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Report of the

Legislative Advisory Committee

to the

Governor's Commission on Drug Abuse

December 9, 1970

MINNESOTA STATE BOARD OF PHARMACY

Office of the Secretary • 1965 Ford Parkway • *Telephone: 698-0806*

SAINT PAUL, MINNESOTA 55116

Mr. William F. Appel, R.Ph.
Chairman, Governor's Commission on Drug Abuse

Dear Mr. Appel:

The Legislative Advisory Committee is pleased to submit its report. In response to the committee's mandate a critique of existing state drug laws is included together with recommendations for changes in the laws. The report is the result of numerous special meetings, subcommittee meetings and three meetings of the full committee. We are indebted to the following individuals who provided special expertise and counsel: Miss Judy Oakes and Mr. Robert Carolan from the office of the Attorney General, Mr. Jack McKasy from the Minnesota Department of Health, Mr. Gary Nelson from the Bureau of Criminal Apprehension and Mr. Leonard Street, a member of the Minnesota County Attorneys Association.

In addition to the recommendations contained in this report we have included a draft of a proposed bill for amending M.S. 152, the state prohibited drugs law. Early consideration of this draft was prevented by the late passage of Public Law 91-513 and subsequent development of a so-called "model" uniform controlled substances act by the National Conference of Commissioners on Uniform State Laws. The enclosed draft was presented to the committee only at its final meeting, not for the purpose of seeking hasty endorsement of it by the committee, but to request the committee members to present it to their respective organizations for comment and criticism before the 1971 legislative session. It was agreed that the County Attorney's Association should take an active role in developing final language for the penalty section and that all member organizations continue their liason throughout the legislative session.

The benefits of organizing the subcommittee will extend beyond the submission of this report and will surely include close coordination of the agencies and organizations interested in passage of drug legislation consistent with the committee's recommendations.

Respectfully submitted,

Paul G. Grussing

Paul G. Grussing
Committee Chairman

Dec.8, 1970

LEGISLATIVE ADVISORY COMMITTEE
to the
GOVERNOR'S COMMISSION ON DRUG ABUSE

LEGAL

1. Mrs. Phyllis Jones
Ass't. Ramsey County Att'ny.
Courthouse Bldg.
St. Paul, MN. 55102
Phone: 223-5147
.....Representing the Minnesota County Attorneys Association.

2. Mr. Raymond C. Ploetz
444 2nd St.
Excelsior, MN. 55331
Phone: 474-5201
.....Representing the Minnesota State Bar Association.

JUDICIARY

3. The Honorable David E. Marsden
District Court Judge, 2nd District
Courthouse Bldg.
St. Paul, MN. 55102
Phone: 223-4718
.....Representing the Minnesota District Judges Association.

4. The Honorable Donald T. Franke
District Court Judge, 3rd District
Courthouse Bldg.
Rochester, MN. 55901
Phone: 1-507-289-2321
.....Representing the Minnesota District Judges Association.

CORRECTIONS

5. Mr. Paul Keve
Commissioner of Corrections
310 State Office Bldg.
St. Paul, MN. 55101
Phone: 221-3565

LAW ENFORCEMENT

6. Mr. Ralph E. Yrjanson
Sheriff, Carlton County
Courthouse Bldg.
Carlton, MN. 55718
Phone: 1-218-384-4218
.....Representing the Minnesota Sheriffs Association.

7. Mr. Chet Wiener
Chief of Police
Police Department
Marshall, MN. 56258
Phone: 1-507-532-5775
.....President of the Minnesota Police Chiefs Association.

MEDICAL

8. David B. Auran, M.D.
Psychiatrist, Lowry Medical
Arts Building
St. Paul, MN. 55102
Phone: 227-6591
.....Representing the Minnesota State Medical Association.

PHARMACY

9. Mr. Paul G. Grussing, Secretary
Minn. State Board of Pharmacy
1965 Ford Pkwy.
St. Paul, MN. 55116
Phone: 698-0806

I N D E X

PROBLEMS WITH EXISTING DRUG LAW

A critique of M.S. Chapters 152, 618 and Regulations promulgated thereunder. Presented to the Governor's Commission on Drug Abuse by the Legislative Advisory Committee to the Commission.

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1. The problem of confusion by multiplicity of statutory provisions and regulations.

It should be noted that in addition to the applicable federal code, and federal regulations under that code, the state has adopted laws consistent in concept with federal laws and so-called "model" acts. This factor alone provides a problem of unnecessary duplication in some areas and possible contradiction between federal and state laws as well as between different sections and different chapters of state statutes. In addition, the present Minnesota statutory prohibitions are found in three separate chapters of the Minnesota Statutes plus regulations of both the Board of Health and the Board of Pharmacy. These facts make it difficult for the attorney and make it nearly impossible for the police officer or the layman to determine the appropriate chapter and section for a given fact situation.

M.S. 151.37 bears upon another aspect of the drug control process, e.g. control of the manner of distribution of legitimate prescription drugs, which fact militates for its preservation, at least in a form appropriate to that purpose.

It should also be noted that the present structure arises from the effect of convenience and expedience in the legislative process. Drug laws were often enacted to remedy immediate problems without consideration of the pharmacological differences between drugs legislated into the same penalty category.

2. The problem of confusion by illogical classification.

The existing definitions utilize chemical and botannical standards based on the best scientific knowledge available at the time the laws were enacted or amended. This type of definition is inappropriate because differing

chemicals will produce similar and dissimilar effects, because the pharmacological effects of chemicals relate also to their concentration, and because the chemical standard fails to follow the general philosophy of government that the purpose of government interest is to avoid undesirable social effects not to proscribe passive physical matter which may be used constructively or destructively. Botannical definitions, including derivatives of the botannical substances, fail because the synthetic substances are not "derived" and may not be the same substance although its effect may be the same.

Another alternative standard is the behaviorial (subjective). This standard is inappropriate because it is too vague, because it can only be measured ex post facto, and because it is too introspective for enforcement.

Existing classifications are not based on pharmacological rationale. All drug substances can be arranged along a continum of toxicity or abuse potential. Relationships between the clinical effects upon the user, the misuse/abuse potential and penalties are notably absent, or in some cases, inverse.

Inappropriate classifications may confuse laymen and destroy credibility. The public must understand the law, what is prescribed, to be able to attempt to comply with the law. Moreover, the public has to believe in the law to comply. It should be noted that public morality is largely based on the consequences of the conduct and the social acceptability, or inacceptability of the consequences. If criminal law and criminal penalties are to gain public acceptances and support, they must approximate this public morality. Furthermore, laymen comprise a substantial part of the law enforcement process: as law officers they must institute the charge, must be able to understand in their own terms the distinctions between the charges or their morale will suffer; as jurors, they must hear testimony which is comprehensible to them.

It should also be noted that under appropriate standards the criminal consequences and court options could be more appropriate. This would encourage public acceptance on the basis of public morality and could reduce the problems of public cooperation on the part of witnesses, parents, etc., could encourage the involved subjects to seek help where the consequences are appropriate and acceptable; will avoid the alienation of the subject which may occur where the subject sincerely believes the punishment exceeds the social measure of the immorality of the act. The appropriate standards and consequences would assist the police officer in exercising the discretion of his activities, would facilitate better charging by the prosecutor, and facilitate judicial discretion. For effective and uniform enforcement standards and consequences must be morally and philosophically consistent in the minds of those charged with law enforcement responsibilities.

3. The problem of distinction between the act of use, and the act of distribution.

The possible ranges of conduct would appear to be as follows: (1) the experimental/initial user, (2) the repetitive user, (3) the social pusher, (4) the commerical pusher. It would appear that public morality makes a distinction as to each category and the seriousness of each category of act and the principles of enforcement and penalty in accord with public morality discussed in Section 2, apply for the same reasons.

4. Judicial options.

The judicial ability to exercise options varies widely between the various jurisdictions within the state due to variances in resources available to that jurisdiction. This produces undesirable results (1) forcing the judge to select an inappropriate option either sentencing unduly severely, or releasing without any practical help, (2) destroying the credibility of an enlightened enforcement concept and it should also be noted that outside of the criminal law enforcement, there are few if any options and resources.

In some cases it would be desirable to emphasize supportive medical and sociological treatment alternatives rather than incarceration and the effects of a strict criminal approach, (3) causing resentment of the individual where he regards himself as punished too severely in comparison with punishment levied, or help afforded elsewhere.

Furthermore, the present penalty options may serve to restrict good judicial discretion.

RECOMMENDATIONS FOR CHANGES IN DRUG LAW

An outline of concepts for the improvement of Minnesota drug laws by the reclassification of drugs enabling the establishment of a penalty structure based on abuse potential of the drug involved and distinguishing between possession and sale. Presented to The Governor's Commission on Drug Abuse by the Legislative Advisory Committee to the Commission.

Legislation should be proposed for enactment which comprehensively deals with known or anticipated phases of the drug problem, and which takes into account the following considerations:

1. The problem of confusion by multiplicity of statutory provisions and regulations.

A recodification into one chapter of all drug classifications, prohibitions and penalties is recommended to simplify enforcement procedures. Amendment of M.S. 152 to include narcotic drugs described in M.S. 618 is recommended.

2. The problem of confusion by illogical standards.

A. Rational standards must be established by knowledgeable professionals in classification of various controlled substances deemed appropriate to be within the purview of legislative proscription. Classification based upon the abuse potential of substances will facilitate the establishment of a more rational penalty structure.

B. The authority of those give administrative rule-making responsibility should provide sufficient flexibility so that new substances of abuse can be appropriately classified.

C. Standards of classification should be similar to those employed in the recently enacted federal legislation (P.L. 91-513) to avoid unnecessary confusion or unwarranted disparity.

3. The problem of distinction between the act of use and the act of distribution.

A. The proposed penalty structure should take into account the differences between dangerous substances, the varying danger of any substance and the numbers of persons affected by it. Appropriate distinctions must be made between the act of use and the act of distribution of the substance and the classification of it.

B. Certain conduct denominated unlawful in the federal legislation can be adequately dealt with without necessarily similarily proscribing it in state legislation, taking into account the nature and scope of the specific problems, general enforcement capacity available in the state, specialized enforcement capabilities of professional licensing boards, and existing comity between federal and state drug law enforcement agencies.

C. Consideration of enacting appropriate penalty provisions should take into account the new federal penalty structure, but not be exclusively established on that basis, in view of differences in scope (interstate and even international) between the federal enforcement program which is high volume source oriented and the state enforcement program.

D. Federal penalties as to the crime of simple possession only should be modified in the proposed state legislation. Indeterminate sentences as well as fines should be authorized to provide maximum ability to control the use of such substance and provide most suitable rehabilitation opportunities to those adjudged guilty of the offense.

E. An additional standard not included in the federal act should be provided for in connection with the offense of possession with intent to sell - setting forth a quantity of cannabis which delineates between a likely user only and a seller. One ounce is suggested by the committee. In the case of hasish (a concentrated resinous derivative) a smaller quantity should be proscribed or this form should be excepted from the dilineating standard.

The penalties for possession with intent to sell should exceed those provided for possession only.

4. Judicial options

Appropriations should be increased to make more available the kind and amount of specialized personnel who could increase the successes of rehabilitative approaches to the disposition of drug cases. Similarly, increased state support of medical and sociological treatment agencies is necessary to return rehabilitable offenders to a productive role in society. The possibility of mandatory referral of persons adjudged guilty of first offense of simple possession to an educational and rehabilitative program bears additional consideration.

5. Miscellaneous.

Although the legislative advisory committee is mindful of its mandate to comment upon existing and future law enforcement approaches to the drug problem, mention of rehabilitative approaches seemed unavoidable and indeed desirable. Similarly, the advisory committee recommends that a special agency of state government be created for the purposes of:

A. making inquiry into the causes, prevention and methods of diagnosis, treatment and rehabilitation of persons with drug dependencies.

B. co-ordinating drug abuse education efforts of public and private agencies.

Such an agency should be interdisciplinary in its composition reflecting the medical, pharmaceutical, legal, sociological and psycological facets of the drug abuse problem.

RECOMMENDED PENALTY STRUCTURE

Manufacture, Distribute, Sell; or Possess with intent to Manufacture, Distribute or Sell.

Schedule I and II narcotics	0-15 years, up to $25,000, or both
Schedule I and II non-narcotics, and all Schedule III drugs	0-5 years, up to $15,000, or both
Schedule IV drugs	0-3 years, up to $10,000, or both
Schedule V drugs	0-1 year, up to $1,000, or both
Second offense	double all penalties
Distribution of a small amount of marihuana for no remuneration	0-1 year, up to $1,000, or both
Sale to a minor	double all penalties
Second offense	triple all penalties

Simple Possession

Schedule I and II narcotics	0-5 years, up to $5,000, or both
Schedule I and II non-narcotics, and all Schedule III drugs	0-3 years, up to $3,000, or both
Schedule IV drugs	0-3 years, up to $3,000, or both
Schedule V drugs and marihuana	0-1 year, up to $1,000, or both
Second offense	double all penalties

Fraudulent Procurement, etc.	0-4 years, up to $30,000, or both
Second offense	double all penalties

RECOMMENDED SCHEDULES OF CONTROLLED SUBSTANCES

Schedule I - in determining that a substance comes within this schedule, the State Board of Pharmacy shall find: A high potential for abuse and no accepted medical use in the United States and a lack of accepted safety for use under medical supervision.

Examples: Heroin, Lysergic acid diethylamide, Marihuana, Mescaline, Peyote.

Schedule II - in determining that a substance comes within this schedule, the State Board of Pharmacy shall find: A high potential for abuse and currently accepted medical use in the United States, or currently accepted medical use with severe restrictions and abuse may lead to sever psychic or physical dependence.

Examples: Opium, Coca leaves, and Opiate; any salt, compound, derivative, or preparation of Opium, Coca leaves, or Opiate, Methadone, Class "A" narcotics, Injectable methamphetamine.

Schedule III - in determining that a substance comes with this schedule, the State Board of Pharmacy shall find a potential for abuse less than the substance listed in Schedules I and II; and, currently accepted medical use in the United States; and, abuse may lead to moderate or low physical dependence or high psychological dependence.

Examples: Amphetamine, its salts, optical isomers, and salts of its optical isomers. Phenmetrazine and its salts, oral dosage forms which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers, Methylphenidate, 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; Doriden, Phencyclidine, Preludin, Pareldehyde.

Schedule IV - in determining that a substance comes within this schedule the State Board of Pharmacy shall find: a low potential for abuse relative to the drugs in Schedule III, currently accepted medical use in the United States, and limited physical dependence or psychological dependence liability relative to the drugs in Schedule III.

Examples: Chloral Hydrate, Meprobamate, Valmid.

Schedule V - in determining that a substance comes within this schedule, the State Board of Pharmacy shall find: a low potential for abuse relative to the substances listed in Schedule IV; and currently accepted medical use in the United States; and limited physical dependence and/or psychological dependence liability relative to the substances listed in Schedule IV.

Examples: Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone; Parapectolin.

A Working Draft

PROPOSED AMENDMENTS TO THE STATE PROHIBITED DRUG LAW, CHAPTER 152

Based in part on Public Law 91-513, Oct. 27, 1970 and upon the Uniform Controlled Substances Act drafted by the National Conference of Commissioners on Uniform State Laws, August, 1970.

Drafted by the Minnesota State Board of Pharmacy and the Minnesota State Pharmaceutical Association for the consideration of the Governor's Commission on Drug Abuse, and the Legislative Advisory Committee to that Commission.

November 30, 1970

Introduced by
Date_____

H. F. No._____
Companion S. F._____
Ref. to_____

A bill for an act

relating to controlled substances, amending Minnesota Statutes 1969, Sections 152.01, 152.041, 152.09, 152.101, 152.11, 152.12 and 152.15 repealing Minnesota Statutes 152.17, and 618, and creating Section 152.02.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1969, Section 152.01 is amended to read:

Subd. 3. ADMINISTER. The term "Administer" means to deliver by, or pursuant to the lawful order of a practitioner a single dose of a controlled substance to a patient or research subject by injection, inhalation, ingestion, or by any other immediate means.

Subd. 4. CONTROLLED SUBSTANCE. "Controlled Substance" means a drug, substance, or immediate precursor in Schedules I through V of Section 152.02 of this chapter. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 5. DISPENSE. The term "Dispense" means to deliver one or more doses of a controlled substance in a suitable container, properly labeled, for subsequent administration to, or use by a patient or research subject.

Subd. 8. MARIHUANA. The term "Marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such 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 (except the resin extracted therefrom) fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Subd. 9. NARCOTIC DRUG. The term "Narcotic Drug" means 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:

(1) opium, coca leaves, and opiates;

(2) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(3) a substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (1) and (2), except that the words "narcotic drug" as used in this chapter shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

Subd. 10. OPIATE. The term "Opiate" means any dangerous 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.

Subd. 11. OPIUM POPPY. The term "Opium Poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

Subd. 12. PERSON. The term "Person" includes every individual, co-partnership, corporation or association or one or more individuals.

Subd. 13. POPPY STRAW. The term "Poppy Straw" means all parts, except the seeds, of the opium poppy, after mowing.

Subd. 14. IMMEDIATE PRECURSOR. The term "Immediate Precursor" means a substance which the State Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

Section 2. Minnesota Statutes 1969, is amended by adding a section to read:

152.02 SCHEDULES OF CONTROLLED SUBSTANCES.

Subd. 1. There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section by whatever official name, common or usual name, chemical name, or trade name designated.

Subd. 2. The Board of Pharmacy is authorized to regulate and define additional substances which contain quantities of a substance possessing abuse potential in accordance with the following criteria.

(1) The Board of Pharmacy shall place a substance in Schedule I if it finds that the substance has; a high potential for abuse, no accepted medical use in the United States, and a lack of accepted safety for use under medical supervision.

(2) The Board of Pharmacy shall place a substance in Schedule II if it finds that the substance has; a high potential for abuse, currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, and that abuse may lead to severe psychological or physical dependence.

(3) The Board of Pharmacy shall place a substance in Schedule III if it finds that the substance has; a potential for abuse less than the substances listed in Schedules I and II, currently accepted medical use in treatment in the United States, and that abuse may lead to moderate or low physical dependence or high psychological dependence.

(4) The Board of Pharmacy shall place a substance in Schedule IV if it finds that the substance has; a low potential for abuse relative to the substances in Schedule III, currently accepted medical use in treatment in the United States, and that abuse may lead to limited physical dependence or psychological dependence relative

to the substances in Schedule III.

(5) The Board of Pharmacy shall place a substance in Schedule V if it finds that the substance has: a low potential for abuse relative to the substances listed in Schedule IV, currently accepted medical use in treatment in the United States, and limited physical dependence and/or psychological dependence liability relative to the substances listed in Schedule IV.

Subd. 3. The State Board of Pharmacy may add substances to or delete or reschedule substances listed in this section.

In making a determination regarding a substance, the Board of Pharmacy shall consider the following: the actual or relative potential for abuse, the scientific evidence of its pharmacological effect, if known, the state of current scientific knowledge regarding the substance, the history and current pattern of abuse, the scope, duration, and significance of abuse, the risk to public health, the potential of the substance to produce psychic or physiological dependence liability, and whether the substance is an immediate precursor of a substance already controlled under this section.

Subd. 4. The State Board of Pharmacy may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (1) and (2) of Subdivision 7 or in Subdivision 8 and 9 from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

Subd. 5. The following items are listed in Schedule I.

SCHEDULE I

(1) Any of the following substances, 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: Acetylmethadol; Allylprodine; Alphacetylmathadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethyliambutene; Dimenoxadol; Dimepheptanol; Dimethyliambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethlthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol, Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Racemoramide; Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence such salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Acetylcodone; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine, Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methylhydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

(3) 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: 3,4-methylenedioxy amphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 3,4,5-trimethoxy amphetamine 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marihuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-benzilate
piperidyl; Psilocybin; Psilocyn; Tetrahydrocannabinols.

Subd. 6. The following items are listed in Schedule II.

S C H E D U L E II

(1) Unless specifically excepted or unless listed in another schedule, any of the following substances 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 and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (a), except that these substances shall not include the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Codeine; Dihydrocodeine; Dihydrocodeinone; Dihydromorphinone; Dihydrohydroxy morphinone; Diphenoxylate; Ethylmorphine; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone: Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane; Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; Morphine; Pethidine; Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine; Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine - Intermediate - C, 1—methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan./

(3) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

Subd. 7. The following items are listed in Schedule III.

S C H E D U L E III

(1) 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:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Phenmetrazine and its salts;

(c) Any substance, except an injectable liquid, which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(d) Methylphenidate.

(2) 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:

(a) 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: Chlorhexadol; Glutethimide; Lysergic acid; Lysergic acid amide; Methyprylon; Phencyclidine; Sulfondiethylmethane; Sulfonethylmethane; Sulfonmethane.

(3) Nalorphine.

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(c) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(d) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(e) Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or

more active, non-narcotic ingredients in recognized therapeutic amounts.

(f) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(h) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

Subd. 8. The following items are listed in Schedule IV.

S C H E D U L E IV

Barbital; Chloral betaine; Chloral hydrate; Ethchlorvynol; Ethinamate; Methohexital; Meprobamate; Methylphenobarbital; Paraldehyde; Petrichloral Phenobarbital.

Subd. 9. The following items are listed in Schedule V.

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, 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 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(3) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(4) Not more than milligrams of opium per 100 milliliters or per 100 grams.

Section 3. Minnesota Statutes 1969, Section 152.041 is repealed.

Section 4. Minnesota Statutes 1969, Section 152.09 is amended to read:

Subd. 1. 152.09 Prohibited Acts. Except as otherwise provided in this chapter, it shall be unlawful for any person, firm, or corporation to have in his, ~~or its possession~~,

(1) manufacture, sell, give away, barter, exchange or distribute; or possess with intent to manufacture, sell, give away, barter, exchange or distribute, a controlled substance.

(2) possess a controlled substance, except when such possession is for his own use and is authorized by law. ~~or to sell, give away, barter, exchange, or distribute a stimulant or depressant drug except (1) on a written prescription or a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, or a doctor of veterinary medicine, lawfully practicing his profession in this state; of (2) on an oral prescription of any of the practitioners named above and which is reduced promptly to writing and filed within 48 hours.~~

Subd. 2. ~~In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of any provision of this section, possession of a stimulant or depressant drug except as authorized by law shall be sufficient evidence of violation from which guilt may be inferred.~~ It shall be unlawful for any person to procure, attempt to procure, possess or have in his control a ~~stimulant or depressant~~ controlled substance by any of the following means:

(1) fraud, deceit, misrepresentation or subterfuge;

(2) using a false name or giving false credit;

(3) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, veterinarian, or other authorized person for the purpose of obtaining a stimulant or depressant-drug controlled substance.

Section 5. Minnesota Statutes 1969, Section 152.101 is amended to read:

MANUFACTURERS, RECORDS.

Subd. 1. Every person engaged in manufacturing, compounding, processing, selling, delivering or otherwise disposing of any depressant-or stimulant-drug controlled substance shall, upon July 1, 1967, 1971, May 1, 1973 and every second year thereafter, prepare a complete and accurate record of all stocks of each drug-controlled substance on hand and shall keep such record for three two years. When additional depressant-or stimulant drugs controlled substances are designated after July 1, 1967, 1971, a similar record must be prepared upon the effective date of their designation. On and after July 1, 1967, 1971, every person manufacturing, compounding or processing any depressant-or stimulant-drug-controlled substance shall prepare and keep, for not less than three two years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded or processed and the date of such manufacture, compounding, or processing and every person selling, delivering, or otherwise disposing of any depressant-or stimulant drug controlled substance shall prepare or obtain, and keep for not less than three two years, a complete and accurate record of the kind and quantity of each such drug-controlled substance received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered or otherwise disposed of, and the date of such transaction. The form of such records shall be prescribed by the State Board of Pharmacy. If-these-records-have already been-prepared in-accordance with federal law,-no additional-records-shall-be required-provided that-all-records-prepared-under-federal-law-have been-retained and are made-available-to the appropriate state agency-upon request.

Subd. 2. This section shall not apply to a licensed doctor of medicine, a doctor of osteopathy duly licensed to act medicine, a licensed doctor of dentistry, or licensed doctor of veterinary medicine in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drugs to his patients for a fee. for which the patients are charged, either separately or together with charges for other professional services.

Subd. 3. This section shall not apply to a person engaged in bona fide research conducted under an exemption granted under applicable federal law.

Section 6. Minnesota Statutes 1969, Section 152.11 is amended to read:

WRITTEN OR ORAL PRESCRIPTIONS, REQUISITES.

Subd. 1. No person may dispense a controlled substance included in Schedule II of Section 2 of this act without a prescription written by a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, or a doctor of veterinary medicine, lawfully practicing his profession in this state. Provided that in emergency situations, as prescribed by regulation of the State Board of Pharmacy, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist. Such prescriptions shall be retained in conformity with Section 5 of this act. No prescription for a Schedule II substance may be refilled.

For the purposes of Sections 152.09 to 152.12 a written prescription or oral prescription which shall be reduced to writing, for a ~~depressant-or stimulant drug~~ controlled substance in Schedules II, III or IV is void unless (1) it is written in ink and contains the name and address of the person for whose use it is intended; (2) it states the amount of the ~~depressant-or stimulant drug~~ controlled substance to be compounded or dispensed, with directions for its use; (3) if a written prescription it contains the signature and address of the prescriber and a designation of the branch of the healing art pursued by the prescriber; and if an oral prescription, the name and address of the prescriber and a designation of his branch of the healing art;

and (4) it shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if an oral prescription. Every licensed pharmacist who compounds any such prescription shall retain such prescription for a period of not less than three two years, open to inspection by any officer of the state, county, or municipal government, whose duty it is to aid and assist with the enforcement of this chapter. No such written or oral prescription for a substance in Schedules III and IV shall be refilled, except with the written or verbal consent of the prescriber; provided, that the date of such consent must be recorded, upon the original prescription by the pharmacist who refills the prescription, together with the initials of the pharmacist; and that in event of verbal consent, it must be direct from the prescriber to the pharmacist. Every such pharmacist shall distinctly label the container with the directions contained in the prescription for the use thereof.

Subd. 2. No person may dispense a controlled substance included in Schedules III or IV of Section 2 of this act without a written or oral prescription from a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, or a doctor of veterinary medicine, lawfully practicing his profession in this state. No such prescription for any depressant or stimulant drug may not be filled dispensed or refilled except with the written or verbal consent of the prescriber, and in no event more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times except that after obtaining proper authorization from the practitioner the prescription may be refilled in accordance with the previous limitations.

Section 7. Minnesota Statutes 1969, Section 152.12 is amended to read:

Subd. 1. A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, or a licensed doctor of dentistry, and in the course of his professional practice only, may prescribe, administer, and dispense a stimulant or depressant drug controlled substance included in Schedules II through V of Section 2 of this act, or he may cause the same to be administered by a nurse or intern under his direction and supervision.

Subd. 2. A licensed doctor of veterinary medicine, in good faith, and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense a ~~stimulant or depressant drug~~ controlled substance included in Schedules II through V of Section 2 of this act, and he may cause the same to be administered by an assistant under his direction and supervision.

Subd. 3. Any qualified person may use ~~stimulant or depressant drugs~~ controlled substances in the course of a bona fide research project but cannot administer or dispense such drugs to human beings unless such drugs are prescribed, dispensed and administered by a person lawfully authorized to do so. Every person who engages in research involving the use of such substances shall apply annually for registration by the State Board of Pharmacy provided that such registration shall not be required if the person is covered by and has complied with federal laws requiring such research projects.

Subd. 4. Nothing in Sections 152.09 to 152.12 shall prohibit the sale to, or the possession of, a ~~stimulant or depressant drug~~ controlled substance in Schedules II, III, IV or V by: registered drug wholesalers, registered manufacturers, registered pharmacies, ~~licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dentistry, licensed doctors of veterinary medicine, or any licensed~~ hospitals or other licensed institutions wherein sick and injured persons are cared for or treated, or bona fide hospitals wherein animals are treated; or by licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dentistry, or licensed doctors of veterinary medicine when such practitioners use controlled substances within the course of their professional practice only. Nothing in Sections 152.09 to 152.12 shall prohibit the possession of a ~~stimulant or depressant drug~~ controlled substance in Schedules II, III, IV or V by an employee or agent of a registered drug wholesaler, registered manufacturer, or registered pharmacy, while acting in the course of his employment. or by

a patient of a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, or a licensed doctor of dentistry, or by the owner of an animal for which a controlled substance has been prescribed by a licensed doctor of veterinary medicine, when such controlled substances are dispensed according to law.

~~Subd. 5.- It shall be unlawful for any person to procure, attempt to procure, possess, or have in his control a stimulant or depressant drug controlled substance by any of the following means:~~

~~(1) fraud, deceit, misrepresentation or subterfuge;~~

~~(2) using a false name or giving false credit;~~

~~(3) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, veterinarian, or other authorized person, for the purpose of obtaining a stimulant or depressant drug controlled substance.~~

~~Section 8. Minnesota Statutes 1969, Section 152.15 is amended to read:~~

~~Subd. 2.- Gross Misdemeanor.- Any person, firm, or corporation that violated any provision of Sections 152.09 to 152.12 shall be guilty of a gross misdemeanor; and, upon conviction thereof, punished by a fine of not to exceed $1,000, or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.~~

Subd. 1. Any person who violates Section 152.09, Subd. 1 (1) with respect to:

(1) a controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than fifteen years or fined not more than $25,000, or both;

(2) any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than $15,000, or both;

(3) a substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than $10,000, or both;

(4) a substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than $1,000, or both.

(5) the distribution of a small amount of marihuana for no remuneration, shall be treated as provided in Subd. 2 (4).

NOTE: "SMALL AMOUNT" SHOULD BE DEFINED IN THE STATUTES

Subd. 2. Any person who violates Section 152.09, Subd. 1 (2) with respect to:

(1) a controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than five years or fined not more than $5,000, or both;

(2) any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than $3,000, or both;

(3) a substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than $3,000, or both;

(4) a substance classified in Schedule V, or a small amount of marihuana is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than $1,000, or both.

Subd. 3. Any person who violates Minnesota Statutes 152.09, Subd. 2 is guilty of a crime and upon conviction may be imprisoned for not more than four years, or fined not more than $30,000, or both.

Subd. 4. Any person eighteen years of age or over who violates Section 152.09, Subd. 1 (1) by distributing a controlled substance listed in Schedules I or II which is a narcotic drug to a person under eighteen years of age who is at least three years his junior is punishable by the fine authorized by Section 152.15, Subd. 1 (1), by a term of imprisonment of up to twice that authorized by Section 152.15, Subd. 1 (1), or by both. Any person eighteen years of age or over who violates Section 152.09, Subd. 1, by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his junior is punishable by the fine authorized by Sections 152.15, Subd. 1 (2), (3), or (4), by a term of imprisonment up to twice that authorized by Sections 152.15, Subd. 1 (2), (3), or (4), or both.

Subd. 5. Any person convicted of a second or subsequent offense under this act may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

Section 9. (Forfeitures).

Subd. 1. The following are subject to forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this act;

(2) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this act;

(3) all property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) all conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2), but:

(a) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act;

(b) no conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(c) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge or nor consented to the act or omission.

(d) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.

Subd. 2. Property subject to forfeiture under this act may be seized by the appropriate state agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this act;

(3) the appropriate state agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the appropriate state agency has probable cause to believe that the property was used or is intended to be used in violation of this act.

Subd. 3. In the event of seizure pursuant to Subd. 2, proceedings under Subd. 4 shall be instituted promptly.

Subd. 4. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the appropriate state agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this act, the appropriate state agency may:

(1) place the property under seal;

(2) remove the property to a place designated by it or;

(3) in the case of controlled substances, require the State Board of Pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Subd. 5. When property is forfeited under this act the appropriate state agency may:

(1) retain it for official use;

(2) if otherwise authorized, sell that which is not required to be destroyed by law and which is not harmful to the public.

(3) require the Commission of Administration to take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Federal Bureau of Narcotics and Dangerous Drugs.

Subd. 6. Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this act are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

Subd. 7. Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

Subd. 8. The failure, upon demand by the appropriate state agency, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

Section 10. M.S. 152.17 is hereby repealed.

Section 11. M.S. 618 is hereby repealed.