

AN ACT

To amend Act No. 1407 passed in the Regular Session of the 1971 Legislature (Acts p. 2378) and approved September 16, 1971 called the Alabama Controlled Substances Act, to provide that the State Board of Medical Examiners shall be a certifying board and that certifying boards can charge reasonable fees to defray expenses.

Be It Enacted by the Legislature of Alabama:

Section 1. That Subsection (d) of Section 101 of Act No. 1407, Regular Session, 1971, be and the same is hereby amended to read as follows:

Section 101. (Definitions.) as used in this Act:

(d) "Certifying boards" means the State Board of Medical Examiners, the State Board of Health, the State Board of Pharmacy, the State Board of Dental Examiners, and the State Board of Veterinary Medical Examiners.

Section 2. That Section 301 of Act No. 1407, Regular Session, 1971, be and the same is hereby amended to read as follows:

Section 301. (Rules -- Charges; generally.)

The certifying boards shall promulgate rules and charge reasonable fees to defray expenses incurred in registration and compliance to this Section in regard to the administering, dispensing, or distribution of controlled substances within the State. The fees collected to defray expenses shall be retained by the certifying boards.

Section 3. That Subsection (a) of Section 303 of Act No. 1407, Regular Session, 1971, be and the same is hereby emended to read as follows:

Section 303. (Registration.)

(a) The certifying boards shall register only an applicant certified by their respective boards to manufacture, dispense, or distribute controlled substances enumerated in Schedules I, II, III, IV and V. Provided further, the State Board of Pharmacy shall register all manufacturers and wholesalers unless they determine that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the above mentioned Board shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

- (2) compliance with applicable State and local law;
- (3) any convictions of the applicant under any Federal and State laws relating to any controlled substance;
- (4) past experience in the manufacture or distribution of controlled substances and the existence in the applicants establishment of effective controls against diversion;
- (5) furnishing by the applicant of false or fraudulent material in any application filed under this Act;
- (6) suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled substances as authorized by Federal law, and
- (7) any other factors relevant to and consistent with the public health and safety.

Section 4. That Section 306 of Act No. 1407, Regular Session, 1971, be and the same is hereby amended to read as follows:

Section 306. (Records of Registrants.)

Persons registered to manufacture, distribute, or dispense controlled substances under this Act shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of Federal law and with any additional rules the State Board of Medical Examiners, State Board of Health, and the State Board of Pharmacy issues.

Section 5. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws in conflict with the enactments herein are hereby repealed.

Section 7. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 24, 1976

Time: 5:30 P.M.

AN ACT

To provide a Uniform Alabama Controlled Substances Act for preventing drug abuse and drug dependence, to standardize all laws in this state to be in conformity with the new Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, and to repeal existing state statutes in conflict.

Be It Enacted by the Legislature of Alabama:

ARTICLE I

(DEFINITIONS)

Section 101. (Definitions.) As used in this Act:

(a) "Administer" means 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:

- (1) a practitioner (or, in his presence, by his authorized agent), or
- (2) the patient or research subject at the direction and in the presence of the practitioner.

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

(c) "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

(d) "Certifying Boards" means the State Board of Health, the State Board of Pharmacy, the State Board of Dental Examiners, and the State Board of Veterinary Medical Examiners.

(e) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II.

(f) "Counterfeit substance" means substances 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 who in fact manufactured, distributed, or dispenses the substance.

(g) “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(h) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner; including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(i) “Dispenser” means a practitioner who dispenses.

(j) “Distribute” means to deliver other than by administering or dispensing a controlled substance.

(k) “Distributor” means a person who distributes.

(l) “Drug” means (1) substance recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary or any supplement to any of the; (2) substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(m) “Immediate precursor” means a substance which the State Board of Pharmacy has found to be and by rule designates as being 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 manufacture.

(n) “Manufacture” means the production, preparation, propagation, compounding, conversion 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 own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(o) “Marihuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from

the stalks, oil or cake made from the seeds of the plant, any other compound manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(p) "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 and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1. but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

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

(q) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Section 201 of this Act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(r) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(s) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(u) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

(v) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

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

(x) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

ARTICLE II

(STANDARDS AND SCHEDULES)

Section 201. (Authority to Control)

(a) The State Board of Health unless otherwise specified shall administer this Act and may add substance to or delete or reschedule all substances enumerated in the schedules in sections 204, 206, 208, 210, or 212 pursuant to the procedures of the State Board of Health. In making a determination regarding a substance, the State Board of Health shall consider the following:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;
- (3) the state of current scientific knowledge regarding the substance;
- (4) the history and current pattern of abuse;
- (5) the scope, duration, and significance of abuse;
- (6) the risk to the public health;

(7) the potential of the substance to produce psychic or physiological dependence liability; and

(8) whether the substance is an immediate precursor of a substance already controlled under this Article.

(b) After considering the factors enumerated in subsection (a) the State Board of Health shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.

(c) If the State Board of Pharmacy designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under Federal law and notice thereof is given to the State Board of Health, the State Board of Health shall similarly control the substance under this Act after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30 day period, the State Board of Health objects to inclusion, rescheduling, or deletion. In that case, the State Board of Health shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the State Board of Health shall publish its decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this Act by the State Board of Health, control under this Act is stayed until the State Board of Health publishes its decision.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt, beverages, or tobacco.

(f) The State Board of Health shall exclude any non-narcotic substance from a schedule if such substance may, under the Federal Food, Drug and Cosmetic Act, the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, and the law of this state be lawfully sold over the counter without a prescription.

Section 202. (Nomenclature.) The controlled substances listed or to be listed in the schedules in sections 204, 206, 208, 210, and 212 are included by whatever official, common, usual, chemical, or trade name designated.

Section 203. (Schedule I Tests.) The State Board of Health shall place a substance in Schedule I if it finds that the substance:

- (1) has high potential for abuse; and
- (2) has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

Section 204. (Schedule I.)

(a) The controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these 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) Dextrorphan;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxidine;
- (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) Racemoramide;
- (42) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Etorphine;
- (10) Heroin;
- (11) Hydromorphanol;
- (12) Methyldesorphine;

- (13) Methyldihydromorphine;
- (14) Morphine methylbromide;
- (15) Morphine methylsulfonate;
- (16) Morphine-N-Oxide;
- (17) Myrophine;
- (18) Nicocodeine;
- (19) Nicomorphine;
- (20) Normorphine;
- (21) Pholcodine;
- (22) Thebacon.

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3, 4-methylenedioxy amphetamine;
- (2) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (3) 3, 4, 5-trimethoxy amphetamine;
- (4) Bufotenine;
- (5) Diethyltryptamine;
- (6) Dimethyltryptamine;
- (7) 4-methyl-2, 5-dimethoxyamphetamine;
- (8) Ibogaine;
- (9) Lysergic acid diethylamide;
- (10) Marihuana;
- (11) Mescaline;
- (12) Peyote;
- (13) N-ethyl-3-piperidyl benzilate;

- (14) N-methyl-3-piperidyl benzilate;
- (15) Psilocybin;
- (16) Psilocyn;
- (17) Tetrahydrocannabinols.

Section 205. (Schedule II Tests.) The State Board of Health shall place a substance in Schedule II if it finds that:

- (1) the substance has high potential for abuse;
- (2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (3) the abuse of the substance may lead to severe psychic or physical dependence.

Section 206. (Schedule II.)

(a) The controlled substances listed in this section are included in Schedule II.

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

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

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

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Alphaprodine;
- (2) Anileridine;

- (3) Bezitramide;
- (4) Dihydrocodeine;
- (5) Diphenoxylate;
- (6) Fentanyl;
- (7) Isomethadone;
- (8) Levomethorphan;
- (9) Levorphanol;
- (10) Metazocine;
- (11) Methadone;
- (12) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (13) Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (14) Pethidine;
- (15) Pethidine -- Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (16) Pethidine -- Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (17) Pethidine -- Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (18) Phenazocine;
- (19) Piminodine;
- (20) Racemethorphan;
- (21) Racemorphan.

Section 207. (Schedule III Tests.) The State Board of Health shall place a substance in Schedule III if it finds that:

- (1) the substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) The substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Section 208. (Schedule III.)

(a) The controlled substances listed in this section are included in Schedule III.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a 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) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(4) Methylphenidate.

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age unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit; with one or more ingredients in recognized therapeutic amounts;

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

(f) The State Board of Health may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) 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, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Section 209. (Schedule IV Tests) The State Board of Health shall place a substance in Schedule IV if it finds that:

(1) the substance has a low potential for abuse relative to substance in Schedule III:

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

Section 210. (Schedule IV.)

(a) The controlled substances listed in this section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances have a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Barbitol;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Ethchlorvynol;
- (5) Ethinamate;
- (6) Methohexital;
- (7) Meprobamate;
- (8) Methylphenobarbital;
- (9) Paraldehyde;
- (10) Petrichloral;
- (11) Phenobarbital.

(c) The State Board of Health may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) 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 depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Section 211. (Schedule V Tests.) The State Board of Health shall place a substance in Schedule V if it finds that:

(1) the substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) the substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Section 212. (Schedule V.)

(a) The controlled substances listed in this section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contain 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 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

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

(5) Not more than 10 milligrams of opium per 100 milliliters or per 100 grams.

Section 213. (Republishing of Schedules.) The State Board of Health shall revise and republish the schedules semi-annually for 2 years from the effective date of this Act and thereafter annually.

ARTICLE III

**(REGULATION OF MANUFACTURE, DISTRIBUTION
AND DISPENSING OF CONTROLLED SUBSTANCES)**

Section 301. (Rules.) The State Board of Pharmacy shall promulgate rules and charge reasonable fees relating to the registration and control of the manufacture and distribution of controlled substances within this State.

Section 302. (Registration Requirements.)

(a) Every person who manufactures, distributes, or dispenses any controlled substance within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this State must obtain annually a registration issued by the Certifying Boards in accordance with its rules.

(b) Persons registered by the Certifying Boards under this Act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this Act:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) a common or contract carrier of warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The Certifying Boards may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if they find it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The Certifying Boards may inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by them.

Section 303. (Registration.)

(a) The State Board of Health, the State Board of Pharmacy, the State Board of Dental Examiners, and the State Board of Veterinary Medical Examiners shall register only an applicant certified by its respective Board to manufacture, dispense, or distribute controlled substances enumerated in Schedules I, II, III, VI, and V. Provided further, the State Board of Pharmacy shall register all manufacturers and wholesalers unless they determine that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the above mentioned Boards shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable State and local law;

(3) any convictions of the applicant under any Federal and State laws relating to any controlled substance;

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

(5) furnishing by the applicant of false or fraudulent material in any application filed under this Act;

(6) suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled substances as authorized by Federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this State. The State Board of Health need not require separate registration under this Article for practitioners engaging in research with non-narcotic controlled substances in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under Federal law to conduct research with Schedule I Substances may conduct research with Schedule I substances within this State upon furnishing the State Board of Health evidence of that Federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the Federal law respecting registration (excluding fees) entitles them to be registered under this Act.

Section 304. (Revocation and Suspension of Registration.)

(a) A registration under Section 303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Certifying Board upon a finding that the registrant:

(1) has furnished false or fraudulent material information in any application filed under this Act;

(2) has been convicted of a felony under any State or Federal law relating to any controlled substance, or

(3) has had his Federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(4) has violated the provisions of Act 205, 1966 Special Session of Alabama Legislature (Title 46 § 257 (al-a32) Code of Alabama 1940 (Recomp. 1958))

(b) The Certifying Boards may limit revocation or suspension or a registration to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the Certifying Boards suspend or revoke a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may 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 controlled substances may be forfeited to the State.

(d) The Certifying Boards shall promptly notify the Bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

Section 305. (Order to Show Cause.)

(a) Before denying, suspending or revoking a registration, or refusing a renewal of registration, the Certifying Boards 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 therefor and shall call upon the applicant or registrant to appear before the Certifying Board at a time and place not less than 30 days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with the respective Certifying Board without regard to any criminal prosecution or other proceedings. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The Certifying Boards may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 304, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Certifying Boards or dissolved by a court of competent jurisdiction.

Section 306. (Records of Registrants.) Persons registered to manufacture, distribute, or dispense controlled substances under this Act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of Federal law and with any additional rules the State Board of Health and the State Board of Pharmacy issues.

Section 307. (Order Forms.) Controlled substances in Schedule I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of Federal law respecting order forms shall be deemed compliance with this Section.

Section 308. (Prescriptions.)

(a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner.

(b) Each registered pharmacy shall maintain the inventories and records of controlled substances as follows:

(1) Inventories and records of all controlled substances listed in Schedules I and II shall be maintained separately from all other records of the pharmacy, and prescriptions for such substances shall be maintained in a separate prescription file; and

(2) Inventories and records of controlled substances listed in Schedules III, IV, and V shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy, and prescriptions for such substances shall be maintained either in separate prescription file for controlled substances listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescription records of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than 1-inch high and filed either in the prescription file for controlled substances listed in Schedules I and II or in the usual consecutively number prescription file for non-controlled substances.

(c) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV which is a prescription drug as determined under State Board of Health statute, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed by a practitioner.

(d) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

ARTICLE IV

(OFFENSES AND PENALTIES)

Section 401. (Prohibited Acts A -- Penalties.)

(a) Except as authorized by this Act, any person who possesses, sells, furnishes, give away, obtains, or attempts to obtain by fraud, deceit, misrepresentation, or subterfuge, or by the forgery or alteration of a prescription or written order, or by the concealment of material fact, or by use of false name or giving a false address, controlled substances enumerated in Schedules I, II, III, IV and V is guilty of a felony and upon conviction for first offense may be imprisoned not less than 2 nor more than 15 years and, in addition, may be fined not more than \$25,000: Except any person who possesses any marihuana for his personal use only is guilty of a misdemeanor and upon conviction for the offense shall be imprisoned in the county jail for not more than one (1) year, and in addition, shall be fined not more than \$1,000.00; but the penalties for the

subsequent offenses relating to possession of marihuana shall be the same as specified in the first sentence of this Section 401(a).

(b) Any person who violates this section with respect to a counterfeit substance enumerated in Schedule I through V is guilty of a felony and upon conviction for the first offense may be imprisoned for not less than 2 nor more than 15 years and may be fined not more than \$25,000.

Section 402. (Prohibited Acts B - Penalties.)

(a) It is unlawful for any person:

(1) who is subject to Article III to distribute or dispense a controlled substance in violation of Section 308;

(2) who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person:

(3) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act, provided however that upon the first conviction of a violator under this provisions said violator shall be guilty of a misdemeanor and shall be assessed a penalty of \$1,000.00. Subsequent convictions subject the violator to the penalty provision set forth in subsection (b) of this section.

(4) to refuse an entry into any premises for any inspection authorized by this Act; or

(5) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this Act for the purpose of using these substances, or which is used for keeping or selling them in violation of this Act.

(b) Any person who violates this Section is guilty of a felony and upon conviction may be imprisoned for not less than 2 nor more than 15 years and, in addition, may be fined not more than \$25,000.

Section 403. (Prohibited Acts C -- Penalties.)

(a) It is unlawful for any person:

(1) to distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by Section 307 of this Act;

(2) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(4) to furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this Act, or any record required to be kept by this Act; or

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this Section is guilty of a crime and upon conviction may be imprisoned for not less than 2 nor more than 15 years and, in addition, may be fined not more than \$25,000.

Section 404. (Penalties Under Other Laws.) Any penalty imposed for violation of this Act s in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

Section 405. (Bar to Prosecution.) If a violation of this Act is a violation of a Federal law or the law of another State, a conviction or acquittal under Federal law or the law of another State for the same act is a bar to prosecution in this State.

Section 406. (Distribution to Persons Under Age 18.) If the offender is over the age of eighteen and the offense consisted of selling, furnishing or giving such controlled substance as enumerated in Schedules I, II, III, IV, and V to a person who had not attained the age of eighteen years the offender shall, upon conviction, be imprisoned not less than 4 nor more than 30 years and, in addition, may be fined not more than \$50,000. The imposition or execution of sentence shall not be suspended and probation shall not be granted.

Section 407. (Second or Subsequent Offenses.)

(a) 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.

(b) For purposes of this Section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this Act or under any statute of the United States or of any State relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

ARTICLE V

(ENFORCEMENT AND ADMINISTRATIVE PROVISIONS)

Section 501. (Powers of Enforcement Personnel.)

(a) It shall be the duty of the State Board of Pharmacy and its drug inspectors to enforce all provision of this chapter. The agents and officers of the Department of Public Safety, the drug and narcotic agents and inspectors of the Department of Public Health and all peace officers of the state and all prosecuting attorneys are charged with the enforcement of this chapter The agents and officers of the Department of Public

Safety, the drug inspectors of the State Board of Pharmacy and the drug and narcotic agent and inspectors of the Department of Public Health shall have the powers of peace officers in the performance of their duties to:

- (1) make arrests without warrant for any offense under this Act committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this Act which may constitute a felony;
- (2) make seizures of property pursuant to this Act;
- (3) carry firearms in the performance of his official duties.

Section 502. (Inspection of Prescription Orders, Records, and Purchasing Records.) Prescriptions, order, and records required by this chapter, and stocks of controlled substances enumerated in Schedules I, II, III, IV, and V shall be open for inspection only to federal, state, county and municipal officers, and the agents and officers of the Department of Public safety, whose duty it is to enforce the laws of this state or of the United States relating to controlled substances. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer, to which prosecution or proceeding the person to whom such prescriptions, order, or records, relate, is a party.

Section 503. (Injunctions.)

(a) The circuit courts of this State have jurisdiction to restrain or enjoin violations of this Act.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this Section.

Section 504. (Forfeitures.)

(a) 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:

(i) 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;

(ii) 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;

(iii) a conveyance is not subject to forfeiture for a violation of Section 401 (c); and,

(iv) 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 of nor consented to the act or omission.

(5) 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.

(b) Property subject to forfeiture under this Act may be seized by state, county, or city law enforcement agencies 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 state, county, or city law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the state, county, or city law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this Act.

(c) In the event of seizure pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the state, county, or city law enforcement 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 state, county, or city law enforcement agency may:

(1) place the property under seal;

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

(3) require the state, county, or city law enforcement agency to take custody of he property ad remove it to an appropriate location for disposition in accordance with law.

(e) When property is forfeited under this Act the state, county or city law enforcement agency may:

(1) retain it for official use;

(2) sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(3) require the state, county, or city law enforcement agency to take custody of the property and remove it for disposition in accordance with law.

(f) 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 owner of which are unknown, are contraband and shall be summarily forfeited to the State.

(g) 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.

Section 505. (Rules and Regulations Pertaining to Administering, Dispensing, and Prescribing by Practitioners.) It shall be unlawful for any practitioner of dentistry to prescribe, administer, or dispense any controlled substance enumerated in Schedules I through V for any person not under his treatment in his regular practice of his profession or for any practitioner of veterinary medicine to prescribe, administer, or dispense any controlled substance enumerated in Schedule I through V for the use of human beings. Provided, however, that the provisions of this section shall be construed not to prevent any lawfully authorized practitioner of medicine from furnishing or prescribing in good faith for the use of any habitual user of substances enumerated in Schedules I through V who is under his professional care such substances as he may deem necessary for their treatment, when such prescriptions are not give or substances furnished for the purpose of maintaining addiction or abuse. Any person who violates this section shall be guilty of a felony and shall on conviction thereof be subject to imprisonment for not less than 2 nor more than 15 years.

Section 506. (Reporting of Drug Addiction to the State Board of Health.) Any practitioner who diagnoses or treats a case of narcotic addiction or drug abuse; the superintendent, manager, or administrator of a hospital or dispensary; penal or other institution in which there is a case of narcotic addiction or drug abuse; shall report such a case or cases immediately in writing to the State Board of Health stating the patient's name, age, color, sex, marital status, address, occupation, and the type of narcotic or drugs being used by te patient. Any person who violates this section is guilty of a misdemeanor and upon conviction shall be fined not less than \$1,000 and may be sentenced to 6 month in jail or both. The State Board of Health is authorized to make available to the Drivers License Division of the Alabama Department of Public Safety information reported under this section; provided however, such information may only be

used in the administration of the laws of this state relating to the issuance, suspension, and revocation of drivers' licenses.

Section 507. (Pipes and Paraphernalia.)

(a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking a controlled substance enumerated in Schedules I through V.

(b) It is unlawful to visit or to be in any room or place where any controlled substance enumerated in Schedules I through V is being unlawfully smoked or used with knowledge that such activity is occurring.

(c) Any person convicted for a violation of this section shall be punished by imprisonment in the county jail for not more than one year for the first offense. If a persons has been previously convicted of any offense related to controlled substances in Schedules I through V in this state or any other state, such person may be imprisoned for 2 to 15 years.

Section 508. All laws or parts of laws which conflict with this Act unless otherwise specified are repealed.

(a) The Rules and Regulations of the State Board of Health of the State of Alabama Regarding Paregoric and Cough Syrups Containing Codeine which became effective November 11, 1965 are not to be repealed by this Act.

(b) The following laws and amendments and parts of laws will be repealed by this Act:

(1) Title 22, Code of Alabama, Chapter 8. NARCOTIC DRUGS AND POISONS, (Sections 232 through 255).

(2) Title 22, Code of Alabama, Amendments to Chapter 8. . NARCOTIC DRUGS AND POISONS, (Sections 236 through 255).

(3) Alabama Act No. 1128, S. 479, (Regular Session, 1969) Chapter 8 A. TRANSPORTATION OF NARCOTICS, Sections 255 (1) through 255 (6).

(4) Alabama Act No. 1131, S. 484, (Regular Session, 1969) Chapter 8 B. ALABAMA DRUG ABUSE CONTROL ACT, Sections 255 (7) through 255 (14).

(5) Title 22, Code of Alabama, Chapter 9. MARIJUANA, (Sections 256 through 258).

(6) Title 22, Code of Alabama, Chapter 9. MARIJUANA, (1967 Cumulative Supplement), (Section 256).

(7) Alabama Act No. 625, S. 480, (Regular Session, 1969).

(8) Title 22, Code of Alabama, Chapter 9 B. HEROIN, Sections 258 (10) through 258 (12).

(9) Title 22, Code of Alabama, Chapter 9 D. LSD-25, PSILOCYBIN AND OTHER PSYCHOTOMIMETICS, Sections 258 (21) through 258 (24).

(10) Title 22, Code of Alabama, Chapter 9 A. (Cumulative Supplement to Vol. 6), BARBITURATES, Sections 258 (1) through 258 (9).

(11) Title 22, Code of Alabama, Chapter 9 C. (Cumulative Supplement to Vol. 6), AMPHETAMINES AND OTHER STIMULATING DRUGS, Sections 258 (13) through 258 (20).

Section 509. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 510. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Section 511. This Act may be cited as the Alabama Uniform Controlled Substance Act.

Approved September 16, 1971

Time: 6:05 P.M.