDMA);~~
 39 ~~(12) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-~~
 40 ~~alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-ethyl~~
 41 ~~MDA, MDE, MDEA);~~
 42 ~~(13) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-~~
 43 ~~alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hydroxy~~
 44 ~~MDA);~~
 45 ~~(14) 3,4,5-trimethoxy amphetamine;~~
 46 ~~(15) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-~~
 47 ~~(dimethylamino)ethyl]indole and 5-MeO-DMT);~~
 48 ~~(16) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-am-~~
 49 ~~inobutyl) indole);~~
 50 ~~(17) Alpha-methyltryptamine;~~

- 1 ~~(18) Bufotenine;~~
 2 ~~(19) Diethyltryptamine (DET);~~
 3 ~~(20) Dimethyltryptamine (DMT);~~
 4 ~~(21) Ibogaine;~~
 5 ~~(22) Lysergic acid diethylamide;~~
 6 ~~(23) Marihuana;~~
 7 ~~(24) Mescaline;~~
 8 ~~(25) Parahexyl;~~
 9 ~~(26) Peyote;~~
 10 ~~(27) N-ethyl-3-piperidyl benzilate;~~
 11 ~~(28) N-methyl-3-piperidyl benzilate;~~
 12 ~~(29) Psilocybin;~~
 13 ~~(30) Psilocyn;~~

14 (31) Tetrahydrocannabinols or synthetic equivalents of the substances
 15 contained in the plant, or in the resinous extractives of Cannabis, sp.
 16 and/or synthetic substances, derivatives, and their isomers with similar
 17 chemical structure such as the following:

18 i. (a) Tetrahydrocannabinols:

19 a. ~~Δ^1 cis or trans tetrahydrocannabinol, and their optical iso-~~
 20 ~~mers, excluding dronabinol in sesame oil and encapsulated in a~~
 21 ~~soft gelatin capsule in a drug product approved by the U.S. Food~~
 22 ~~and Drug Administration.~~

23 b. ~~Δ^6 cis or trans tetrahydrocannabinol, and their optical iso-~~
 24 ~~mers.~~

25 c. ~~$\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical iso-~~
 26 ~~mers. (Since nomenclature of these substances is not internation-~~
 27 ~~ally standardized, compounds of these structures, regardless of~~
 28 ~~numerical designation of atomic positions are covered.)~~

29 d. ~~[(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-~~
 30 ~~octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol]], also~~
 31 ~~known as 6aR-trans-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahy-~~
 32 ~~dro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol~~
 33 ~~(HU-210) and its geometric isomers (HU211 or dexanabinol).~~

34 ii. (b) The following synthetic drugs:

35 a. (i) Any compound structurally derived from 3-(1-naphthoyl)in-
 36 dole or 1H-indol-3-yl-(1-naphthyl)methane (1H-indole-3-yl) (cy-
 37 cloalkyl, cycloalkenyl, aryl)methanone, or (1H-indole-3-yl) (cy-
 38 cloalkyl, cycloalkenyl, aryl)methane, or (1H-indole-3-yl) (cy-
 39 cloalkyl, cycloalkenyl, aryl)carboxamide by substitution at the
 40 nitrogen atoms of the indole ring or carboxamide to any extent,
 41 whether or not further substituted in or on the indole ring to
 42 any extent, whether or not substituted in the naphthyl ring to
 43 any extent in or on the cycloalkyl, cycloalkenyl, aryl ring(s)
 44 (substitution in the ring may include, but is not limited to, het-
 45 eroatoms such as nitrogen, sulfur and oxygen).

46 b. (ii) Any compound structurally derived from 3-(1-naph-
 47 thoyl)pyrrole by substitution at the nitrogen atom of the pyrrole
 48 ring to any extent, whether or not further substituted in the pyr-
 49 role ring to any extent, whether or not substituted in the naphthyl
 50 ring to any extent.

1 ~~e.~~(iii) Any compound structurally derived from 1-(1-naphthyl-
2 methyl)indene by substitution at the 3-position of the indene ring
3 to any extent, whether or not further substituted in the indene
4 ring to any extent, whether or not substituted in the naphthyl ring
5 to any extent.

6 ~~d.~~(iv) Any compound structurally derived from 3-phenylacetylin-
7 drole by substitution at the nitrogen atom of the indole ring to any
8 extent, whether or not further substituted in the indole ring to
9 any extent, whether or not substituted in the phenyl ring to any
10 extent.

11 ~~e.~~(v) Any compound structurally derived from 2-(3-hydroxycyclo-
12 hexyl)phenol by substitution at the 5-position of the phenolic
13 ring to any extent, whether or not substituted in the cyclohexyl
14 ring to any extent.

15 ~~f.~~ Any compound structurally derived from 3-(benzoyl)indole
16 structure with substitution at the nitrogen atom of the indole
17 ring to any extent, whether or not further substituted in the
18 indole ring to any extent and whether or not substituted in the
19 phenyl ring to any extent.

20 ~~g.~~(vi) [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrr-
21 olo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone
22 (WIN-55,212-2).

23 ~~h.~~(vii) 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-
24 243).

25 ~~i.~~(viii) [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-5-
26 phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenan-
27 thridin-1-yl]acetate (CP 50,5561).

28 ~~(32) Ethylamine analog of phencyclidine: N-ethyl-1-phenyley-~~
29 ~~clohexylamine (1-phenylecyclohexyl) ethylamine; N-(1-phenyley-~~
30 ~~clohexyl) ethylamine, cyclohexamine, PCE;~~

31 ~~(33) Pyrrolidine analog of phencyclidine: 1-(phenylecyclohexyl)-~~
32 ~~pyrrolidine, PCPy, PHP;~~

33 ~~(34) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-~~
34 ~~piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;~~

35 ~~(35) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;~~

36 ~~(36) Spores or mycelium capable of producing mushrooms that contain~~
37 ~~psilocybin or psilocin.~~

38 ~~(c) Unless specifically excepted or unless listed in another schedule,~~
39 ~~any material, compound, mixture or preparation which contains any quantity~~
40 ~~of the following substances having a depressant effect on the central ner-~~
41 ~~vous system, including its salts, isomers, and salts of isomers whenever the~~
42 ~~existence of such salts, isomers, and salts of isomers is possible within the~~
43 ~~specific chemical designation:~~

44 ~~(1) Gamma hydroxybutyric acid (some other names include GHB; gam-~~
45 ~~ma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sod-~~
46 ~~ium oxybate; sodium oxybutyrate);~~

47 ~~(2) Flunitrazepam (also known as "R2," "Rohypnol");~~

48 ~~(3) Mecloqualone;~~

49 ~~(4) Methaqualone.~~

1 (¶4) Stimulants. Unless specifically excepted or unless listed in an-
 2 other schedule, any material, compound, mixture, or preparation which con-
 3 tains any quantity of the following substances having a stimulant effect on
 4 the central nervous system, including its salts, isomers, and salts of iso-
 5 mers:

6 ~~(1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-ox-~~
 7 ~~azoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);~~

8 ~~(2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alp-~~
 9 ~~ha-aminopropiophenone, 2-aminopropiophenone and norephedrone);~~

10 (3a) Substituted cathinones. Any compound, except bupropion or com-
 11 pounds listed under a different schedule, structurally derived from
 12 2-aminopropan-1-one by substitution at the 1-position with either
 13 phenyl, naphthyl or thiophene ring systems, whether or not the compound
 14 is further modified in any of the following ways:

15 (i-) By substitution in the ring system to any extent with
 16 alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide sub-
 17 stituents, whether or not further substituted in the ring system
 18 by one (1) or more other univalent substituents;

19 (ii-) By substitution at the 3-position with an acyclic alkyl sub-
 20 stituent;

21 (iii-) By substitution at the 2-amino nitrogen atom with alkyl,
 22 dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the
 23 2-amino nitrogen atom in a cyclic structure.

24 ~~(4) Fenethylamine;~~

25 ~~(5) Methcathinone (some other names: 2-(methyl-amino)-propioph-~~
 26 ~~enone, alpha-(methylamino)-propiophenone, N-methylcathinone, AL-~~
 27 ~~464, AL-422, AL-463 and UR1423);~~

28 ~~(6) (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-~~
 29 ~~phenyl-2-oxazolamine];~~

30 ~~(7) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);~~

31 ~~(8) N-ethylamphetamine;~~

32 ~~(9) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-ben-~~
 33 ~~zeneethanamine).~~

34 SECTION 5. That Section 37-2706, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 37-2706. SCHEDULE II TESTS. The board shall place a substance in
 37 schedule II if it finds that:

38 (a) The substance has high potential for abuse;

39 (b) The substance has currently accepted medical use in treatment in
 40 the United States, or currently accepted medical use with severe restric-
 41 tions; and

42 (c) The abuse of the substance may lead to severe psychic or physical
 43 dependence.

44 SECTION 6. That Section 37-2707, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

1 37-2707. SCHEDULE II. (a~~1~~) Schedule II shall consist of the drugs and
 2 other substances, by whatever official name, common or usual name, chemical
 3 name, or brand name designated, listed in this section.

4 (2) Substances listed in 21 CFR 1308.12 are incorporated by reference
 5 herein unless:

6 (a) Explicitly excepted by 21 CFR 1308.12 or this act; or

7 (b) Listed in a different schedule in Idaho.

8 ~~(b) Substances, vegetable origin or chemical synthesis. Unless~~
 9 ~~specifically excepted or unless listed in another schedule, any of the fol-~~
 10 ~~lowing substances whether produced directly or indirectly by extraction~~
 11 ~~from substances of vegetable origin, or independently by means of chemical~~
 12 ~~synthesis, or by a combination of extraction and chemical synthesis:~~

13 ~~(13) Opium and opiate, and a~~Any salt, compound, derivative, or prepa-
 14 ~~ration of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine,~~
 15 ~~nalmeferne, naloxone, naltrexone and their respective salts, but including~~
 16 ~~the following:~~

- 17 ~~1. Raw opium;~~
- 18 ~~2. Opium extracts;~~
- 19 ~~3. Opium fluid extracts;~~
- 20 ~~4. Powdered opium;~~
- 21 ~~5. Granulated opium;~~
- 22 ~~6. Tincture of opium;~~
- 23 ~~7. Codeine;~~
- 24 ~~8. Dihydroetorphine;~~
- 25 ~~9. Diprenorphine;~~
- 26 ~~10. Ethylmorphine;~~
- 27 ~~11. Etorphine hydrochloride;~~
- 28 ~~12. Hydrocodone;~~
- 29 ~~13. Hydromorphone;~~
- 30 ~~14. Metopon;~~
- 31 ~~15. Morphine;~~
- 32 ~~16. Oripavine;~~
- 33 ~~17. Oxycodone;~~
- 34 ~~18. Oxymorphone;~~
- 35 ~~19. Tapentadol;~~
- 36 ~~20. Thebaine.~~

37 ~~(2) Any salt, compound, derivative, or preparation thereof which is~~
 38 ~~chemically equivalent or identical with any of the substances referred~~
 39 ~~to in paragraph (b) (1) of this section, except that these substances~~
 40 ~~shall not include the isoquinoline alkaloids of opium.~~

41 ~~(3) Opium poppy and poppy straw.~~

42 ~~(4) Coca leaves and any salt, compound, derivative, or preparation~~
 43 ~~of coca leaves, and any salt, compound, derivative, or preparation~~
 44 ~~thereof which is chemically equivalent or identical with any of these~~
 45 ~~substances, but not including decocainized coca leaves or extractions~~
 46 ~~which do not contain cocaine or ecgonine.~~

47 ~~(5a) Benzoylecgonine;~~

48 ~~(6b) Methylbenzoylecgonine (Cocaine - its salts, optical isomers, and~~
 49 ~~salts of optical isomers).~~

1 ~~(7) Concentrate of poppy straw (the crude extract of poppy straw in ei-~~
2 ~~ther liquid, solid or powder form which contains the phenanthrine alka-~~
3 ~~loids of the opium poppy).~~

4 ~~(c) Any of the following opiates, including their isomers, esters,~~
5 ~~ethers, salts, and salts of isomers, whenever the existence of these iso-~~
6 ~~mers, esters, ethers and salts is possible within the specific chemical~~
7 ~~designation, unless specifically excepted or unless listed in another~~
8 ~~schedule:~~

- 9 ~~(1) Alfentanil;~~
10 ~~(2) Alphaprodine;~~
11 ~~(3) Anileridine;~~
12 ~~(4) Bezitramide;~~
13 ~~(5) Bulk Dextropropoxyphene (nondosage forms);~~
14 ~~(6) Carfentanil;~~
15 ~~(7) Dihydrocodeine;~~
16 ~~(8) Diphenoxylate;~~
17 ~~(9) Fentanyl;~~
18 ~~(10) Isomethadone;~~
19 ~~(11) Levo-alphaacetylmethadol (also known as levo-alpha-acetylmeth-~~
20 ~~adol, levomethadyl acetate, LAAM);~~
21 ~~(12) Levomethorphan;~~
22 ~~(13) Levorphanol;~~
23 ~~(14) Metazocine;~~
24 ~~(15) Methadone;~~
25 ~~(16) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl~~
26 ~~butane;~~
27 ~~(17) Moramide -- Intermediate, 2-methyl-3-morpholino-1,1-diphenyl~~
28 ~~propane-carboxylic acid;~~
29 ~~(18) Pethidine (meperidine);~~
30 ~~(19) Pethidine -- Intermediate -- A, 4-cyano-1-methyl-4-phenyl-~~
31 ~~piperidine;~~
32 ~~(20) Pethidine -- Intermediate -- B, ethyl-4-phenylpiperidine-4-car-~~
33 ~~boxylate;~~
34 ~~(21) Pethidine -- Intermediate -- C, 1-methyl-4-phenylpiperid-~~
35 ~~ine-4-carboxylic acid;~~
36 ~~(22) Phenazocine;~~
37 ~~(23) Piminodine;~~
38 ~~(24) Racemethorphan;~~
39 ~~(25) Racemorphan;~~
40 ~~(26) Remifentanil;~~
41 ~~(27) Sufentanil.~~

42 ~~(d) Stimulants. Unless specifically excepted or unless listed in an-~~
43 ~~other schedule, any material, compound, mixture, or preparation which con-~~
44 ~~tains any quantity of the following substances having a stimulant effect on~~
45 ~~the central nervous system:~~

- 46 ~~(1) Amphetamine, its salts, optical isomers, and salts of its optical~~
47 ~~isomers;~~
48 ~~(2) Lisdexamfetamine;~~
49 ~~(3) Methamphetamine, its salts, isomers, and salts of its isomers;~~
50 ~~(4) Phenmetrazine and its salts;~~

- 1 ~~(5) Methylphenidate.~~
- 2 ~~(e) Depressants. Unless specifically excepted or unless listed in an-~~
3 other schedule, any material, compound, mixture, or preparation which con-
4 tains any quantity of the following substances having a depressant effect on
5 the central nervous system, including its salts, isomers, and salts of iso-
6 mers, whenever the existence of such salts, isomers, and salts of isomers is
7 possible within the specific chemical designation:
- 8 ~~(1) Amobarbital;~~
- 9 ~~(2) Glutethimide;~~
- 10 ~~(3) Pentobarbital;~~
- 11 ~~(4) Phencyclidine;~~
- 12 ~~(5) Secobarbital.~~
- 13 ~~(f) Hallucinogenic substances.~~
- 14 ~~(1) Nabilone (another name for nabilone:~~
15 ~~(+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hy-~~
16 ~~droxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one) (21 C.F.R. 1308.12~~
17 ~~(f)).~~
- 18 ~~(g) Immediate precursors. Unless specifically excepted or unless~~
19 listed in another schedule, any material, compound, mixture, or preparation
20 which contains any quantity of the following substances:
- 21 ~~(1) Immediate precursor to amphetamine and methamphetamine:~~
- 22 ~~(a) Anthranilic acid;~~
- 23 ~~(b) Ephedrine;~~
- 24 ~~(c) Lead acetate;~~
- 25 ~~(d) Methylamine;~~
- 26 ~~(e) Methyl formamide;~~
- 27 ~~(f) N-methylephedrine;~~
- 28 ~~(g) Phenylacetic acid;~~
- 29 ~~(h) Phenylacetone;~~
- 30 ~~(i) Phenylpropanolamine;~~
- 31 ~~(j) Pseudoephedrine.~~
- 32 Except that any combination or compound containing ephedrine, or any of
33 its salts and isomers, or phenylpropanolamine or its salts and isomers, or
34 pseudoephedrine, or any of its salts and isomers which is prepared for dis-
35 pensing or over-the-counter distribution is not a controlled substance for
36 the purpose of this section, unless such substance is possessed, delivered,
37 or possessed with intent to deliver to another with the intent to manufac-
38 ture methamphetamine, amphetamine or any other controlled substance in vio-
39 lation of section 37-2732, Idaho Code. For purposes of this provision, the
40 requirements of the uniform controlled substances act shall not apply to a
41 manufacturer, wholesaler or retailer of over-the-counter products contain-
42 ing the listed substances unless such person possesses, delivers, or pos-
43 sesses with intent to deliver to another the over-the-counter product with
44 intent to manufacture a controlled substance.
- 45 ~~(2) Immediate precursors to phencyclidine (PCP):~~
- 46 ~~(a) 1-phenylecyclohexylamine;~~
- 47 ~~(b) 1-piperidinocyclohexanecarbonitrile (PCC).~~
- 48 ~~(3) Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperi-~~
49 ~~dine (ANPP).~~

1 SECTION 7. That Section 37-2708, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 37-2708. SCHEDULE III TESTS. The board shall place a substance in
4 schedule III if it finds that:

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

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

9 (c~~3~~) Abuse of the substance may lead to moderate or low physical depen-
10 dence or high psychological dependence.

11 SECTION 8. That Section 37-2709, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 37-2709. SCHEDULE III. (a~~1~~) Schedule III shall consist of the drugs
14 and other substances, by whatever official name, common or usual name, chem-
15 ical name, or brand name designated, listed in this section.

16 (2) Substances listed in 21 CFR 1308.13 are incorporated by reference
17 herein unless:

18 (a) Explicitly excepted by 21 CFR 1308.13 or this act; or

19 (b) Listed in a different schedule in Idaho.

20 ~~(b) Stimulants. Unless specifically excepted or unless listed in~~
21 ~~another schedule, any material, compound, mixture, or preparation which~~
22 ~~contains any quantity of the following substances having a stimulant ef-~~
23 ~~fect on the central nervous system, including its salts, isomers, (whether~~
24 ~~optical or geometric), and salts of such isomers whenever the existence of~~
25 ~~such salts, isomers, and salts of isomers is possible within the specific~~
26 ~~chemical designation:~~

27 ~~(1) Those compounds, mixtures, or preparations in dosage unit form con-~~
28 ~~taining any stimulant substances listed in schedule II which compounds,~~
29 ~~mixtures, or preparations were listed as excepted compounds under 21~~
30 ~~CFR 1308.32, and any other drug of the quantitative composition shown in~~
31 ~~that list for those drugs or which is the same except that it contains a~~
32 ~~lesser quantity of controlled substances.~~

33 ~~(2) Benzphetamine;~~

34 ~~(3) Chlorphentermine;~~

35 ~~(4) Clortermine;~~

36 ~~(5) Phendimetrazine.~~

37 ~~(c) Depressants. Unless listed in another schedule, any material, com-~~
38 ~~pound, mixture, or preparation which contains any quantity of the following~~
39 ~~substances having a potential for abuse associated with a depressant effect~~
40 ~~on the central nervous system:~~

41 ~~(1) Any compound, mixture or preparation containing:~~

42 ~~i. Amobarbital;~~

43 ~~ii. Secobarbital;~~

44 ~~iii. Pentobarbital or any salt thereof and one (1) or more other~~
45 ~~active medicinal ingredients which are not listed in any schedule.~~

46 ~~(2) Any suppository dosage form containing:~~

47 ~~i. Amobarbital;~~

48 ~~ii. Secobarbital;~~

- 1 iii. Pentobarbital or any salt of any of these drugs and approved
2 by the Food and Drug Administration for marketing only as a suppos-
3 itory.
- 4 ~~(3) Any substance which contains any quantity of a derivative of barbi-~~
5 ~~turic acid or any salt thereof, including, but not limited to:~~
- 6 i. ~~Aprobarbital;~~
7 ii. ~~Butabarbital (secbutabarbital);~~
8 iii. ~~Butalbital;~~
9 iv. ~~Butobarbital (butethal);~~
10 v. ~~Talbutal;~~
11 vi. ~~Thiamylal;~~
12 vii. ~~Thiopental;~~
13 viii. ~~Vinbarbital.~~
- 14 ~~(4) Chlorhexadol;~~
15 ~~(5) Embutramide;~~
16 ~~(6) Any drug product containing gamma hydroxybutyric acid, including~~
17 ~~its salts, isomers, and salts of isomers, for which an application is~~
18 ~~approved under section 505 of the federal food, drug, and cosmetic act;~~
19 ~~(7) Ketamine, its salts, isomers, and salts of isomers-~~
20 ~~7285. (Some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-~~
21 ~~(methylamino)-cyclohexanone).~~
- 22 ~~(8) Lysergic acid;~~
23 ~~(9) Lysergic acid amide;~~
24 ~~(10) Methyprylon;~~
25 ~~(11) Sulfondiethylmethane;~~
26 ~~(12) Sulfonethylmethane;~~
27 ~~(13) Sulfonmethane;~~
28 ~~(14) Tiletamine and zolazepam or any salt thereof.~~
- 29 ~~(d) Nalorphine.~~
30 ~~(e) Narcotic drugs. Unless specifically excepted or unless listed in~~
31 ~~another schedule:~~
- 32 ~~(1) Any material, compound, mixture, or preparation containing limited~~
33 ~~quantities of any of the following narcotic drugs, or any salts thereof:~~
- 34 ~~(i) Not more than 1.8 grams of codeine, or any of its salts, per~~
35 ~~100 milliliters or not more than 90 milligrams per dosage unit,~~
36 ~~with an equal or greater quantity of an isoquinoline alkaloid of~~
37 ~~opium;~~
- 38 ~~(ii) Not more than 1.8 grams of codeine, or any of its salts, per~~
39 ~~100 milliliters or not more than 90 milligrams per dosage unit,~~
40 ~~with one (1) or more active, nonnarcotic ingredients in recognized~~
41 ~~therapeutic amounts;~~
- 42 ~~(iii) Not more than 300 milligrams of dihydrocodeinone, commonly~~
43 ~~known as hydrocodone, or any of its salts, per 100 milliliters or~~
44 ~~not more than 15 milligrams per dosage unit, with a fourfold or~~
45 ~~greater quantity of an isoquinoline alkaloid of opium;~~
- 46 ~~(iv) Not more than 300 milligrams of dihydrocodeinone, commonly~~
47 ~~known as hydrocodone, or any of its salts, per 100 milliliters~~
48 ~~or not more than 15 milligrams per dosage unit, with one (1) or~~
49 ~~more active, nonnarcotic ingredients in recognized therapeutic~~
50 ~~amounts;~~

- 1 ~~(v) Not more than 1.8 grams of dihydrocodeine, or any of its~~
2 ~~salts, per 100 milliliters or not more than 90 milligrams per~~
3 ~~dosage unit, with one (1) or more active, nonnarcotic ingredients~~
4 ~~in recognized therapeutic amounts;~~
5 ~~(vi) Not more than 300 milligrams of ethylmorphine, or any of~~
6 ~~its salts, per 100 milliliters or not more than 15 milligrams per~~
7 ~~dosage unit, with one (1) or more ingredients in recognized thera-~~
8 ~~peutic amounts;~~
9 ~~(vii) Not more than 500 milligrams of opium per 100 milliliters~~
10 ~~or per 100 grams, or not more than 25 milligrams per dosage unit,~~
11 ~~with one (1) or more active, nonnarcotic ingredients in recognized~~
12 ~~therapeutic amounts;~~
13 ~~(viii) Not more than 50 milligrams of morphine, or any of its~~
14 ~~salts, per 100 milliliters or per 100 grams with one (1) or more ac-~~
15 ~~tive, nonnarcotic ingredients in recognized therapeutic amounts.~~
16 ~~(2) Any material, compound, mixture, or preparation containing any of~~
17 ~~the following narcotic drugs or their salts, as set forth below:~~
18 ~~(i) Buprenorphine.~~
19 ~~(ii) [Reserved].~~
20 ~~(#3) Anabolic steroids and human growth hormones. Any drug or hormonal~~
21 ~~substance, chemically and pharmacologically related to testosterone (other~~
22 ~~than estrogens, progestins and corticosteroids) that promotes muscle growth~~
23 ~~including any salt, ester or isomer of a drug or substance listed in this~~
24 ~~paragraph, if that salt, ester or isomer promotes muscle growth.~~
25 ~~(1) 13beta-ethyl-17beta-hydroxygon-4-en-3-one;~~
26 ~~(2) 17alpha-methyl-3alpha,17beta-dihydroxy-5alpha-androstane;~~
27 ~~(3) 17alpha-methyl-3beta,17beta-dihydroxy-5alpha-androstane;~~
28 ~~(4) 17alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene;~~
29 ~~(5) 17alpha-methyl-4-hydroxynandrolone;~~
30 ~~(6) 17alpha-methyl-delta1-dihydrotestosterone;~~
31 ~~(7) 19-nor-4-androstenediol;~~
32 ~~(8) 19-nor-4-androstenedione;~~
33 ~~(9) 19-nor-4,9(10)-androstadienedione;~~
34 ~~(10) 19-nor-5-androstenediol;~~
35 ~~(11) 19-nor-5-androstenedione;~~
36 ~~(12) 1-androstenediol;~~
37 ~~(13) 1-androstenedione;~~
38 ~~(14) 3alpha,17beta-dihydroxy-5alpha-androstane;~~
39 ~~(15) 3beta,17beta-dihydroxy-5alpha-androstane;~~
40 ~~(16) 4-androstenediol;~~
41 ~~(17) 4-androstenedione;~~
42 ~~(18) 4-hydroxy-19-nortestosterone;~~
43 ~~(19) 4-hydroxytestosterone;~~
44 ~~(20) 5-androstenediol;~~
45 ~~(21) 5-androstenedione;~~
46 ~~(22) Androstenedione;~~
47 ~~(23) Bolasterone;~~
48 ~~(24) Boldenone;~~
49 ~~(25) Boldione;~~
50 ~~(26) Calusterone;~~

- 1 ~~(27) Chlorotestosterone (4-chlorotestosterone);~~
2 ~~(28) Clostebol;~~
3 ~~(29) Dehydrochlormethyltestosterone;~~
4 ~~(30) Delta1-dihydrotestosterone;~~
5 ~~(31) Desoxymethyltestosterone;~~
6 ~~(32) Dihydrotestosterone (4-dihydrotestosterone);~~
7 ~~(33) Drostanolone;~~
8 ~~(34) Ethylestrenol;~~
9 ~~(35) Fluoxymesterone;~~
10 ~~(36) Formebolone;~~
11 ~~(37) Furazabol;~~
12 (38a) Human growth hormones;
13 ~~(39) Mestanolone;~~
14 (40b) Mesterolone;
15 ~~(41) Methandienone;~~
16 ~~(42) Methandranone;~~
17 ~~(43) Methandriol;~~
18 ~~(44) Methandrostenolone;~~
19 ~~(45) Methenolone;~~
20 ~~(46) Methyldienolone;~~
21 ~~(47) Methyltestosterone;~~
22 ~~(48) Methyltrienolone;~~
23 ~~(49) Mibolerone;~~
24 ~~(50) Nandrolone;~~
25 ~~(51) Norbolethone;~~
26 ~~(52) Noreclostebol;~~
27 ~~(53) Norethandrolone;~~
28 ~~(54) Normethandrolone;~~
29 ~~(55) Oxandrolone;~~
30 ~~(56) Oxymesterone;~~
31 ~~(57) Oxymetholone;~~
32 ~~(58) Stanolone;~~
33 ~~(59) Stanozolol;~~
34 ~~(60) Stenbolone;~~
35 ~~(61) Testolactone;~~
36 ~~(62) Testosterone;~~
37 ~~(63) Testosterone cypionate;~~
38 ~~(64) Testosterone enanthate;~~
39 ~~(65) Testosterone propionate;~~
40 ~~(66) Tetrahydrogestrinone;~~
41 ~~(67) Trenbolone.~~

42 Anabolic steroids that are expressly intended for administration
43 through implants to cattle or other nonhuman species, and that are approved
44 by the federal Food and Drug Administration for such use, shall not be clas-
45 sified as controlled substances under this act chapter and shall not be
46 governed by its provisions.

47 In addition to the penalties prescribed in article IV of the uniform
48 controlled substances act, any person shall be guilty of a felony who pre-
49 scribes, dispenses, supplies, sells, delivers, manufactures or possesses
50 with the intent to prescribe, dispense, supply, sell, deliver or manufac-

1 ture anabolic steroids or any other human growth hormone for purposes of
 2 enhancing performance in an exercise, sport or game or hormonal manipulation
 3 intended to increase muscle mass, strength or weight without a medical ne-
 4 cessity as determined by a physician.

5 ~~(g) Hallucinogenic substances.~~

6 ~~(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft~~
 7 ~~gelatin capsule in the federal Food and Drug Administration ap-~~
 8 ~~proved product -- 7369. (Some other names for dronabinol: (6aR-~~
 9 ~~trans) -- 6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo~~
 10 ~~[b,d]pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol).~~

11 ~~(h) Other substances. Unless specifically excepted, or unless listed~~
 12 ~~in another schedule, any material, compound, mixture, or preparation which~~
 13 ~~contains any quantity of the following substance, including its salts:~~

14 ~~(1) Butorphanol.~~

15 ~~(i) The board may except by rule any compound, mixture, or preparation~~
 16 ~~containing any stimulant or depressant substance listed in subsections (b)~~
 17 ~~and (c) of this section from the application of all or any part of this act if~~
 18 ~~the compound, mixture, or preparation contains one (1) or more active medic-~~
 19 ~~inal ingredients not having a stimulant or depressant effect on the central~~
 20 ~~nervous system, and if the admixtures are included therein in combinations,~~
 21 ~~quantity, proportion, or concentration that vitiate the potential for abuse~~
 22 ~~of the substances which have a stimulant or depressant effect on the central~~
 23 ~~nervous system.~~

24 SECTION 9. That Section 37-2710, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 37-2710. SCHEDULE IV TESTS. The board shall place a substance in
 27 schedule IV if it finds that:

28 ~~(a1)~~ The substance has a low potential for abuse relative to substances
 29 in schedule III;

30 ~~(b2)~~ The substance has currently accepted medical use in treatment in
 31 the United States; and

32 ~~(e3)~~ Abuse of the substance may lead to limited physical dependence or
 33 psychological dependence relative to the substances in schedule III.

34 SECTION 10. That Section 37-2711, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 37-2711. SCHEDULE IV. ~~(a1)~~ Schedule IV shall consist of the drugs and
 37 other substances, by whatever official name, common or usual name, chemical
 38 name, or brand name designated, listed in this section.

39 (2) Substances listed in 21 CFR 1308.14 are incorporated by reference
 40 herein unless:

41 (a) Explicitly excepted by 21 CFR 1308.14 or this act; or

42 (b) Listed in a different schedule in Idaho.

43 ~~(b) Narcotic drugs. Unless specifically excepted or unless listed in~~
 44 ~~another schedule, any material, compound, mixture, or preparation contain-~~
 45 ~~ing any of the following narcotic drugs, or their salts calculated as the~~
 46 ~~free anhydrous base or alkaloid, in limited quantities as set forth below:~~

- 1 ~~(1) No more than 1 milligram of difenoxin and not less than 25 micro-~~
2 ~~grams of atropine sulfate per dosage unit;~~
3 ~~(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-~~
4 ~~3-methyl-2-propionoxybutane).~~
5 ~~(c) Depressants. Unless specifically excepted or unless listed in an-~~
6 ~~other schedule, any material, compound, mixture, or preparation which con-~~
7 ~~tains any quantity of the following substances, including its salts, iso-~~
8 ~~mers, and salts of isomers whenever the existence of such salts, isomers, and~~
9 ~~salts of isomers is possible within the specific chemical designation:~~
- 10 ~~(1) Alprazolam;~~
11 ~~(2) Barbital;~~
12 ~~(3) Bromazepam;~~
13 ~~(4) Camazepam;~~
14 ~~(5) Carisprodol;~~
15 ~~(6) Chloral betaine;~~
16 ~~(7) Chloral hydrate;~~
17 ~~(8) Chlordiazepoxide;~~
18 ~~(9) Clobazam;~~
19 ~~(10) Clonazepam;~~
20 ~~(11) Clorazepate;~~
21 ~~(12) Clotiazepam;~~
22 ~~(13) Cloxazolam;~~
23 ~~(14) Delorazepam;~~
24 ~~(15) Diazepam;~~
25 ~~(16) Dichloralphenazone;~~
26 ~~(17) Estazolam;~~
27 ~~(18) Ethchlorvynol;~~
28 ~~(19) Ethinamate;~~
29 ~~(20) Ethyl loflazepate;~~
30 ~~(21) Fludiazepam;~~
31 ~~(22) Flurazepam;~~
32 ~~(23) Halazepam;~~
33 ~~(24) Haloxazolam;~~
34 ~~(25) Ketazolam;~~
35 ~~(26) Loprazolam;~~
36 ~~(27) Lorazepam;~~
37 ~~(28) Lormetazepam;~~
38 ~~(29) Mebutamate;~~
39 ~~(30) Medazepam;~~
40 ~~(31) Meprobamate;~~
41 ~~(32) Methohexital;~~
42 ~~(33) Methylphenobarbital (mephobarbital);~~
43 ~~(34) Midazolam;~~
44 ~~(35) Nimetazepam;~~
45 ~~(36) Nitrazepam;~~
46 ~~(37) Nordiazepam;~~
47 ~~(38) Oxazepam;~~
48 ~~(39) Oxazolam;~~
49 ~~(40) Paraldehyde;~~
50 ~~(41) Petrichloral;~~

- 1 ~~(42) Phenobarbital;~~
- 2 ~~(43) Pinazepam;~~
- 3 ~~(44) Prazepam;~~
- 4 ~~(45) Temazepam;~~
- 5 ~~(46) Tetrazepam;~~
- 6 ~~(47) Triazolam;~~
- 7 ~~(48) Quazepam;~~
- 8 ~~(49) Zaleplon;~~
- 9 ~~(50) Zolpidem;~~
- 10 ~~(51) Zopiclone.~~

11 ~~(d) Fenfluramine -- Any material, compound, mixture, or preparation~~
12 ~~which contains any quantity of the following substances, including its~~
13 ~~salts, isomers (whether optical, position, or geometric), and salts of such~~
14 ~~isomers, whenever the existence of such salts, isomers, and salts of isomers~~
15 ~~is possible:~~

- 16 ~~(1) Dexfenfluramine;~~
- 17 ~~(2) Fenfluramine.~~

18 ~~(e) Stimulants. Unless specifically excepted or unless listed in an-~~
19 ~~other schedule, any material, compound, mixture, or preparation which con-~~
20 ~~tains any quantity of the following substances having a stimulant effect on~~
21 ~~the central nervous system, including its salts, isomers (whether optical,~~
22 ~~position, or geometric), and salts of such isomers whenever the existence~~
23 ~~of such salts, isomers, and salts of isomers is possible within the specific~~
24 ~~chemical designation:~~

- 25 ~~(1) Cathine ((+)-norpseudoephedrine);~~
- 26 ~~(2) Diethylpropion;~~
- 27 ~~(3) Fencamfamin;~~
- 28 ~~(4) Fenproporex;~~
- 29 ~~(5) Mazindol;~~
- 30 ~~(6) Mefenorex;~~
- 31 ~~(7) Modafinil;~~
- 32 ~~(8) Pemoline (including organometallic complexes and chelates~~
33 ~~thereof);~~
- 34 ~~(9) Phentermine;~~
- 35 ~~(10) Pipradrol;~~
- 36 ~~(11) Sibutramine;~~
- 37 ~~(12) SPA ((-)-1-dimethylamino-1,2-diphenylethane).~~

38 ~~(f) Other substances. Unless specifically excepted, or unless listed~~
39 ~~in another schedule, any material, compound, mixture or preparation which~~
40 ~~contains any quantity of the following substances, including its salts:~~

- 41 ~~(1) Pentazocine;~~
- 42 ~~(2) Fospropofol.~~

43 ~~(g) The board may except by rule any compound, mixture, or preparation~~
44 ~~containing any depressant substance listed in subsection (c) of this sec-~~
45 ~~tion from the application of all or any part of this act if the compound,~~
46 ~~mixture, or preparation contains one (1) or more active medicinal ingredi-~~
47 ~~ents not having a depressant effect on the central nervous system, and if the~~
48 ~~admixtures are included therein in combinations, quantity, proportion, or~~
49 ~~concentration that vitiate the potential for abuse of the substances which~~
50 ~~have a depressant effect on the central nervous system.~~

1 SECTION 11. That Section 37-2712, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 37-2712. SCHEDULE V TESTS. The board shall place a substance in sched-
4 ule V if it finds that:

5 (a~~1~~) The substance has low potential for abuse relative to the con-
6 trolled substances listed in schedule IV;

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

9 (c~~3~~) The substance has limited physical dependence or psychological
10 dependence liability relative to the controlled substances listed in sched-
11 ule IV.

12 SECTION 12. That Section 37-2713, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 37-2713. SCHEDULE V. (a~~1~~) Schedule V shall consist of the drugs and
15 other substances, by whatever official name, common or usual name, chemical
16 name, or brand name designated, listed in this section.

17 (2) Substances listed in 21 CFR 1308.15 are incorporated by reference
18 herein unless:

19 (a) Explicitly excepted by 21 CFR 1308.15 or this act; or

20 (b) Listed in a different schedule in Idaho.

21 ~~(b) Narcotic drugs. Unless specifically excepted or unless listed in~~
22 ~~another schedule, any material, compound, mixture, or preparation contain-~~
23 ~~ing any of the following narcotic drugs and their salts, as set forth below.~~

24 ~~(c) Narcotic drugs containing nonnarcotic active medicinal ingredi-~~
25 ~~ents. Any compound, mixture, or preparation containing any of the follow-~~
26 ~~ing limited quantities of narcotic drugs or salts thereof, which shall in-~~
27 ~~clude one (1) or more nonnarcotic active medicinal ingredients in sufficient~~
28 ~~proportion to confer upon the compound, mixture, or preparation, valuable~~
29 ~~medicinal qualities other than those possessed by the narcotic drug alone:~~

30 ~~(1) Not more than 200 milligrams of codeine per 100 milliliters or per~~
31 ~~100 grams;~~

32 ~~(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters~~
33 ~~or per 100 grams;~~

34 ~~(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters~~
35 ~~or per 100 grams;~~

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

38 ~~(5) Not more than 100 milligrams of opium per 100 milliliters or per 100~~
39 ~~grams;~~

40 ~~(6) Not more than 0.5 milligrams difenoxin and not less than 25 micro-~~
41 ~~grams of atropine sulfate per dosage unit.~~

42 (d~~3~~) Other substances. Unless specifically excepted or unless listed
43 in another schedule, any material, compound, mixture or preparation which
44 contains any quantity of the following substances, including its salts:

45 ~~(1) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic~~
46 ~~acid ethyl ester]-2779;~~

47 ~~(2) Lacosamide;~~

48 ~~(3) Pregabalin;~~

1 ~~(4) Propylhexedrine (except as Benzedrex™ inhaler), including its~~
 2 ~~salts;~~
 3 ~~(5) Pyrovalerone.~~

4 SECTION 13. That Section 37-2713A, Idaho Code, be, and the same is
 5 hereby amended to read as follows:

6 37-2713A. SCHEDULE VI. (a~~1~~) Schedule VI shall consist of the drugs and
 7 other substances, by whatever official name, common or usual name, chemical
 8 name or brand name designated, listed in this section.

9 ~~(b2)~~ Volatile nitrites. Unless specifically excepted or unless listed
 10 in another schedule, any material, compound, mixture or preparation con-
 11 taining any of the following drugs or their related compounds, congeners or
 12 isomers as follows:

- 13 ~~(1a)~~ Amyl nitrite;
- 14 ~~(2b)~~ Butyl nitrite;
- 15 ~~(3c)~~ Isobutyl nitrite;
- 16 ~~(4d)~~ Isoamyl nitrite;
- 17 ~~(5e)~~ Isopentyl nitrite.

18 Except that any combination or compound containing amyl nitrite ~~which~~ that
 19 is prepared pursuant to a prescription issued by a licensed practitioner is
 20 not a controlled substance for the purpose of this section.

21 SECTION 14. That Section 37-2714, Idaho Code, be, and the same is hereby
 22 repealed.

23 SECTION 15. That Section 18-1502C, Idaho Code, be, and the same is
 24 hereby amended to read as follows:

25 18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR --
 26 USE OF CONTROLLED SUBSTANCES -- FINES. (1) Any person under eighteen (18)
 27 years of age who shall have in his possession any marijuana as defined in sec-
 28 tion 37-2701 (~~20~~), Idaho Code, which would constitute a misdemeanor for an
 29 adult so charged, or who shall have in his possession any drug paraphernalia
 30 as defined in section 37-2701 (~~14~~), Idaho Code, or who shall unlawfully use
 31 or be under the influence of controlled substances in violation of the pro-
 32 visions of section 37-2732C, Idaho Code, shall be guilty of a misdemeanor,
 33 and upon conviction, may be punished by a fine not in excess of one thousand
 34 dollars (\$1,000) or by ninety (90) days in a juvenile detention facility or
 35 by both or may be subject to the provisions of chapter 5, title 20, Idaho
 36 Code. If the juvenile is adjudicated under the provisions of chapter 5, ti-
 37 tle 20, Idaho Code, for a violation of this section he shall be sentenced in
 38 accordance with the provisions of chapter 5, title 20, Idaho Code. The juve-
 39 nile shall be adjudicated under chapter 5, title 20, Idaho Code, for a viola-
 40 tion of section 37-2732C, Idaho Code, unless the court finds that adjudica-
 41 tion under chapter 5, title 20, Idaho Code, is not appropriate in the circum-
 42 stances.

43 (2) A conviction under this section shall not be used as a factor or
 44 considered in any manner for the purpose of establishing rates of motor
 45 vehicle insurance charged by a casualty insurer, nor shall such conviction

1 be grounds for nonrenewal of any insurance policy as provided in section
2 41-2507, Idaho Code.

3 (3) Any person who pleads guilty or is found guilty of possession
4 of marijuana pursuant to this section, or any person under eighteen (18)
5 years of age who pleads guilty or is found guilty of a violation of section
6 37-2732C, Idaho Code, then in addition to the penalty provided in subsection
7 (1) of this section:

8 (a) The court shall suspend the person's driving privileges for a pe-
9 riod of not more than one (1) year. The person may request restricted
10 driving privileges during the period of suspension, which the court may
11 allow, if the person shows by a preponderance of the evidence that driv-
12 ing privileges are necessary as deemed appropriate by the court.

13 (b) If the person's driving privileges have been previously suspended
14 under this section, the court shall suspend the person's driving privi-
15 leges for a period of not more than two (2) years. The person may re-
16 quest restricted driving privileges during the period of suspension,
17 which the court may allow, if the person shows by a preponderance of the
18 evidence that driving privileges are necessary as deemed appropriate by
19 the court.

20 (c) The person shall surrender his license or permit to the court.

21 (d) The court shall notify the motor vehicle division of the Idaho
22 transportation department of all orders of suspension it issues pur-
23 suant to this section.

24 (4) The court, in its discretion, may also order the person convicted of
25 possession of marijuana under subsection (1) of this section, or a person un-
26 der eighteen (18) years of age who has been convicted of using or being under
27 the influence of a controlled substance in violation of section 37-2732C,
28 Idaho Code, to undergo and complete a substance abuse evaluation and to com-
29 plete a drug treatment program, as provided in section 37-2738, Idaho Code.

30 SECTION 16. That Section 18-2510, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 18-2510. POSSESSION, INTRODUCTION OR REMOVAL OF CERTAIN ARTICLES INTO
33 OR FROM CORRECTIONAL FACILITIES. (1) No person including a prisoner, except
34 as authorized by law or with permission of the facility head, shall know-
35 ingly:

36 (a) Introduce, or attempt to introduce, contraband into a correctional
37 facility or the grounds of a correctional facility; or

38 (b) Convey, or attempt to convey, contraband to a prisoner confined in a
39 correctional facility; or

40 (c) Possess, or attempt to possess, contraband within a correctional
41 facility; or

42 (d) Receive, obtain or remove, or attempt to receive, obtain or remove,
43 contraband from a correctional facility.

44 (2) Any person including a prisoner who violates any provision of sub-
45 section (1) of this section shall be guilty of a misdemeanor and on convic-
46 tion thereof shall be punished by imprisonment in the county jail for a pe-
47 riod not exceeding one (1) year or by a fine not exceeding one thousand dol-
48 lars (\$1,000), or by both such imprisonment and fine.

1 (3) No person including a prisoner, except as authorized by law or with
2 permission of the facility head, shall knowingly:

3 (a) Introduce, or attempt to introduce, major contraband into a correc-
4 tional facility or the grounds of a correctional facility; or

5 (b) Convey, or attempt to convey, major contraband to a prisoner con-
6 fined in a correctional facility; or

7 (c) Possess, or attempt to possess, major contraband within a correc-
8 tional facility; or

9 (d) Receive, obtain or remove, or attempt to receive, obtain or remove,
10 major contraband from a correctional facility.

11 (4) Any person including a prisoner who violates any provision of
12 subsection (3) of this section shall be guilty of a felony and on convic-
13 tion shall be punished by imprisonment in the state prison for a period not
14 exceeding five (5) years or by a fine not exceeding ten thousand dollars
15 (\$10,000), or by both such imprisonment and fine.

16 (5) As used in this section:

17 (a) "Contraband" means any article or thing that a prisoner confined in
18 a correctional facility is prohibited by statute, rule or policy from
19 obtaining or possessing and the use of which could endanger the safety
20 or security of the correctional facility, any person therein or the pub-
21 lic.

22 (b) "Correctional facility" means a correctional facility as defined
23 in section 18-101A, Idaho Code.

24 (c) "Major contraband" means:

25 (i) Any controlled substance as defined in section 37-2701 (e5),
26 Idaho Code;

27 (ii) Any tobacco product in excess of three (3) ounces;

28 (iii) Any firearm or dangerous weapon including explosives or com-
29 bustibles or any plans or materials that may be used in the making
30 or manufacturing of such weapons, explosives or devices;

31 (iv) Any telecommunication equipment or component hardware in-
32 cluding, but not limited to, any device carried, worn or stored
33 that is designed or intended to receive or transmit verbal or writ-
34 ten messages, access or store data or connect electronically to
35 the internet or any other electronic device that allows communi-
36 cations in any form. Such devices include, but are not limited to,
37 cellular telephones, portable two-way pagers, hand-held radios,
38 global position satellite system equipment, subscriber identity
39 module (SIM) cards, portable memory chips, batteries, chargers,
40 blackberry-type devices or smart phones, personal digital assis-
41 tants or PDA's and laptop computers. The term also includes any
42 new technology that is developed for similar purposes. Excluded
43 from this definition is any device having communication capabili-
44 ties that has been approved by the facility head for investigative
45 or institutional security purposes or for conducting other offi-
46 cial business;

47 (v) Any object or instrument intended or reasonably likely to
48 be used in the planning or aiding in an escape or attempted escape
49 from a correctional facility.

1 (d) "Prisoner" means a prisoner or a juvenile offender as those terms
2 are defined in section 18-101A, Idaho Code.

3 SECTION 17. That Section 37-2732, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by
6 this chapter, it is unlawful for any person to manufacture or deliver, or
7 possess with intent to manufacture or deliver, a controlled substance.

8 (1) Any person who violates this subsection with respect to:

9 (A) A controlled substance classified in schedule I which is a
10 narcotic drug or a controlled substance classified in schedule II,
11 except as provided for in section 37-2732B(a) (3), Idaho Code, is
12 guilty of a felony and upon conviction may be imprisoned for a term
13 of years not to exceed life imprisonment, or fined not more than
14 twenty-five thousand dollars (\$25,000), or both;

15 (B) Any other controlled substance which is a nonnarcotic drug
16 classified in schedule I, or a controlled substance classified in
17 schedule III, is guilty of a felony and upon conviction may be im-
18 prisoned for not more than five (5) years, fined not more than fif-
19 teen thousand dollars (\$15,000), or both;

20 (C) A substance classified in schedule IV, is guilty of a felony
21 and upon conviction may be imprisoned for not more than three (3)
22 years, fined not more than ten thousand dollars (\$10,000), or
23 both;

24 (D) A substance classified in schedules V and VI, is guilty of
25 a misdemeanor and upon conviction may be imprisoned for not more
26 than one (1) year, fined not more than five thousand dollars
27 (\$5,000), or both.

28 (b) Except as authorized by this chapter, it is unlawful for any per-
29 son to create, deliver, or possess with intent to deliver, a counterfeit sub-
30 stance.

31 (1) Any person who violates this subsection with respect to:

32 (A) A counterfeit substance classified in schedule I which is a
33 narcotic drug, or a counterfeit substance classified in schedule
34 II, is guilty of a felony and upon conviction may be imprisoned for
35 not more than fifteen (15) years, fined not more than twenty-five
36 thousand dollars (\$25,000), or both;

37 (B) Any other counterfeit substance classified in schedule I
38 which is a nonnarcotic drug contained in schedule I or a counter-
39 feit substance contained in schedule III, is guilty of a felony and
40 upon conviction may be imprisoned for not more than five (5) years,
41 fined not more than fifteen thousand dollars (\$15,000), or both;

42 (C) A counterfeit substance classified in schedule IV, is guilty
43 of a felony and upon conviction may be imprisoned for not more
44 than three (3) years, fined not more than ten thousand dollars
45 (\$10,000), or both;

46 (D) A counterfeit substance classified in schedules V and VI or a
47 noncontrolled counterfeit substance, is guilty of a misdemeanor
48 and upon conviction may be imprisoned for not more than one (1)
49 year, fined not more than five thousand dollars (\$5,000), or both.

1 (c) It is unlawful for any person to possess a controlled substance un-
2 less the substance was obtained directly from, or pursuant to, a valid pre-
3 scription or order of a practitioner while acting in the course of his pro-
4 fessional practice, or except as otherwise authorized by this chapter.

5 (1) Any person who violates this subsection and has in his possession
6 a controlled substance classified in schedule I which is a narcotic
7 drug or a controlled substance classified in schedule II, is guilty of
8 a felony and upon conviction may be imprisoned for not more than seven
9 (7) years, or fined not more than fifteen thousand dollars (\$15,000), or
10 both.

11 (2) Any person who violates this subsection and has in his possession
12 lysergic acid diethylamide is guilty of a felony and upon conviction may
13 be imprisoned for not more than three (3) years, or fined not more than
14 five thousand dollars (\$5,000), or both.

15 (3) Any person who violates this subsection and has in his possession a
16 controlled substance which is a nonnarcotic drug classified in schedule
17 I except lysergic acid diethylamide, or a controlled substance classi-
18 fied in schedules III, IV, V and VI is guilty of a misdemeanor and upon
19 conviction thereof may be imprisoned for not more than one (1) year, or
20 fined not more than one thousand dollars (\$1,000), or both.

21 (d) It shall be unlawful for any person to be present at or on premises
22 of any place where he knows illegal controlled substances are being manufac-
23 tured or cultivated, or are being held for distribution, transportation, de-
24 livery, administration, use, or to be given away. A violation of this sec-
25 tion shall deem those persons guilty of a misdemeanor and upon conviction
26 shall be punished by a fine of not more than three hundred dollars (\$300) and
27 not more than ninety (90) days in the county jail, or both.

28 (e) If any person is found to possess marijuana, which for the purposes
29 of this subsection shall be restricted to all parts of the plants of the
30 genus Cannabis, including the extract or any preparation of cannabis which
31 contains tetrahydrocannabinol, in an amount greater than three (3) ounces
32 net weight, it shall be a felony and upon conviction may be imprisoned for
33 not more than five (5) years, or fined not more than ten thousand dollars
34 (\$10,000), or both.

35 (f) If two (2) or more persons conspire to commit any offense defined in
36 this ~~act~~ section, said persons shall be ~~punishable~~ punished by a fine or im-
37 prisonment, or both, which may not exceed the maximum punishment prescribed
38 for the offense, the commission of which was the object of the conspiracy.

39 (g) (1) It is unlawful for any person to manufacture or distribute a
40 "simulated controlled substance," or to possess with intent to distrib-
41 ute, a "simulated controlled substance." Any person who violates this
42 subsection shall, upon conviction, be guilty of a misdemeanor and upon
43 conviction thereof shall be punished by a fine of not more than one thou-
44 sand dollars (\$1,000) and not more than one (1) year in the county jail,
45 or both.

46 (2) It is unlawful for any person to possess a "simulated controlled
47 substance." Any person who violates this subsection shall, upon convic-
48 tion, be guilty of a misdemeanor and upon conviction thereof shall be
49 punished by a fine of not more than three hundred dollars (\$300) and not
50 more than six (6) months in the county jail, or both.

1 (h) It is unlawful for any person to cause to be placed in any newspaper,
 2 magazine, handbill, or other publication, or to post or distribute in any
 3 public place, any advertisement or solicitation offering for sale simulated
 4 controlled substances. Any person who violates this subsection is guilty of
 5 a misdemeanor and shall be punished in the same manner as prescribed in sub-
 6 section (g) (1) of this section.

7 (i) No civil or criminal liability shall be imposed by virtue of this
 8 chapter on any person registered under the Uniform Controlled Substances
 9 Act who manufactures, distributes, or possesses an imitation controlled
 10 substance for use as a placebo or other use by a registered practitioner, as
 11 defined in section 37-2701 (~~aa~~24), Idaho Code, in the course of professional
 12 practice or research.

13 (j) No prosecution under this chapter shall be dismissed solely by rea-
 14 son of the fact that the dosage units were contained in a bottle or other con-
 15 tainer with a label accurately describing the ingredients of the imitation
 16 controlled substance dosage units. The good faith of the defendant shall be
 17 an issue of fact for the trier of fact.

18 (k) Upon conviction of a felony or misdemeanor violation under the pro-
 19 visions of this chapter or upon conviction of a felony pursuant to the "rack-
 20 eteering act," section 18-7804, Idaho Code, or the money laundering and il-
 21 legal investment provisions of section 18-8201, Idaho Code, the court may
 22 order restitution for costs incurred by law enforcement agencies in inves-
 23 tigating the violation. Law enforcement agencies shall include, but not be
 24 limited to, the Idaho state police, county and city law enforcement agen-
 25 cies, the office of the attorney general and county and city prosecuting at-
 26 torney offices. Costs shall include, but not be limited to, those incurred
 27 for the purchase of evidence, travel and per diem for law enforcement of-
 28 ficers and witnesses throughout the course of the investigation, hearings
 29 and trials, and any other investigative or prosecution expenses actually in-
 30 curred, including regular salaries of employees. In the case of reimburse-
 31 ment to the Idaho state police, those moneys shall be paid to the Idaho state
 32 police for deposit into the drug and driving while under the influence en-
 33 forcement donation fund created in section 57-816, Idaho Code. In the case
 34 of reimbursement to the office of the attorney general, those moneys shall be
 35 paid to the general fund. A conviction for the purposes of this section means
 36 that the person has pled guilty or has been found guilty, notwithstanding the
 37 form of the judgment (s) or withheld judgment (s).

38 SECTION 18. That Section 37-2732B, Idaho Code, be, and the same is
 39 hereby amended to read as follows:

40 37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as au-
 41 thorized in this chapter, and notwithstanding the provisions of section
 42 37-2732, Idaho Code:

43 (1) Any person who knowingly manufactures, delivers, or brings into
 44 this state, or who is knowingly in actual or constructive possession
 45 of, one (1) pound of marijuana or more, or twenty-five (25) marijuana
 46 plants or more, as defined in section 37-2701, Idaho Code, is guilty of
 47 a felony, which felony shall be known as "trafficking in marijuana." If
 48 the quantity of marijuana involved:

1 (A) Is one (1) pound or more, but less than five (5) pounds, or con-
2 sists of twenty-five (25) marijuana plants or more but fewer than
3 fifty (50) marijuana plants, regardless of the size or weight of
4 the plants, such person shall be sentenced to a mandatory minimum
5 fixed term of imprisonment of one (1) year and fined not less than
6 five thousand dollars (\$5,000);

7 (B) Is five (5) pounds or more, but less than twenty-five (25)
8 pounds, or consists of fifty (50) marijuana plants or more but
9 fewer than one hundred (100) marijuana plants, regardless of the
10 size or weight of the plants, such person shall be sentenced to a
11 mandatory minimum fixed term of imprisonment of three (3) years
12 and fined not less than ten thousand dollars (\$10,000);

13 (C) Is twenty-five (25) pounds or more, or consists of one hundred
14 (100) marijuana plants or more, regardless of the size or weight
15 of the plants, such person shall be sentenced to a mandatory mini-
16 mum fixed term of imprisonment of five (5) years and fined not less
17 than fifteen thousand dollars (\$15,000).

18 (D) The maximum number of years of imprisonment for trafficking in
19 marijuana shall be fifteen (15) years, and the maximum fine shall
20 be fifty thousand dollars (\$50,000).

21 (E) For the purposes of this section, the weight of the marijuana
22 is its weight when seized or as determined as soon as practica-
23 ble after seizure, unless the provisions of subsection (c) of this
24 section apply.

25 (2) Any person who knowingly manufactures, delivers, or brings into
26 this state, or who is knowingly in actual or constructive possession
27 of, twenty-eight (28) grams or more of cocaine or of any mixture or sub-
28 stance containing a detectable amount of cocaine is guilty of a felony,
29 which felony shall be known as "trafficking in cocaine." If the quantity
30 involved:

31 (A) Is twenty-eight (28) grams or more, but less than two hundred
32 (200) grams, such person shall be sentenced to a mandatory minimum
33 fixed term of imprisonment of three (3) years and fined not less
34 than ten thousand dollars (\$10,000);

35 (B) Is two hundred (200) grams or more, but less than four hundred
36 (400) grams, such person shall be sentenced to a mandatory mini-
37 mum fixed term of imprisonment of five (5) years and fined not less
38 than fifteen thousand dollars (\$15,000);

39 (C) Is four hundred (400) grams or more, such person shall be sen-
40 tenced to a mandatory minimum fixed term of imprisonment of ten
41 (10) years and fined not less than twenty-five thousand dollars
42 (\$25,000).

43 (D) The maximum number of years of imprisonment for trafficking
44 in cocaine shall be life, and the maximum fine shall be one hundred
45 thousand dollars (\$100,000).

46 (3) Any person who knowingly manufactures or attempts to manufacture
47 methamphetamine and/or amphetamine is guilty of a felony which shall
48 be known as "trafficking in methamphetamine and/or amphetamine by man-
49 ufacturing." Any person convicted of trafficking in methamphetamine
50 and/or amphetamine by attempted manufacturing shall be sentenced to

1 a mandatory minimum fixed term of imprisonment of two (2) years and
2 not to exceed fifteen (15) years imprisonment and fined not less than
3 ten thousand dollars (\$10,000). Any person convicted of traffick-
4 ing in methamphetamine and/or amphetamine by manufacturing shall be
5 sentenced to a mandatory minimum fixed term of imprisonment of five
6 (5) years and not to exceed life imprisonment and fined not less than
7 twenty-five thousand dollars (\$25,000). The maximum number of years of
8 imprisonment for trafficking in methamphetamine and/or amphetamine by
9 manufacturing shall be life, and the maximum fine shall be one hundred
10 thousand dollars (\$100,000).

11 (4) Any person who knowingly delivers, or brings into this state, or
12 who is knowingly in actual or constructive possession of, twenty-eight
13 (28) grams or more of methamphetamine or amphetamine or of any mixture
14 or substance containing a detectable amount of methamphetamine or am-
15 phetamine is guilty of a felony, which felony shall be known as "traf-
16 ficking in methamphetamine or amphetamine." If the quantity involved:

17 (A) Is twenty-eight (28) grams or more, but less than two hundred
18 (200) grams, such person shall be sentenced to a mandatory minimum
19 fixed term of imprisonment of three (3) years and fined not less
20 than ten thousand dollars (\$10,000);

21 (B) Is two hundred (200) grams or more, but less than four hundred
22 (400) grams, such person shall be sentenced to a mandatory mini-
23 mum fixed term of imprisonment of five (5) years and fined not less
24 than fifteen thousand dollars (\$15,000);

25 (C) Is four hundred (400) grams or more, such person shall be sen-
26 tenced to a mandatory minimum fixed term of imprisonment of ten
27 (10) years and fined not less than twenty-five thousand dollars
28 (\$25,000).

29 (D) The maximum number of years of imprisonment for trafficking in
30 methamphetamine or amphetamine shall be life, and the maximum fine
31 shall be one hundred thousand dollars (\$100,000).

32 (5) Any person who knowingly manufactures, delivers, brings into
33 this state, or who is knowingly in actual or constructive possession
34 of the below-specified quantities of any of the following immediate
35 precursors to methamphetamine or amphetamine (namely ephedrine, methy-
36 lamine, methyl formamide, phenylacetic acid, phenylacetone, or pseu-
37 doephedrine) as defined in section 37-2707(~~g~~)(14), Idaho Code, or any
38 compound, mixture or preparation which contains a detectable quantity
39 of these substances, is guilty of a felony which shall be known as "traf-
40 ficking in immediate precursors of methamphetamine or amphetamine." If
41 the quantity:

42 (A) Of ephedrine is five hundred (500) grams or more;

43 (B) Of methylamine is one-half (1/2) pint or more;

44 (C) Of methyl formamide is one-quarter (1/4) pint or more;

45 (D) Of phenylacetic acid is five hundred (500) grams or more;

46 (E) Of phenylacetone is four hundred (400) grams or more;

47 (F) Of pseudoephedrine is five hundred (500) grams or more;

48 such person shall be sentenced to a mandatory minimum fixed term of
49 imprisonment of ten (10) years and fined not less than twenty-five thou-
50 sand dollars (\$25,000). The maximum number of years of imprisonment

1 for trafficking in immediate precursors of methamphetamine or am-
2 phetamine in the quantities specified in paragraphs (A) through (F) of
3 this subsection (5) shall be life, and the maximum fine shall be one hun-
4 dred thousand dollars (\$100,000). If the quantity of pseudoephedrine
5 is twenty-five (25) grams or more, but less than five hundred (500)
6 grams, such person shall be sentenced to a term of imprisonment of up
7 to ten (10) years and fined not more than twenty-five thousand dollars
8 (\$25,000).

9 (6) Any person who knowingly manufactures, delivers or brings into this
10 state, or who is knowingly in actual or constructive possession of, two
11 (2) grams or more of heroin or any salt, isomer, or salt of an isomer
12 thereof, or two (2) grams or more of any mixture or substance containing
13 a detectable amount of any such substance is guilty of a felony, which
14 felony shall be known as "trafficking in heroin." If the quantity in-
15 volved:

16 (A) Is two (2) grams or more, but less than seven (7) grams, such
17 person shall be sentenced to a mandatory minimum fixed term of im-
18 prisonment of three (3) years and fined not less than ten thousand
19 dollars (\$10,000);

20 (B) Is seven (7) grams or more, but less than twenty-eight (28)
21 grams, such person shall be sentenced to a mandatory minimum fixed
22 term of imprisonment of ten (10) years and fined not less than fif-
23 teen thousand dollars (\$15,000);

24 (C) Is twenty-eight (28) grams or more, such person shall be sen-
25 tenced to a mandatory minimum fixed term of imprisonment of fif-
26 teen (15) years and fined not less than twenty-five thousand dol-
27 lars (\$25,000).

28 (D) The maximum number of years of imprisonment for trafficking
29 in heroin shall be life, and the maximum fine shall be one hundred
30 thousand dollars (\$100,000).

31 (7) A second conviction for any trafficking offense as defined in sub-
32 section (a) of this section shall result in a mandatory minimum fixed
33 term that is twice that otherwise required under this section.

34 (8) Notwithstanding any other provision of law, with respect to any
35 person who is found to have violated the provisions of this section, ad-
36 judication of guilt or the imposition or execution of sentence shall not
37 be suspended, deferred, or withheld, nor shall such person be eligible
38 for parole prior to serving the mandatory minimum fixed term of impris-
39 onment prescribed in this section. Further, the court shall not retain
40 jurisdiction.

41 (b) Any person who agrees, conspires, combines or confederates with an-
42 other person or solicits another person to commit any act prohibited in sub-
43 section (a) of this section is guilty of a felony and is punishable as if he
44 had actually committed such prohibited act.

45 (c) For the purposes of subsections (a) and (b) of this section the
46 weight of the controlled substance as represented by the person selling or
47 delivering it is determinative if the weight as represented is greater than
48 the actual weight of the controlled substance.

49 SECTION 19. That Section 37-2732C, Idaho Code, be, and the same is
50 hereby amended to read as follows:

1 37-2732C. USING OR BEING UNDER THE INFLUENCE -- PENALTIES. (a) Except
2 as authorized in this chapter, it is unlawful for any person on a public
3 roadway, on a public conveyance, on public property or on private property
4 open to the public, to use or be under the influence of any controlled sub-
5 stance specified or incorporated by reference in subsection (b), (c), (d),
6 (e) and (f) of section 37-2705, Idaho Code, or subsection (b), (c) and (d)
7 of incorporated by reference in section 37-2707, Idaho Code, or subsection
8 (e) (6) of section 37-2709, Idaho Code any drug product containing gamma hy-
9 droxybutyric acid, including its salts, isomers and salts of isomers, for
10 which an application is approved under section 505 of the federal food, drug
11 and cosmetic act, or any narcotic drug classified in schedule III, IV or V,
12 except when administered by or under the direction of a person licensed by
13 the state to dispense, prescribe, or administer controlled substances. It
14 shall be the burden of the defense to show that it comes within this excep-
15 tion.

16 (b) Any person convicted of violating the provisions of subsection (a)
17 of this section is guilty of a misdemeanor and is punishable by imprisonment
18 in a county jail for not more than six (6) months, or by a fine not exceeding
19 one thousand dollars (\$1,000) or by both.

20 (c) Any person who is convicted of violating the provisions of subsec-
21 tion (a) of this section, when the offense occurred within five (5) years of
22 that person being convicted of two (2) or more separate violations of that
23 subsection and who refuses to complete a licensed drug rehabilitation pro-
24 gram offered by the court pursuant to subsection (d) shall be punished by im-
25 prisonment in the county jail for a mandatory minimum period of time of not
26 less than one hundred twenty (120) days, nor more than one (1) year. The
27 court may not reduce the mandatory minimum period of incarceration provided
28 in this subsection.

29 (d) The court may, when it would be in the interest of justice, permit
30 any person convicted of a violation of subsection (a) of this section, pun-
31 ishable under subsection (b) or (c) of this section, to complete a licensed
32 drug rehabilitation program in lieu of part or all of the imprisonment in
33 the county jail. As a condition of sentencing, the court may require the of-
34 fender to pay all or a portion of the drug rehabilitation program. In order
35 to alleviate jail overcrowding and to provide recidivist offenders with a
36 reasonable opportunity to seek rehabilitation pursuant to this subsection,
37 counties are encouraged to include provisions to augment licensed drug re-
38 habilitation programs in their substance abuse proposals and applications
39 submitted to the state for federal and state drug abuse funds.

40 (e) Notwithstanding the provisions of subsection (a), (b) or (c) of
41 this section, or any other provision of law to the contrary, any person who is
42 unlawfully under the influence of cocaine, cocaine base, methamphetamine,
43 heroin, or phencyclidine while in the immediate personal possession of a
44 loaded, operable firearm is guilty of a public offense and is punishable by
45 imprisonment in the county jail or the state prison for not more than one (1)
46 year. As used in this subsection, "immediate possession" includes, but is
47 not limited to, the interior passenger compartment of a motor vehicle.

48 (f) Every person who violates the provisions of subsection (e) of this
49 section is ~~punishable~~ subject to punishment upon the second and each subse-

1 quent conviction by imprisonment in the state prison for a period of time not
2 in excess of four (4) years.

3 (g) In addition to any fine assessed under this section and notwith-
4 standing the provisions of section 19-4705, Idaho Code, the court may, upon
5 conviction, assess an additional cost to the defendant in the way of resti-
6 tution, an amount not to exceed two hundred dollars (\$200) to the arresting
7 and/or prosecuting agency or entity. These funds shall be remitted to the
8 appropriate fund to offset the expense of toxicology testing.

9 SECTION 20. That Section 72-208, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 72-208. INJURIES NOT COVERED -- WILLFUL INTENTION -- INTOXICA-
12 TION. (1) No compensation shall be allowed to an employee for injury prox-
13 imately caused by the employee's willful intention to injure himself or to
14 injure another.

15 (2) If intoxication is a reasonable and substantial cause of an injury,
16 no income benefits shall be paid, except where the intoxicants causing the
17 employee's intoxication were furnished by the employer or where the employer
18 permits the employee to remain at work with knowledge by the employer or his
19 supervising agent that the employee is intoxicated.

20 (3) "Intoxication" as used in this section means being under the in-
21 fluence of alcohol or of controlled substances, as defined in section
22 37-2701(e5), Idaho Code. Provided, however, that this definition shall not
23 include an employee's use of a controlled substance for which a prescription
24 has been issued authorizing such substance to be dispensed to the employee,
25 or when such substance is dispensed directly by a physician to the employee,
26 and where the employee's use of the controlled substance is in accordance
27 with the instructions for use of the controlled substance.

28 SECTION 21. An emergency existing therefor, which emergency is hereby
29 declared to exist, this act shall be in full force and effect on and after its
30 passage and approval.