

LEGISLATIVE BILL 323

Approved by the Governor March 7, 1985

Introduced by Lynch, 13

AN ACT relating to controlled substances; to amend sections 28-406, 28-408, and 28-409, Reissue Revised Statutes of Nebraska, 1943, and sections 28-401 and 28-405, Revised Statutes Supplement, 1984; to define a term; to change schedules of controlled substances; to increase registration fees; to delete an obsolete provision; to provide additional cause for revocation of registration; to clarify hearing procedures; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-401, Revised Statutes Supplement, 1984, be amended to read as follows:
28-401. As used in this article, unless the context otherwise requires:

(1) Administer shall mean the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (a) A practitioner or, in his or her presence, by his or her authorized agent; or (b) the patient or research subject at the direction and in the presence of the practitioner;

(2) Agent shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, wine, or malt dispenser. It does not include a common or contract carrier, public ~~warehouseman~~ warehouse keeper, or employee of the carrier or ~~warehouseman~~ warehouse keeper;

(3) ~~Bureau~~ Administration shall mean the Bureau of Narcotics and Dangerous Drugs Drug Enforcement Administration, United States Department of Justice;

(4) Controlled substance shall mean a drug, substance, or immediate precursor in Schedules I to V of section 28-405. The term shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance shall mean a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such

substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(6) Department shall mean the Department of Health of this state;

(7) Division of Drug Control shall mean the personnel of the Nebraska State Patrol who are assigned to enforce the provisions of this article;

(8) Bureau of Examining Boards shall mean personnel of the department responsible for the enforcement of the provisions of this article in the areas assigned to it by the provisions of this article;

(9) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject by, or pursuant to the lawful order or prescription of, a physician, dentist, veterinarian, or other medical practitioner licensed under the laws of this state to prescribe drugs, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery. Dispenser shall mean the apothecary, pharmacist, or other practitioner, duly licensed, and who dispenses a controlled substance to an ultimate user or a research subject;

(10) Distribute shall mean to deliver other than by administering or dispensing a controlled substance. Distributor shall mean a person who so distributes a controlled substance;

(11) Prescribe shall mean the act of a physician, surgeon, dentist, veterinarian, or other medical practitioner licensed under the laws of this state, in issuing an order, prescription, or direction to a pharmacist or pharmacy to dispense a drug as required by the laws of this state;

(12) Drug shall mean (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision but does not include devices or their components, parts, or accessories;

(13) Deliver or delivery shall mean the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(14) Marijuana shall mean all parts of the plant of the genus Cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, or its seeds, but shall not include the mature stalks of such

plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks or the sterilized seed of such plant which is incapable of germination. ~~Where, and where~~ the weight of marijuana is referred to in this article it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;

(15) Manufacture shall mean the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, ~~or~~ independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his or her own use or the preparation, compounding, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing, administering, or dispensing of a controlled substance in the course of his or her professional practice; ~~or~~ (b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

(16) Narcotic drug shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, ~~or~~ independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates; ~~or~~ (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision, except that the words narcotic drug as used in this article shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(17) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include the dextrorotatory isomer of 3-methoxy-n methylmorphinan and its salts. It does include its racemic and levorotatory forms;

(18) Opium poppy shall mean the plant of the species *Papaver somniferum* L., except the seeds thereof;

(19) Poppy straw shall mean all parts, except the seeds, of the opium poppy after mowing;

(20) Person shall mean any corporation, association, partnership, or one or more individuals;

(21) Practitioner shall mean a physician, dentist, veterinarian, pharmacist, scientific investigator, pharmacy, or hospital, licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(22) Production shall include the manufacture, planting, cultivation, or harvesting of a controlled substance;

(23) Immediate precursor shall mean a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture;

(24) State shall mean the State of Nebraska;

(25) Ultimate user shall mean a person who lawfully possesses a controlled substance for his or her own use, or for the use of a member of his or her household, or for administration to an animal owned by him or her or by a member of his or her household;

(26) Physician shall mean a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state;

(27) Dentist shall mean a person authorized by law to practice dentistry in this state;

(28) Veterinarian shall mean a person authorized by law to practice veterinary medicine in this state;

(29) Hospital shall mean an institution for the care and treatment of sick and injured human beings and approved by the department;

(30) Podiatrist shall mean a person authorized by law to practice podiatry and who has graduated from an accredited school of podiatry in or since 1935;

(31) Apothecary shall mean a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of the store or other place of business where drugs are compounded or dispensed by a licensed pharmacist, but nothing in this subdivision shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority,

right, or privilege that is not granted to him or her by the pharmacy laws of this state;

(32) Nothing contained in this article shall be construed as authority for a practitioner to perform an act for which he or she is not authorized by the laws of this state;

(33) Cooperating individual shall mean any person, other than a commissioned law enforcement officer, who acts on behalf of, at the request of, or as agent for a law enforcement agency for the purpose of gathering or obtaining evidence of offenses punishable under sections 28-401 to 28-438;

(34) Hashish or concentrated cannabis shall mean: (a) The separated resin, whether crude or purified, obtained from a plant of the genus cannabis; or (b) any material, preparation, mixture, compound, or other substance which contains ten per cent or more by weight of tetrahydrocannabinols; and

(35) Exceptionally hazardous drug shall mean (a) a narcotic drug, (b) thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, or (f) pentobarbital.

Sec. 2. That section 28-405, Revised Statutes Supplement, 1984, be amended to read as follows:

28-405. The following are the schedules of controlled substances referred to in this article:

Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation: (1) Acetylmethadol; (2) allylprodine; (3) alphacetylmethadol; (4) alphameprodine; (5) alphamethadol; (6) benzethidine; (7) betacetylmethadol; (8) betameprodine; (9) betamethadol; (10) betaprodine; (11) clonitazene; (12) dextromoramide; (13) difenoxin; (14) diampromide; (15) diethylthiambutene; (16) dimenoxadol; (17) dimepheptanol; (18) dimethylthiambutene; (19) dioxaphetyl butyrate; (20) dipipanone; (21) ethylmethylthiambutene; (22) etonitazene; (23) etoxeridine; (24) furethidine; (25) hydroxypethidine; (26) ketobemidone; (27) levomoramide; (28) levophenacymorphan; (29) morpheridine; (30) noracymethadol; (31) norlevorphanol; (32) normethadone; (33) norpipanone; (34) phenadoxone; (35) phenampromide; (36) phenomorphan; (37) phenoperidine; (38) piritramide; (39) proheptazine; (40) properidine; (41) propiram; (42) racemoramide; and (43) trimeperidine; (44) alpha-methylfentanyl, N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl)propionanilide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;

(45) tilidine; and (46) alfentanil.

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Acetorphine; (2) acetyldihydrocodeine; (3) benzylmorphine; (4) codeine methylbromide; (5) codeine-N-Oxide; (6) cyprenorphine; (7) desomorphine; (8) dihydromorphine; (9) drotebanol; (10) etorphine, except hydrochloride salt; (11) heroin; (12) hydromorphanol; (13) methyl-desorphine; (14) methyl-dihydromorphine; (15) morphine methylbromide; (16) morphine methylsulfonate; (17) morphine-N-Oxide; (18) myrophine; (19) nicocodeine; (20) nicomorphine; (21) normorphine; (22) pholcodine; and (23) thebacon.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and for purposes of this subdivision only, isomer shall include the optical, position, and geometric isomers: (1) Bufotenine. Trade and other names shall include, but are not limited to: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; and mappine; (2) diethyltryptamine. Trade and other names shall include, but are not limited to: N, N-diethyltryptamine; and DET; (3) dimethyltryptamine. Trade and other names shall include, but are not limited to: DMT; (4) 4-bromo-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; and 4-bromo-2, 5-DMA; (5) 4-methoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methoxy-a-methyl-phenethylamine; and paramethoxyamphetamine, PMA; (6) 4-methyl-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; DOM; and STP; (7) 5-methoxy-N-N, dimethyltryptamine; (8) ibogaine. Trade and other names shall include, but are not limited to: 7-ethyl-6,6E,7,8,9,10,12,13-octahydro-2-methoxy-6, 9-methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; and tabernanthe iboga; (9) lysergic acid diethylamide; (10) marijuana; (11) mescaline; (12) peyote. Peyote shall mean all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture,

salts, derivative, mixture, or preparation of such plant or its seeds or extracts; (13) psilocybin; (14) psilocyn; (15) tetrahydrocannabinols, including, but not limited to, synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures shall be included regardless of the numerical designation of atomic positions covered; (16) 3,4-methylenedioxy amphetamine; (17) 5-methoxy-3,4-methylenedioxy amphetamine; (18) 3,4,5-trimethoxy amphetamine; (19) N-ethyl-3-piperidyl benzilate; (20) N-methyl-3-peperidyl benzilate; (21) thiophene analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TPCE; and TCP; (22) 2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 2,5-dimethoxy-a-methylphenethylamine; and 2,5-DMA; and (23) hashish or concentrated cannabis; (24) Parahexyl. Trade and other names shall include, but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo(b,d)pyran; and synhexyl; (25) Ethylamine analog of phencyclidine. Trade and other names shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE; and (26) Pyrrolidine analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Mecloqualone; and (2) methaqualone.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: (1) Fenethylamine; and (2)

N-ethylamphetamine.

Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, nalbuphine, naloxone, and naltrexone and their salts, but including the following: (i) Raw opium; (ii) opium extracts; (iii) opium fluid extracts; (iv) powdered opium; (v) granulated opium; (vi) tincture of opium; (vii) codeine; (viii) ethylmorphine; (ix) etorphine hydrochloride; (x) hydrocodone; (xi) hydromorphone; (xii) metopon; (xiii) morphine; (xiv) oxycodone; (xv) oxymorphone; and (xvi) thebaine;

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

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, including cocaine and its salts, and optical isomers, and salts of optical isomers, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine; and

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

(b) Any Unless specifically excepted or unless in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of their isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted: (1) Alphaprodine; (2) anileridine; (3) bezitramide; (4) diphenoxylate; (5) fentanyl; (6) isomethadone; (7) levomethorphan; (8) levorphanol; (9) metazocine; (10) methadone; (11) methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane; (12) moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; (13) pethidine or meperidine; (14) pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine; (15)

pethidine-Intermediate-B.
 ethyl-4-phenylpiperidine-4-carboxylate; (16)
 pethidine-Intermediate-C,
 1-methyl-4-phenylpiperidine-4-carboxylic acid; (17)
 phenazocine; (18) piminodine; (19) racemethorphan; (20)
 racemorphan; ~~and~~ (21) dihydrocodeine; (22) bulk
dextropropoxyphene in nondosage forms; and (23)
sufentanil.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system: (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers; (2) phenmetrazine and its salts; (3) methamphetamine, its salts, isomers, and salts of its isomers; and (4) methylphenidate.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designations: (1) Amobarbital; (2) secobarbital; (3) pentobarbital; ~~(4)~~
~~methaqualone;~~ ~~(5)~~ and (4) phencyclidine.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances: (1) Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Trade and other names shall include, but are not limited to: Phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone; or (2) immediate precursors to phencyclidine, PCP: (i) 1-phenylcyclohexylamine; or (ii) 1-piperidinocyclohexanecarbonitrile, PCC.

Schedule III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Benzphetamine; (2) chlorphentermine; (3) chlortermine; ~~(4) mazindol;~~ and ~~(5)~~ (4) phendimetrazine.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: (1) Any substance which contains any quantity of a derivative of barbituric acid; or any salt of a derivative of barbituric acid, except those substances which are specifically

listed in other schedules of this section; (2) chlorhexadol; (3) glutethimide; (4) lysergic acid; (5) lysergic acid amide; (6) methyprylon; (7) sulfondiethylmethane; (8) sulfonethylmethane; (9) sulfonmethane; and (10) nalorphine; (11) any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule; and (12) any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(c) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than one and eight-tenths grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(8) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with

one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

Schedule IV

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Barbital; (2) chloral betaine; (3) chloral hydrate; (4) chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clindinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens); (5) clonazepam; (6) clorazepate; (7) diazepam; (8) ethchlorvynol; (9) ethinamate; (10) flurazepam; (11) mebutamate; (12) meprobamate; (13) methohexital; (14) methylphenobarbital; (15) oxazepam; (16) paraldehyde; (17) petrichloral; (18) phenobarbital; and (19) prazepam; (20) alprazolam; (21) bromazepam; (22) camazepam; (23) clobazam; (24) clotiazepam; (25) cloxazolam; (26) delorazepam; (27) estazolam; (28) ethyl loflazepate; (29) fludiazepam; (30) flunitrazepam; (31) halazepam; (32) haloxazolam; (33) ketazolam; (34) loprazolam; (35) lorazepam; (36) lormetazepam; (37) medazepam; (38) nimetazepam; (39) nitrazepam; (40) nordiazepam; (41) oxazolam; (42) pinazepam; (43) temazepam; (44) tetrazepam; and (45) triazolam.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, whether optical, position, or geometric, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: ~~(1)~~ Fenfluramine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Diethylpropion; ~~(2) phentermine; and (3) pemoline, including organometallic complexes and chelates thereof; (4) mazindol; (5) pipradrol; and (6) SPA, ((-)-1-dimethylamino-1,2-diphenylethane).~~

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following ~~substance, including its salts narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below: (1) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane); and (2) not more than one milligram of~~

difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts: Pentazocine.

Schedule V

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts ~~thereof~~ calculated as the free anhydrous base or alkaloid, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit; and

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams; and

(6) Not more than five-tenths milligram of difenoxim and not less than twenty-five micrograms of atropine sulfate per dosage unit.

Sec. 3. That section 28-406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-406. (1) The department is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, prescribing, and dispensing of controlled substances within this state. The registration shall be the responsibility of the Bureau of Examining Boards.

(2) The various fees to be paid by applicants for registrations and annual renewals thereof, as required under sections 28-401 to 28-438, shall be as follows:

(a) Registration or reregistration to manufacture controlled substances, ~~twenty-five~~ fifty dollars;

(b) Registration or reregistration to distribute controlled substances, ~~twenty-five~~ fifty dollars;

(c) Registration or reregistration to prescribe, administer, or dispense controlled substances, ~~five~~ ten dollars;

(d) Registration or reregistration to engage in research on the use and effects of controlled substances, twenty-five dollars; and

(e) Registration or reregistration to engage in laboratory and analytical analysis of controlled substances, twenty-five dollars.

(3) All registrations and reregistrations shall expire on August 31 of each year. Registration shall be automatically denied without a hearing for nonpayment of fees. Any registration or reregistration not renewed by payment of annual renewal fees by October 1 shall be automatically denied and canceled on October 1 without a hearing.

Sec. 4. That section 28-408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-408. (1) The Bureau of Examining Boards shall register an applicant to manufacture or distribute controlled substances included in Schedules I to V of section 28-405 unless ~~the~~ the department determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest the department shall consider the following factors:

(a) Maintenance of effective controls against diversion of particular controlled substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(b) Compliance with applicable state and local law;

(c) Whether the applicant has been convicted of a felony under any law of the United States or of any state, or has been convicted of a violation relating to any substances defined in this article as a controlled substance under any law of the United States or any state, except that such fact in itself shall not be an automatic bar to registration;

(d) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion; and

(e) Such other factors as may be relevant to and consistent with the public health and safety.

(2) Registration granted under subsection (1) of this section shall not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II of section 28-405 other than those specified in the registration.

(3) ~~Practitioners~~ Except as otherwise provided in this section and section 28-409, practitioners shall be registered to prescribe, administer, or dispense substances in Schedules II to V of section 28-405 if they are authorized to prescribe, administer, or dispense under the laws of this state. A registration application by a

practitioner who wishes to conduct research with Schedule I substances shall be referred to the department for approval or disapproval. Registration to prescribe, administer, or dispense substances in Schedules II to V of section 28-405 or registration for the purpose of bona fide research with Schedule I substances by a practitioner may be denied only on a ground specified in subsection (1) of section 28-409 or if there are reasonable grounds to believe that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately his or her supply of such substances against diversion from legitimate medical or scientific use.

~~(4) The department shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution or dispensing of any controlled substances for sixty days following the effective date of this article and who are registered or licensed by the state.~~

~~(5)~~ (4) Compliance by manufacturers and distributors with the provisions of the Federal Controlled Dangerous Substances Act respecting registration, excluding fees, shall be deemed compliance with this section.

Sec. 5. That section 28-409, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-409. (1) A registration pursuant to section 28-408 to prescribe, administer, manufacture, distribute, or dispense a controlled substance may be suspended, ~~or~~ revoked, or renewal refused by the department upon a finding that the registrant:

(a) Has falsified any application filed pursuant to this article or required by this article;

(b) Has been convicted of a felony subsequent to being granted a registration pursuant to section 28-408 under any law of the United States, or of any state, or has been convicted of a violation relating to any substances defined in this article as a controlled substance subsequent to being granted a registration pursuant to section 28-408 under any law of the United States or of any state; or

(c) Has had his or her federal registration suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled substances; or

(d) Is guilty of any of the acts or offenses listed in section 71-147 for which disciplinary measures may be taken against his or her license to practice and which have a rational connection with his or her fitness to prescribe, administer, or dispense a controlled substance. The department may automatically revoke or suspend the registration of a practitioner who has had his or her license to practice revoked or suspended and is no longer

authorized to prescribe, administer, or dispense under the laws of this state or who has had his or her license to practice limited or restricted and is no longer authorized to prescribe, administer, or dispense controlled substances under the laws of this state.

(2) The department may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(3) Before taking action pursuant to this section or pursuant to a denial of registration or refusing a renewal of registration under section 28-408, the department shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended or why the renewal should not be refused. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the department at a time and place stated in the order, but in no event less than thirty days after the date of service of the order, but in the case of a denial of registration or renewal the show cause order shall be served not later than thirty days before the expiration of the registration. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with the Administrative Procedures Act. A person whose registration has been denied, revoked, or suspended shall be afforded an opportunity for a hearing in accordance with sections 84-901 and 84-909 to 84-916. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the provisions of this article or any law of the state, except that such proceedings may be consolidated with proceedings under section 71-155 or 71-161.16. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing, except in cases when the department finds that there is an imminent danger to the public health or safety.

(4) The department may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under this section or where when renewal of registration is refused in cases where when the department finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the department or dissolved by a court of competent jurisdiction.

(5) In the event the department suspends or revokes a registration granted under section 28-408, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may

be, may in the discretion of the department be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances may be forfeited to the state.

(6) The bureau administration shall be promptly be notified of all orders limiting, suspending, or revoking registration.

Sec. 6. That original sections 28-406, 28-408, and 28-409, Reissue Revised Statutes of Nebraska, 1943, and sections 28-401 and 28-405, Revised Statutes Supplement, 1984, are repealed.