CHAPTER 152

PROHIBITED DRUGS

152.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Drug.** The term "drug" includes all medicines and preparations recognized in the United States pharmacopoeia or national formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either humans or other animals.

Subd. 3. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 3. **Administer.** "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. MS 1967 [Repealed, 1969 c 933 s 22]

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

Subd. 5. [Repealed, 1971 c 937 s 22]

Subd. 6. **Pharmacist intern.** The term "pharmacist intern" means a natural person, a graduate of the college of pharmacy, University of Minnesota, or other pharmacy college, approved by the board, or a person satisfactorily progressing toward the degree in pharmacy required for licensure, registered by the state board of pharmacy, for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist or a qualified applicant, awaiting licensure.

Subd. 7. **Manufacturing.** "Manufacturing", in places other than a pharmacy, means and includes the production, quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Subd. 8. **Dispense.** "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. 9. **Marijuana.** "Marijuana" means all parts of the plant of any species of the genus Cannabis, including all agronomical varieties, 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 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. 10. **Narcotic drug.** "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. 11. **Opiate.** "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. 12. **Opium poppy.** "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

Subd. 13. **Person.** "Person" includes every individual, copartnership, corporation or association of one or more individuals.

Subd. 14. **Poppy straw.** "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

Subd. 15. **Immediate precursor.** "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 for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

Subd. 16. **Small amount.** "Small amount" as applied to marijuana means 42.5 grams or less. This provision shall not apply to the resinous form of marijuana.

Subd. 17. **Appropriate agency.** "Appropriate agency" means either the bureau of criminal apprehension, the state board of pharmacy, state patrol, county sheriffs and their deputies, or city police departments in municipalities containing 2,500 or more inhabitants.

Subd. 18. **Drug paraphernalia.** "Drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

History: *(3899-2, 3899-5, 3899-7, 3906-12) 1921 c 190 s 2,5,7; 1939 c 102 s 2; 1967 c 408 s 1,2; 1971 c 937 s 1-11; Ex1971 c 38 s 1; Ex1971 c 48 s 17; 1973 c 693 s 1; 1979 c 157 s 1; 1981 c 37 s 2; 1981 c 295 s 1; 1982 c 557 s 1; 1982 c 642 s 22; 1985 c 248 s 70; 1986 c 444; 1987 c 298 s 1*

152.02 MS 1967 [Repealed, 1969 c 933 s 22]

152.02 SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER.

Subdivision 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 following items are listed in 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; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethyliambutene; Dimenoxadol; Dimepheptanol; Dimethyliambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; 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 of 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; 4-bromo-2.5-dimethoxyamphetamine; 2.5-dimethoxyamphetamine; 4-methoxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 3,4,5-trimethoxy amphetamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; marijuana; Mescaline; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; 1-(1-(2-thienyl) cyclohexyl) piperidine; n-ethyl-1-phenylcyclohexylamine; 1-(1-phenylcyclohexyl) pyrrolidine.

(4) Peyote, providing the listing of peyote as a controlled substance in schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

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

Mecloqualone.

Subd. 3. The following items are listed in Schedule 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, including the following: raw opium, opium extracts, opium fluid extracts, powdered opium, granulated opium, tincture of opium, apomorphine, codeine, ethylmorphine, hydrocodone, hydromorphone, metopon, morphine, oxycodone, oxymorphone, thebaine.

(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, including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine, and the salts of their isomers.

(e) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (d), 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: Alfentanil; Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Dihydromorphinone; Diphenoxylate; 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; 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 material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

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

(b) Methamphetamine, its salts, isomers, and salts of its isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate.

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

(a) Methaqualone

(b) Amobarbital

(c) Secobarbital

(d) Pentobarbital

(e) Phencyclidine

(f) Phencyclidine immediate precursors:

(i) 1-phenylcyclohexylamine

(ii) 1-piperidinocyclohexanecarbonitrile.

Subd. 4. The following items are listed in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of Amphetamine, its salts, optical isomers, and salts of its optical isomers; Phenmetrazine and its salts; Methamphetamine, its salts, isomers, and salts of isomers; Methylphenidate; and which is required by federal law to be labeled with the symbol prescribed by 21 Code of Federal Regulations Section 1302.03 and in effect on February 1, 1976 designating that the drug is listed as a Schedule III controlled substance under federal law.

(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 compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

(c) Any 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; Sulfondiethylmethane; Sulfonethylmethane; Sulfonmethane.

(3) 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) Benzphetamine

(b) Chlorphentermine

(c) Clortermine

(d) Mazindol

(e) Phendimetrazine.

(4) Nalorphine.

(5) 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, nonnarcotic 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, nonnarcotic 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, nonnarcotic 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, nonnarcotic 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, nonnarcotic 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, nonnarcotic ingredients in recognized therapeutic amounts.

Subd. 5. The following items are listed in Schedule IV: Barbital; Chloral betaine; Chloral hydrate; Chlordiazepoxide; Clonazepam; Clorazepate; Diazepam; Diethylpropion; Ethchlorvynol; Ethinamate; Fenfluramine; Flurazepam; Mebutamate; Methohexital; Meprobamate except when in combination with the following drugs in the following or lower concentrations: conjugated estrogens, 0.4 mg; tridihexethyl chloride, 25mg; pentaerythritol tetranitrate, 20 mg; Methylphenobarbital; Oxazepam; Paraldehyde; Pemoline; Petrichloral; Phenobarbital; and Phentermine.

Subd. 6. 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 15 milligrams of anhydrous morphine per 100 milliliters or per 100 grams.

Subd. 7. 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 currently 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. 8. The state board of pharmacy may, by rule, add substances to or delete or reschedule substances listed in this section. The state board of pharmacy, after consulting with the advisory council on controlled substances, shall annually, on or before May 1 of each year, conduct a review of the placement of controlled substances in the various schedules.

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. The state board of pharmacy may include any nonnarcotic drug authorized by federal law for medicinal use in a schedule only if such drug must, under either federal or state law or rule, be sold only on prescription.

Subd. 9. The state board of pharmacy may by rule except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivision 4, clauses (1) and (2) or in subdivisions 5 and 6 from the application of all or any part of Laws 1971, chapter 937, 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. 10. Dextromethorphan shall not be deemed to be included in any schedule by reason of the enactment of Laws 1971, chapter 937, unless controlled pursuant to the foregoing provisions of this section.

Subd. 11. The state board of pharmacy may appoint an advisory task force on controlled substances consisting of not more than 13 members to advise it in the administration of this chapter.

If appointed, the task force shall include a physician, a pharmacologist, and a pharmacist. The other members shall be from among the following: correction or law enforcement officers, judges, representatives of drug treatment or counseling facilities, former drug abusers, education, and students. The task force shall expire, and the terms, compensation, and removal of members shall be as provided in section 15.059.

Subd. 12. 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 pharmacy, the state board of pharmacy shall similarly control the substance under Laws 1973, chapter 693, 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. Such order shall be filed pursuant to section 14.38. If within that 30-day period, the state board of pharmacy objects to inclusion, rescheduling, or deletion, it 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 pharmacy shall publish its decision, which shall be subject to the provisions of Minnesota Statutes 1971, chapter 15.

In exercising the authority granted by Laws 1971, chapter 937, the state board of pharmacy shall be subject to the provisions of Minnesota Statutes 1969, chapter 15. The state board of pharmacy shall provide copies of any proposed rule under Laws 1971, chapter 937, to the advisory council on controlled substances at least 30 days prior to any hearing required by section 14.14, subdivision 1. The state board of pharmacy shall consider the recommendations of the advisory council on controlled substances, which may be made prior to or at the hearing.

Subd. 13. The state board of pharmacy shall study the implementation of Laws 1971, chapter 937 in relation to the problems of drug abuse in Minnesota and shall report to the legislature annually on or before December 1, their recommendations concerning amendments to Laws 1971, chapter 937.

History: *1971 c 937 s 12; 1973 c 693 s 2-4; 1976 c 338 s 1-4; 1979 c 157 s 2-4; 1979 c 243 s 2; 1982 c 424 s 130; 1983 c 260 s 39,40; 1985 c 248 s 70; 1987 c 14 s 1; 1987 c 298 s 2; 1987 c 384 art 2 s 40*

152.03 [Repealed, 1969 c 933 s 22]
152.04 [Repealed, 1969 c 933 s 22]
152.041 [Repealed, 1971 c 937 s 22]
152.05 [Repealed, 1969 c 933 s 22]
152.06 [Repealed, 1969 c 933 s 22]
152.07 [Repealed, 1969 c 933 s 22]
152.08 [Repealed, 1969 c 933 s 22]

152.09 PROHIBITED ACTS.

Subdivision 1. **Unlawful acts.** Except as otherwise provided in this chapter, it shall be unlawful for any person, firm, or corporation to

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

(2) Possess a controlled substance, except when the possession is for that person's own use and is authorized by law.

(3) Manufacture, sell, transfer, or deliver or attempt to sell, transfer or deliver a noncontrolled substance in violation of section 152.097.

Subd. 2. It shall be unlawful for any person to procure, attempt to procure, possess or have control over a 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, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

History: *(3906-11) 1939 c 102 s 1; 1955 c 185 s 1; 1967 c 408 s 4; 1971 c 937 s 13; 1973 c 693 s 5; 1982 c 599 s 2; 1986 c 444*

152.092 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.

History: *1982 c 557 s 2*

152.093 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to deliver drug paraphernalia or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery. Any violation of this section is a misdemeanor.

History: *1982 c 557 s 3*

152.094 DELIVERY OF DRUG PARAPHERNALIA TO A MINOR PROHIBITED.

Any person 18 years of age or older who violates section 152.093 by knowingly or intentionally delivering drug paraphernalia to a person under 18 years of age who is at least three years younger is guilty of a gross misdemeanor.

History: *1982 c 557 s 4; 1986 c 444*

152.095 ADVERTISEMENT OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to place in any newspaper, magazine, handbill, or other publication any advertisement or promotion for the sale of drug paraphernalia. A violation of this section is a misdemeanor.

History: *1982 c 557 s 5*

152.096 CONSPIRACIES PROHIBITED.

Subdivision 1. **Prohibited acts; penalties.** Any person who conspires to commit any act prohibited by section 152.09, except possession or distribution for no remuneration of a small amount of marijuana as defined in section 152.01, subdivision 16, is guilty of a felony and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.

Subd. 2. **Conviction of coconspirator not required.** A person liable under this section may be charged with and convicted of conspiracy although the person or persons with whom that person conspired have not been convicted or have been convicted of some other crime based on the same act.

History: *1982 c 557 s 6; 1986 c 444*

152.097 SIMULATED CONTROLLED SUBSTANCES.

Subdivision 1. **Prohibition.** It is unlawful for any person knowingly to manufacture, sell, transfer or deliver or attempt to sell, transfer or deliver a noncontrolled substance upon:

(a) The express representation that the noncontrolled substance is a narcotic or nonnarcotic controlled substance; or

(b) The express representation that the substance is of such nature or appearance that the recipient of the delivery will be able to sell, transfer or deliver the substance as a controlled substance; or

(c) Under circumstances which would lead a reasonable person to believe that the substance was a controlled substance. Any of the following factors shall constitute relevant evidence:

(i) The noncontrolled substance was packaged in a manner normally used for the illegal delivery of controlled substances; or

(ii) The delivery or attempted delivery included an exchange of or demand for money or other valuable property as consideration for delivery of the noncontrolled substance, and the amount of the consideration was substantially in excess of the reasonable value of the noncontrolled substance; or

(iii) The physical appearance of the noncontrolled substance is substantially identical to a specified controlled substance.

Subd. 2. **No defense.** In any prosecution under this section, it is no defense that the accused believed the noncontrolled substance to actually be a controlled substance.

Subd. 3. **Exemption.** This section does not apply to the prescribing and dispensing of placebos by licensed practitioners and licensed pharmacists.

History: *1982 c 599 s 1*

152.10 SALES, PERSONS ELIGIBLE.

No person other than a licensed pharmacist, assistant pharmacist or pharmacist intern under the supervision of a pharmacist shall sell a stimulant or depressant drug and then only as provided in sections 152.09 to 152.12.

History: *(3906-13) 1939 c 102 s 3; 1967 c 408 s 5*

152.101 MANUFACTURERS, RECORDS.

Subdivision 1. Every person engaged in manufacturing, compounding, processing, selling, delivering or otherwise disposing of any controlled substance shall, upon July 1, 1971, May 1, 1973, and every second year thereafter, prepare a complete and accurate record of all stocks of each controlled substance on hand and shall keep such record for two years. When additional controlled substances are designated after July 1, 1971, a similar record must be prepared upon the effective date of their designation. On and after July 1, 1971, every person manufacturing, compounding or processing any controlled substance shall prepare and keep, for not less than 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 controlled substance shall prepare or obtain, and keep for not less than two years, a complete and accurate record of the kind and quantity of each such 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.

Subd. 2. This section shall not apply to a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, a licensed doctor of dentistry, a licensed doctor of podiatry, or licensed doctor of veterinary medicine in the course of that doctor's professional practice, unless such practitioner regularly engages in dispensing any such drugs to the practitioner's patients 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.

History: *1967 c 408 s 6; 1971 c 937 s 14; 1973 c 693 s 6; 1986 c 444*

152.11 WRITTEN OR ORAL PRESCRIPTIONS, REQUISITES.

Subdivision 1. No person may dispense a controlled substance included in Schedule II of section 152.02 without a prescription written by a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully practicing the profession in this state. Provided that in emergency situations, as authorized by federal law, 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 152.101. No prescription for a Schedule II substance may be refilled.

For the purposes of Laws 1971, chapter 937, a written prescription or oral prescription, which shall be reduced to writing, for a controlled substance in schedule II, III, IV or V 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 controlled substance to be compounded or dispensed, with directions for its use; (3) if a written prescription, it contains the signature, address and federal registry number 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 the prescriber's 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 in a file for a period of not less than 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. 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 schedule III or IV of section 152.02 without a written or oral prescription from a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully practicing the profession in this state. Such prescription may not be 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.

History: *(3906-14) 1939 c 102 s 4; 1939 c 193 s 4; 1955 c 185 s 2; 1967 c 408 s 7; 1971 c 937 s 15; 1973 c 693 s 7; 1986 c 444*

152.12 DOCTORS MAY PRESCRIBE.

Subdivision 1. A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, a doctor of dental surgery, or a doctor of dental medicine, or a licensed doctor of podiatry, and in the course of professional practice only, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, may cause the same to be administered by a nurse, an intern or an assistant under the direction and supervision of the doctor, and may cause a person who is an appropriately certified and licensed health care professional to prescribe and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes.

Subd. 2. A licensed doctor of veterinary medicine, in good faith, and in the course of professional practice only, and not for use by a human being, may prescribe, administer, and dispense a controlled substance included in schedules II through V of section 152.02, and may cause the same to be administered by an assistant under the direction and supervision of the doctor.

Subd. 3. Any qualified person may use 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 covering such research projects.

Subd. 4. Nothing in this chapter shall prohibit the sale to, or the possession of, a controlled substance in schedule II, III, IV or V by: Registered drug wholesalers, registered manufacturers, registered pharmacies, or any licensed hospital 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 dental surgery, licensed doctors of dental medicine, licensed doctors of podiatry, or licensed doctors of veterinary medicine when such practitioners use controlled substances within the course of their professional practice only.

Nothing in this chapter shall prohibit the possession of a controlled substance in schedule 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 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 dental surgery, a licensed doctor of dental medicine, 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. Nothing in this chapter shall prohibit an analytical laboratory from conducting an anonymous analysis service when such laboratory is registered by the Federal Drug Enforcement Administration, nor prohibit the possession of a controlled substance by an employee or agent of such analytical laboratory while acting in the course of employment.

History: *(3906-15) 1939 c 102 s 5; 1967 c 408 s 8; 1971 c 937 s 16; 1973 c 693 s 8,9; 1974 c 369 s 2; 1986 c 444; 1988 c 440 s 3*

152.13 DUTIES OF STATE BOARD OF PHARMACY.

It shall be the duty of the state board to enforce the provisions of this chapter, and the power and authority of the board, as now defined by the laws of this state, are hereby extended so as to be commensurate with the duties hereby imposed.

History: *(3899-10) 1921 c 190 s 10; 1967 c 408 s 9*

152.14 [Repealed, 1969 c 933 s 22]

152.15 VIOLATIONS; PENALTIES.

Subdivision 1. MS 1967 [Repealed, 1969 c 933 s 22]

Subdivision 1. Any person who violates section 152.09, subdivision 1, clause (1) with respect to:

(1) Any controlled substance classified in schedule I or II which is a narcotic drug, or phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is guilty of a crime and upon conviction may be imprisoned for not more than 20 years or fined not more than $60,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than two years nor more than 30 years or fined not more than $100,000, or both if:

(i) the mixture contains three grams or more of cocaine base;

(ii) the offender sells or distributes a total of ten grams or more of the controlled substance, regardless of purity, on one or more occasions within a 90-day period;

(iii) the controlled substance is phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is packaged in dosage units, and equals ten or more dosage units;

(iv) the controlled substance is a schedule I or II narcotic drug, is packaged in dosage units, and equals 50 or more dosage units;

(v) the offender sells or distributes any quantity of the controlled substance to a person under the age of 18; or

(vi) the offender conspires with or employs a person under the age of 18 to sell or distribute any quantity of the controlled substance;

(2) Any other amount of any 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 15 years or fined not more than $40,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than one year nor more than 30 years or fined not more than $50,000, or both;

(3) Any other controlled substance classified in schedule I, II, or III, is guilty of a crime and upon conviction may be sentenced as follows:

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than ten years or to payment of a fine of not more than $30,000, or both; or

(ii) in all other cases, to imprisonment for not more than five years or to payment of a fine of not more than $30,000, or both.

A person convicted under this clause a second or subsequent time shall be sentenced to imprisonment for not less than one year nor more than ten years or to payment of a fine of not more than $45,000, or both;

(4) A substance classified in schedule IV, is guilty of a crime and upon conviction may be sentenced as follows:

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than six years or to payment of a fine of not more than $20,000, or both; or

(ii) in all other cases, to imprisonment for not more than three years or to payment of a fine of not more than $20,000, or both.

A person convicted under this clause a second or subsequent time shall be sentenced to imprisonment for not less than six months nor more than six years or to payment of a fine of not more than $35,000, or both;

(5) A substance classified in schedule V, is guilty of a crime and upon conviction may be sentenced as follows:

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than two years or to payment of a fine of not more than $3,000 or both; or

(ii) in all other cases, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both;

(6) The distribution of a small amount of marijuana for no remuneration, shall be treated as provided in subdivision 2, clause (5).

Subd. 2. Any person who violates section 152.09, subdivision 1, clause (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 $10,000, or both;

(2) any other controlled substance classified in schedule I, II, or III, except small amounts of marijuana, is guilty of a crime and upon conviction may be imprisoned for not more than three years, fined not more than $5,000, 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 $5,000, 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 $3,000, or both;

provided, however, that any person convicted under this section of possessing a substance classified under schedule V, and placed on probation may be required to take part in a drug education program as specified by the court;

(5) a small amount of marijuana is guilty of a petty misdemeanor punishable by a fine of up to $100 and participation in a drug education program unless the court enters a written finding that such a program is inappropriate, said program being approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority. A subsequent violation of this clause within two years is a misdemeanor, and a person so convicted shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation.

Additionally a person who is the owner of a private motor vehicle, or the driver of the motor vehicle if the owner is not present, and who possesses on the person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers more than 1.4 grams of marijuana is guilty of a misdemeanor. This area of the vehicle shall not include the trunk of the motor vehicle when such vehicle is equipped with a trunk or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(6) in any case in which a defendant is convicted of a petty misdemeanor under the provisions of clause (5) and willfully and intentionally fails to comply with the sentence imposed, said defendant shall be guilty of a misdemeanor.

(7) compliance with the terms of any sentence imposed for violation of clause (5) before conviction under clause (6) shall be an absolute defense.

Subd. 2a. No municipality may enact, prosecute under or otherwise enforce any ordinance or regulation applicable by its terms to the manufacture, sale, giving away, barter, delivery, exchange, distribution or possession of marijuana, which ordinance or regulation provides for the imposition of civil or criminal penalties or liabilities greater than those provided by state law for the same act, occurrence or event.

Subd. 2b. **Penalty.** Any person who violates section 152.097 by manufacturing, transferring, selling, or delivering a noncontrolled substance may be imprisoned for not more than three years, fined not more than $20,000, or both. Any person who violates section 152.097 by attempting to transfer, sell, or deliver a noncontrolled substance under circumstances set forth in section 152.097 shall be punishable as provided in section 609.17, subdivision 4.

Subd. 3. Any person who violates section 152.09, subdivision 2, is guilty of a crime and upon conviction may be imprisoned for not more than four years, or fined not more than $45,000, or both.

Subd. 4. [Repealed, 1987 c 330 s 4]

Subd. 4a. Any person 18 years of age or over who violates section 152.09, subdivision 1, clause (2), by possessing on school premises a controlled substance listed on Schedules I or II which is a narcotic drug is punishable by a fine of up to twice that authorized by subdivision 2, clause (1), by a term of imprisonment of up to twice that authorized by subdivision 2, clause (1), or both. Any person 18 years of age or over who violates section 152.09, subdivision 1, clause (2), by possessing on school premises any other controlled substance listed on schedule I, II, III, IV or V, except a small amount of marijuana, is punishable by a fine of up to twice that authorized by subdivision 2, clause (2), (3), or (4), by a term of imprisonment up to twice that authorized by subdivision 2, clause (2), (3), or (4), or both.

For the purposes of this subdivision, "school premises" means any property owned, leased or controlled by a school district or an organization operating a nonpublic school, as defined in section 123.932, subdivision 3, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade 1 through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided.

Subd. 5. Any person convicted of a second or subsequent offense under this chapter, except as provided in subdivision 1, clauses (1), (2), (3), (4), and (6) may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

History: *(3899-11, 3906-16, 5810) 1905 c 42; 1909 c 85 s 2; 1921 c 190 s 11; 1939 c 102 s 6; 1967 c 408 s 10; 1971 c 937 s 17; 1973 c 693 s 10-13; 1976 c 42 s 1,2; 1981 c 6 s 1; 1982 c 599 s 3; 1984 c 628 art 3 s 2,11; 1986 c 444; 1986 c 470 s 1-3; 1987 c 78 s 1; 1987 c 298 s 3; 1987 c 330 s 1*

152.151 REPORT TO LEGISLATURE.

The state alcohol and drug authority shall build into the drug education program required by section 152.15, subdivision 2, proper evaluation and report directly each legislative session to the legislative standing committees having jurisdiction over the subject matter.

History: *1976 c 42 s 3*

152.16 [Repealed, 1967 c 408 s 11]

152.17 [Repealed, 1971 c 937 s 22]

152.18 DISCHARGE AND DISMISSAL.

Subdivision 1. If any person is found guilty of a violation of section 152.09, subdivision 1, clause (2) after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum term of imprisonment provided for such violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge the person from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against that person. Discharge and dismissal hereunder shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the department of public safety solely for the purpose of use by the courts in determining the merits of subsequent proceedings against such person. The court shall forward a record of any discharge and dismissal hereunder to the department of public safety who shall make and maintain the nonpublic record thereof as hereinbefore provided. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

Subd. 2. Upon the dismissal of such person and discharge of the proceedings against the person pursuant to subdivision 1, such person may apply to the district court in which the trial was had for an order to expunge from all official records, other than the nonpublic record retained by the department of public safety pursuant to subdivision 1, all recordation relating to arrest, indictment or information, trial and dismissal and discharge pursuant to subdivision 1. If the court determines, after hearing, that such person was discharged and the proceedings dismissed, it shall enter such order. The effect of the order shall be to restore the person, in the contemplation of the law, to the status the person occupied before such arrest or indictment or information. No person as to whom such an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made for the person for any purpose.

Subd. 3. Any person who has been found guilty of a violation of section 152.09 with respect to a small amount of marijuana which violation occurred prior to April 11, 1976, and whose conviction would have been a petty misdemeanor under the provisions of section 152.15, subdivision 2, clause (5) in effect on April 11, 1978, but whose conviction was for an offense more serious than a petty misdemeanor under laws in effect prior to April 11, 1976, may petition the court in which the person was convicted to expunge from all official records, other than the nonpublic record retained by the department of public safety pursuant to section 152.15, subdivision 2, clause (5), all recordation relating to the person's arrest, indictment or information, trial and conviction of an offense more serious than a petty misdemeanor. The court, upon being satisfied that a small amount was involved in the conviction, shall order all the recordation expunged. No person as to whom an order has been entered pursuant to this subdivision shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge conviction of an offense greater than a petty misdemeanor, unless possession of marijuana is material to a proceeding.

History: *1971 c 937 s 18; 1973 c 693 s 14; 1978 c 639 s 1; 1986 c 444*

152.19 [Repealed, 1988 c 665 s 17]

152.20 PENALTIES UNDER OTHER LAWS.

Any penalty imposed for violation of Laws 1971, chapter 937 is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

History: *1971 c 937 s 20*

152.205 LOCAL REGULATIONS.

Sections 152.01, subdivision 18, and 152.092 to 152.095 do not preempt enforcement or preclude adoption of municipal or county ordinances prohibiting or otherwise regulating the manufacture, delivery, possession, or advertisement of drug paraphernalia.

History: *1982 c 557 s 11; 1988 c 665 s 1*

152.21 THC THERAPEUTIC RESEARCH ACT.

Subdivision 1. **Findings and purpose.** The legislature finds that scientific literature indicates promise for delta-9-tetrahydro-cannabinol (THC), the active component of marijuana, in alleviating certain side effects of cancer chemotherapy under strictly controlled medical circumstances.

The legislature also finds that further research and strictly controlled experimentation regarding the therapeutic use of THC is necessary and desirable. The intent of this section is to establish an extensive research program to investigate and report on the therapeutic effects of THC under strictly controlled circumstances in compliance with all federal laws and regulations promulgated by the federal food and drug administration, the national institute on drug abuse and the drug enforcement administration. The intent of the legislature is to allow this research program the greatest possible access to qualified cancer patients residing in Minnesota who meet protocol requirements. The establishment of this research program is not intended in any manner whatsoever to condone or promote the illicit recreational use of marijuana.

Subd. 2. **Definitions.** For purposes of this section, the following terms shall have the meanings given.

(a) "Commissioner" means the commissioner of health.

(b) "Marijuana" means marijuana as defined in section 152.01, subdivision 9, and delta-9-tetrahydro-cannabinol (THC), tetrahydro-cannabinols or a chemical derivative of tetrahydro-cannabinols, and all species of the genus Cannabis.

(c) "Principal investigator" means the individual responsible for the medical and

scientific aspects of the research, development of protocol, and contacting and qualifying the clinical investigators in the state.

(d) "Clinical investigators" means those individuals who conduct the clinical trials.

(e) "Sponsor" means that individual or organization who, acting on behalf of the state, has the total responsibility for the state program.

Subd. 3. **Research grant.** The commissioner of health shall grant funds to the principal investigator selected by the commissioner pursuant to subdivision 4 for the purpose of conducting a research program under a protocol approved by the FDA regarding the therapeutic use of oral THC and other dosage forms, if available, according to the guidelines and requirements of the federal food and drug administration, the drug enforcement administration and the national institute on drug abuse. The commissioner shall ensure that the research principal investigator complies with the requirements of subdivision 5. The commissioner may designate the principal investigator as the sponsor.

The commissioner shall report to the legislature on January 1 of each odd-numbered year on the number of oncologists and patients involved in the program and the results available at that date regarding the effects of therapeutic use of THC on patients involved in the program. The commissioner shall also report on the current status of THC under the federal Food, Drug and Cosmetic Act and the federal Controlled Substances Act.

Subd. 4. **Principal investigator.** Within three months of April 25, 1980, the commissioner shall, in consultation with a representative chosen by the state board of pharmacy and a representative chosen by the state board of medical examiners, select a person or research organization to be the principal investigator of the research program.

Subd. 5. **Duties.** The principal investigator shall:

(1) Apply to the Food and Drug Administration for a notice of "Claimed Investigational Exemption for a New Drug (IND)" pursuant to the Federal Food, Drug and Cosmetic Act, United States Code, title 21, section 301, et seq., and shall comply with all applicable laws and regulations of the federal food and drug administration, the drug enforcement administration, and the national institute on drug abuse in establishing the program;

(2) Notify every oncologist in the state of the program, explain the purposes and requirements of the program to them, provide on request each of them with a copy of the approved protocol which shall include summaries of current papers in medical journals reporting on research concerning the safety, efficacy and appropriate use of THC in alleviating the nausea and emetic effects of cancer chemotherapy, and provide on request each of them with a bibliography of other articles published in medical journals;

(3) Allow each oncologist (clinical investigator) in the state who meets or agrees to meet all applicable federal requirements for investigational new drug research and who so requests to be included in the research program as a clinical investigator to conduct the clinical trials;

(4) Provide explanatory information and assistance to each clinical investigator in understanding the nature of therapeutic use of THC within program requirements, including the Informed Consent Document contained in the protocol, informing and counseling patients involved in the program regarding the appropriate use and the effects of therapeutic use of THC;

(5) Apply to contract with the national institute on drug abuse for receipt of dosage forms of THC, fully characterized as to contents and delivery to the human system, pursuant to regulations promulgated by the national institute on drug abuse, and the federal food and drug administration. The principal investigator shall ensure delivery of the THC dosages to clinical investigators as needed for participation in the program;

(6) Conduct the research program in compliance with federal laws and regulations

promulgated by the federal food and drug administration, the drug enforcement administration, the national institute on drug abuse, and the purposes and provisions of this section;

(7) Submit periodic reports as determined by the commissioner on the numbers of oncologists and patients involved in the program and the results of the program;

(8) Submit reports on intermediate or final research results, as appropriate, to the major scientific journals in the United States; and

(9) Otherwise comply with the provisions of this section.

Subd. 6. **Exemption from criminal sanctions.** For the purposes of this section, the following are not violations listed in section 152.09 or 152.15:

(1) use or possession of THC, or both, by a patient in the research program;

(2) possession, prescribing use of, administering, or dispensing THC, or any combination of these actions, by the principal investigator or by any clinical investigator; and

(3) possession or distribution of THC, or both, by a pharmacy registered to handle schedule I substances which stores THC on behalf of the principal investigator or a clinical investigator.

THC obtained and distributed pursuant to this section is not subject to forfeiture under sections 609.531 to 609.5316.

For the purposes of this section, THC is removed from schedule I contained in section 152.02, subdivision 2, and inserted in schedule II contained in section 152.02, subdivision 3.

Subd. 7. **Citation.** This section may be cited as the "THC Therapeutic Research Act."

History: *1980 c 614 s 93; 1988 c 665 s 2*