

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 851

Session of  
1971

INTRODUCED BY MR. BERKES, MRS. CRAWFORD, MRS. ANDERSON, MESSRS. GREENFIELD, SCANLON, MILLER, SAVITT, J. H. HAMILTON, GALLAGHER, BRAIG, KNEPPER, R. W. WILT, MELTON, FEE, MRS. KELLY, MESSRS. BELLOMINI, DeMEDIO, HASKELL, DOMBROWSKI, BLAIR, RITTER, D. S. HAYES, O'PAKE, PIEVSKY, FINEMAN, ENGLEHART, IRVIS, MRS. FAWCETT, MESSRS. TAYLOR, O'BRIEN, KURY, WANSACZ, MALADY, COMER, DAGER, H. S. PARKER, STONE, B. L. PARKER, PEZAK, SHERMAN, BARBER, J. J. JOHNSON, DOYLE, KELLY, E. B. DAVIS, FRANK, LUTTY, HUTCHINSON, ARTHURS, CROWLEY, RAPPAPORT, RIEGER, KOWALYSHYN, MRS. TOLL, MESSRS. BERSON, WOJDAK, SCHMITT, ZELLER, MEHOLCHICK, MANDERINO, HOVIS, EARLY, McMONAGLE, BENNETT, KLEPPER, DREIBELBIS, PERRY, MORRIS, YAHNER, KLUNK, GLEASON, STEMMLER, NEEDHAM, D. M. DAVIS, MEBUS, F. M. ALLEN, ZORD, HALVERSON, WRIGHT, PIPER, WISE, HETRICK, PRENDERGAST, GELFAND, LAUDADIO, BONETTO, SHELHAMER, KOLTER, R. O. DAVIS, HOPKINS, WEIDNER, LETTERMAN, SCIRICA, MARTINO, LEDERER, COPPOLINO, SULLIVAN, GEISLER, CAPUTO, WILLIAMS, SHUPNIK, COYNE, M. M. MULLEN, MRS. GILLETTE, MESSRS. VANN, RUSH, FRANCIS LYNCH, ECKENSBERGER, SCHEAFFER, USTYNOSKI, YOHNN, LEHR, GALLEN, BURKARDT, O'CONNELL, WELLS, O'DONNELL, WARGO, CESSAR, NOVAK, McCLATCHY AND FRYER, MAY 3, 1971

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, FEBRUARY 15, 1972

AN ACT

1 Relating to the manufacture, sale and possession of CONTROLLED <—  
2 SUBSTANCES, OTHER drugs, devices and cosmetics; conferring  
3 powers on the courts and the secretary and Department of  
4 Health and a newly created Pennsylvania Drug, Device and  
5 Cosmetic Board; establishing schedules of controlled ~~drugs~~ <—  
6 ~~and dangerous~~ substances; providing penalties; requiring  
7 registration of persons engaged in the drug trade and for the  
8 revocation or suspension of certain licenses and  
9 registrations; and repealing an act.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

1 Section 1. Short Title.--This act shall be known and may be  
2 cited as "The CONTROLLED SUBSTANCE, Drug, Device and Cosmetic  
3 Act." ~~of 1971."~~

4 ~~Section 2. Definitions. As used in this act:~~

5 SECTION 2. DEFINITIONS.--(A) THE DEFINITIONS CONTAINED AND  
6 USED IN THE "PENNSYLVANIA DRUG AND ALCOHOL ABUSE CONTROL ACT"  
7 SHALL ALSO APPLY FOR PURPOSES OF THIS ACT.

8 (B) AS USED IN THIS ACT:

9 ~~(1) "Drug" means (i) substances recognized in the official~~  
10 ~~United States Pharmacopoeia, official Homeopathic Pharmacopoeia~~  
11 ~~of the United States, or official National Formulary, or any~~  
12 ~~supplement to any of them; and (ii) substances intended for use~~  
13 ~~in the diagnosis, cure, mitigation, treatment or prevention of~~  
14 ~~disease in man or other animals; and (iii) substances (other~~  
15 ~~than food) intended to affect the structure or any function of~~  
16 ~~the body of man or other animals; and (iv) substances intended~~  
17 ~~for use as a component of any substance specified in clause (i),~~  
18 ~~(ii) or (iii), but not including devices or their components,~~  
19 ~~parts or accessories: Provided, That the drug provisions of this~~  
20 ~~act shall not apply to medicated feed intended for and used~~  
21 ~~exclusively as food for animals other than man: And provided~~  
22 ~~further, That the drug provisions as provided in this act shall~~  
23 ~~not apply to such vitamins, minerals and chemicals when used in~~  
24 ~~the processing and manufacture of foods and non-alcoholic~~  
25 ~~beverages specifically permitted under existing State and~~  
26 ~~Federal statutes as food and color additives. The term shall~~  
27 ~~include substances controlled by the secretary under the~~  
28 ~~provisions of sections 3 and 4 of this act.~~

29 ~~(2) "Device" means instruments, apparatus and contrivances,~~  
30 ~~including their components, parts and accessories, intended (i)~~

1 ~~for use in the diagnosis, cure, mitigation, treatment or~~  
2 ~~prevention of disease of man or other animals; or (ii) to affect~~  
3 ~~the structure or any function of the body of man or other~~  
4 ~~animals.~~

5 ~~(3) "Cosmetic" means (i) substances intended to be rubbed,~~  
6 ~~poured, sprinkled or sprayed on, introduced into or otherwise~~  
7 ~~applied to the human body or any part thereof for cleansing,~~  
8 ~~beautifying, promoting attractiveness or altering the~~  
9 ~~appearance, and (ii) substances intended for use as a component~~  
10 ~~of any such substances, except that such term shall not include~~  
11 ~~soap.~~

12 ~~(4) "Addict" means any individual who habitually uses any~~  
13 ~~narcotic drug so as to endanger the public morals, health,~~  
14 ~~safety or welfare, or who is so far addicted to the use of~~  
15 ~~narcotic drugs as to have lost the power of self control with~~  
16 ~~reference to his addiction.~~

17 ~~(5) "Administer" means to transfer or deliver a controlled~~  
18 ~~drug or controlled dangerous substance by a practitioner or his~~  
19 ~~authorized agent, in his presence, to an ultimate user or human~~  
20 ~~research subject by injection, or for inhalation or ingestion,~~  
21 ~~or by any other means involving the actual use of the drug.~~

22 ~~(6) "Advertisement" means any representation, disseminated~~  
23 ~~in any manner or by any means other than by labeling, for the~~  
24 ~~purpose of inducing or which is likely to induce, directly or~~  
25 ~~indirectly, the purchase and/or use of a drug, device or~~  
26 ~~cosmetic.~~

27 ~~(7) "Board" means the Pennsylvania Drug, Device and Cosmetic~~  
28 ~~Board.~~

29 ~~(8) "Color additive" means a material which is a dye,~~  
30 ~~pigment or other substance made by a process of synthesis or~~

1 ~~similar artifice, or extracted, isolated or otherwise derived,~~  
2 ~~with or without intermediate or final change of identity, from a~~  
3 ~~vegetable, animal, mineral or other source, and, when added or~~  
4 ~~applied to a drug or cosmetic or to the human body, is capable,~~  
5 ~~alone or through reaction with another substance, of imparting~~  
6 ~~color thereto, except that such term does not include any~~  
7 ~~material which the appropriate authority, pursuant to the~~  
8 ~~Federal act, determines is used or intended to be used solely~~  
9 ~~for a purpose or purposes other than coloring. The term "color"~~  
10 ~~includes black, white and intermediate grays.~~

11 ~~(9) "Council" means the Governor's Council on Drug,~~  
12 ~~Narcotics and Alcohol Abuse.~~

13 ~~(10) "Contaminated with filth" means consisting, in whole or~~  
14 ~~in part, of any decomposed, putrid or filthy substance, or~~  
15 ~~prepared, packed or held under any unsanitary condition or~~  
16 ~~exposed whereby the article or product concerned may have become~~  
17 ~~contaminated with filth, dirt, dust or any foreign material, or~~  
18 ~~in any manner rendered injurious to health.~~

19 ~~(11) "Contraband" means any controlled drug or controlled~~  
20 ~~dangerous substance possessed by a person not authorized by law~~  
21 ~~to possess such drug or substance, or obtained or held in a~~  
22 ~~manner contrary to the provisions of this act.~~

23 ~~(12) "Control" means to add, remove, or change the placement~~  
24 ~~of a drug, substance, or immediate precursor under the~~  
25 ~~provisions of sections 3 and 4 of this act.~~

26 ~~(13) "Controlled dangerous substance" means a drug,~~  
27 ~~substance or immediate precursor in the schedules set forth in~~  
28 ~~section 4.~~

29 ~~(14) "Controlled drug" includes:~~

30 ~~(i) Any "narcotic drug" means any of the following, whether~~

1 ~~produced directly or indirectly by extraction from substances of~~  
2 ~~vegetable origin, or independently by means of chemical~~  
3 ~~synthesis or by a combination of extraction and chemical~~  
4 ~~synthesis: (A) opium and coca leaves, (B) any opiate having an~~  
5 ~~addiction forming or addiction sustaining capacity similar to~~  
6 ~~morphine, (C) any compound, manufacture, salt, derivative, or~~  
7 ~~preparation of opium or coca leaves or any opiate, and (D) any~~  
8 ~~substance, and any compound, manufacture, salt, derivative, or~~  
9 ~~preparation thereof, which is chemically identical with any of~~  
10 ~~the substances referred to in (A), (B), or (C); except that it~~  
11 ~~shall not include decocainized coca leaves, or extracts of coca~~  
12 ~~leaves which do not contain cocaine or ecgonine;~~

13 ~~(ii) "Depressant or stimulant drug" means: (A) a drug which~~  
14 ~~contains any quantity of barbituric acid or any of the salts of~~  
15 ~~barbituric acid; or any derivative of barbituric acid which has~~  
16 ~~been designated by the United States Secretary of Health,~~  
17 ~~Education, and Welfare as habit forming under subsection (d) of~~  
18 ~~section 502 of the "Federal Food, Drug, and Cosmetic Act" (52~~  
19 ~~Stat. 1050; 21 U.S.C. 352 (d)); (B) a drug which contains any~~  
20 ~~quantity of amphetamine or any of its optical isomers; or any~~  
21 ~~salt of amphetamine or any salt of any optical isomer of~~  
22 ~~amphetamine; or any substance which the secretary, after~~  
23 ~~investigation, has found to be, and by regulation designated as,~~  
24 ~~habit forming because of its stimulant effect on the central~~  
25 ~~nervous system; or (C) lysergic acid diethylamide or any other~~  
26 ~~drug which contains any quantity of a substance which the~~  
27 ~~secretary, after investigation, has found to have, and by~~  
28 ~~regulation designates as having, a potential for abuse because~~  
29 ~~of its depressant or stimulant effect on the central nervous~~  
30 ~~system or its hallucinogenic effect; but the term "controlled~~

1 ~~drug" shall not include any drug specifically exempted by a~~  
2 ~~regulation promulgated by the secretary as not dangerous to the~~  
3 ~~public health and welfare. Except as otherwise provided herein,~~  
4 ~~the term shall include dangerous substances controlled by the~~  
5 ~~secretary under sections 3 and 4 of this act.~~

6 ~~(15) "Controlled paraphernalia" includes:~~

7 ~~(i) a hypodermic syringe, needle or other instrument or~~  
8 ~~implement or combination thereof adapted for the administration~~  
9 ~~of controlled dangerous substances by intravenous injections or~~  
10 ~~otherwise under circumstances, including but not limited to, the~~  
11 ~~close proximity to other controlled paraphernalia, which~~  
12 ~~reasonably indicate an intention to use or possess such~~  
13 ~~controlled paraphernalia for purposes of unlawfully~~  
14 ~~administering any controlled dangerous substance;~~

15 ~~(ii) diluents, dilutants or adulterants, including but not~~  
16 ~~limited to, any of the following: quinine hydrochloride,~~  
17 ~~mannitol, mannite, lactose or dextrose, adapted for the dilution~~  
18 ~~of controlled dangerous substances under circumstances,~~  
19 ~~including, but not limited to, the close proximity to other~~  
20 ~~controlled paraphernalia, which reasonably indicate an intention~~  
21 ~~to use or possess such controlled paraphernalia for purposes of~~  
22 ~~unlawfully diluting or processing any controlled dangerous~~  
23 ~~substance; and~~

24 ~~(iii) gelatin capsules, glassine envelopes or any other~~  
25 ~~material suitable for the packaging of individual quantities of~~  
26 ~~controlled dangerous substances under circumstances, including~~  
27 ~~but not limited to, the close proximity to other controlled~~  
28 ~~paraphernalia, which reasonably indicate an intention to use or~~  
29 ~~possess any such item for the unlawful manufacture, distribution~~  
30 ~~or dispensing of any such controlled dangerous substance.~~

1       ~~(16) "Counterfeit drug" means a controlled drug or~~  
2       ~~controlled dangerous substance which, or the container or~~  
3       ~~labeling of which, without authorization, bears the trademark,~~  
4       ~~trade name, or other identifying mark, imprint, number, or~~  
5       ~~device, or any likeness thereof, of a manufacturer, distributor,~~  
6       ~~or dispenser other than the person or persons who in fact~~  
7       ~~manufactured, distributed, or dispensed such substance and which~~  
8       ~~thereby falsely purports or is represented to be the product of,~~  
9       ~~or to have been distributed by, such other manufacturer,~~  
10       ~~distributor, or dispenser.~~

11       ~~(17) "Dispense" means to transfer or deliver a drug or~~  
12       ~~controlled dangerous substance to an ultimate user or human~~  
13       ~~research subject by, or pursuant to the lawful order of, a~~  
14       ~~practitioner.~~

15       ~~(18) The term "immediate container" does not include package~~  
16       ~~liners.~~

17       ~~(19) "Immediate precursor" means a substance which the board~~  
18       ~~has found to be and by regulation designates as being the~~  
19       ~~principal compound commonly used or produced primarily for use,~~  
20       ~~and which is an immediate chemical intermediary used or likely~~  
21       ~~to be used in the manufacture of a controlled dangerous~~  
22       ~~substance, the control of which is necessary to prevent,~~  
23       ~~curtail, or limit such manufacture.~~

24       ~~(20) "Label" means a display of written, printed or graphic~~  
25       ~~matter upon the immediate container of any article, and a~~  
26       ~~requirement made by or under authority of this act that any~~  
27       ~~word, statement or other information appearing on the label~~  
28       ~~shall not be considered to be complied with unless such word~~  
29       ~~statement or other information also appears on the outside~~  
30       ~~container or wrapper, if any there be, of the retail package of~~

1 ~~such article or is easily legible through the outside container~~  
2 ~~or wrapper.~~

3 ~~(21) "Labeling" means all labels and other written, printed,~~  
4 ~~or graphic matter (i) upon an article or any of its containers~~  
5 ~~or wrappers, or (ii) accompanying such article.~~

6 ~~(22) "Manufacture" means the production, preparation,~~  
7 ~~propagation, compounding, or processing of a drug or controlled~~  
8 ~~dangerous substance, either directly or indirectly by extraction~~  
9 ~~from substances of natural origin, or independently by means of~~  
10 ~~chemical synthesis or by a combination of extraction and~~  
11 ~~chemical synthesis. "Manufacturer" also includes any person who~~  
12 ~~packages, repackages, or labels any container of any drug or~~  
13 ~~controlled dangerous substance, except practitioners who~~  
14 ~~dispense or compound prescription order for delivery to the~~  
15 ~~ultimate consumer.~~

16 ~~(23) "Marihuana" means all parts of the plant Cannabis,~~  
17 ~~sativa L., whether growing or not; the seeds thereof; the resin~~  
18 ~~extracted from any part of such plant; and every compound,~~  
19 ~~manufacture, salt, derivative, mixture, or preparation of such~~  
20 ~~plant, its seeds, or resin; but shall not include the mature~~  
21 ~~stalks of such plant, fiber produced from such stalks, oil or~~  
22 ~~cake made from the seeds of such plant, any other compound,~~  
23 ~~manufacture, salt, derivative, mixture, or preparation of such~~  
24 ~~mature stalks (except the resin extracted therefrom), fiber,~~  
25 ~~oil, or cake, or the sterilized seeds of such plant which is~~  
26 ~~incapable of germination; and~~

27 ~~(24) "New drug" means (i) any drug the composition of which~~  
28 ~~is such that such drug is not generally recognized among experts~~  
29 ~~qualified by scientific training and experience to evaluate the~~  
30 ~~safety and effectiveness of drugs as safe and effective for use~~



~~under the conditions prescribed, recommended or suggested in the labeling thereof; or (ii) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.~~

~~(25) "Nonproprietary drug" means any drug containing any quantity of any narcotic drug, or controlled dangerous drug or a drug containing biologicals or substances of glandular origin (except intestinal enzymes and all liver products), drugs which are administered hypodermically, intramuscularly or intravenously, but not any such drugs which are prepackaged with complete dosage instructions in the labeling limiting their use to the care or treatment of poultry and livestock.~~

~~(26) "Official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary or any supplement to any of them.~~

~~(27) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.~~

~~(28) "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.~~

~~(29) "Person" means any individual, partnership, corporation, association, trust, or other institution or entity.~~

~~(30) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.~~

~~(31) "Possess" means to exercise dominion or control over a~~

1 ~~drug or controlled dangerous substance.~~

2 ~~(32) "Practitioner" means a physician, including an intern~~  
3 ~~and resident, dentist, veterinarian, scientific investigator,~~  
4 ~~pharmacist, pharmacy, hospital, clinic, or other person~~  
5 ~~licensed, registered, or otherwise authorized or allowed by the~~  
6 ~~Commonwealth of Pennsylvania to distribute, dispense, conduct~~  
7 ~~research with respect to or administer a drug or controlled~~  
8 ~~dangerous substance in the course of professional practice or~~  
9 ~~research.~~

10 ~~(33) "Production" includes the manufacture, planting,~~  
11 ~~cultivation, growing, or harvesting of a controlled dangerous~~  
12 ~~substance.~~

13 ~~(34) "Registrant" means any person registered under the laws~~  
14 ~~of this Commonwealth to manufacture, dispense, administer or~~  
15 ~~sell drugs.~~

16 ~~(35) "Secretary" means the Secretary of Health of the~~  
17 ~~Commonwealth of Pennsylvania.~~

18 ~~(36) "Ultimate user" means any person who possesses a drug~~  
19 ~~or controlled dangerous substance for his own use or for the use~~  
20 ~~of a member of his household or for administration to an animal~~  
21 ~~owned by him or by a member of his household.~~

22 ~~(37) "Wholesaler" means any person engaged in the activities~~  
23 ~~of jobber, dealer, repackager or wholesaler, selling,~~  
24 ~~repackaging or otherwise distributing any drug or controlled~~  
25 ~~dangerous substance for resale or redistribution which he has~~  
26 ~~not himself prepared, produced or compounded.~~

27 "ADMINISTER" MEANS THE DIRECT APPLICATION OF A CONTROLLED  
28 SUBSTANCE, OTHER DRUG OR DEVICE, WHETHER BY INJECTION,  
29 INHALATION, INGESTION, OR ANY OTHER MEANS, TO THE BODY OF A  
30 PATIENT OR RESEARCH SUBJECT.

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1 "ADVERTISEMENT" MEANS ANY REPRESENTATION, DISSEMINATED IN ANY  
2 MANNER OR BY ANY MEANS OTHER THAN BY LABELING, FOR THE PURPOSE  
3 OF INDUCING OR WHICH IS LIKELY TO INDUCE, DIRECTLY OR  
4 INDIRECTLY, THE PURCHASE AND/OR USE OF A CONTROLLED SUBSTANCE,  
5 OTHER DRUG, DEVICE OR COSMETIC.

6 "AGENT" MEANS AN AUTHORIZED PERSON WHEN ACTING ON BEHALF OF  
7 OR AT THE DIRECTION OF A MANUFACTURER, DISTRIBUTOR, OR  
8 DISPENSER. IT DOES NOT INCLUDE A COMMON OR CONTRACT CARRIER,  
9 PUBLIC WAREHOUSEMAN, OR EMPLOYEE OF THE CARRIER OR WAREHOUSEMAN.

10 "BOARD" MEANS THE PENNSYLVANIA DRUG, DEVICE AND COSMETIC  
11 BOARD.

12 "BUREAU" MEANS THE BUREAU OF DRUG CONTROL, PENNSYLVANIA  
13 DEPARTMENT OF HEALTH.

14 "COLOR ADDITIVE" MEANS A MATERIAL WHICH IS A DYE, PIGMENT OR  
15 OTHER SUBSTANCE MADE BY A PROCESS OF SYNTHESIS OR SIMILAR  
16 ARTIFICE, OR EXTRACTED, ISOLATED OR OTHERWISE DERIVED, WITH OR  
17 WITHOUT INTERMEDIATE OR FINAL CHANGE OF IDENTITY, FROM A  
18 VEGETABLE, ANIMAL, MINERAL OR OTHER SOURCE, AND, WHEN ADDED OR  
19 APPLIED TO A CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
20 COSMETIC TO THE HUMAN OR ANIMAL BODY, IS CAPABLE, ALONE OR  
21 THROUGH REACTION WITH ANOTHER SUBSTANCE, OF IMPARTING COLOR  
22 THERETO, EXCEPT THAT SUCH TERM DOES NOT INCLUDE ANY MATERIAL  
23 WHICH THE APPROPRIATE AUTHORITY, PURSUANT TO THE FEDERAL ACT,  
24 DETERMINES IS USED OR INTENDED TO BE USED SOLELY FOR A PURPOSE  
25 OR PURPOSES OTHER THAN COLORING. THE TERM "COLOR" INCLUDES  
26 BLACK, WHITE AND INTERMEDIATE GRAYS.

27 "COMMERCIAL CONTAINER" MEANS ANY BOTTLE, JAR, TUBE, AMPUL, OR  
28 OTHER RECEPTACLE IN WHICH A CONTROLLED SUBSTANCE, OTHER DRUG,  
29 DEVICE OR COSMETIC IS HELD FOR DISTRIBUTION OR DISPENSING TO AN  
30 ULTIMATE USER, AND IN ADDITION, ANY BOX OR PACKAGE IN WHICH THE

1 RECEPTACLE IS HELD FOR DISTRIBUTION OR DISPENSING TO AN ULTIMATE  
2 USER. THE TERM "COMMERCIAL CONTAINER" DOES NOT INCLUDE ANY  
3 PACKAGE LINER, PACKAGE INSERT OR OTHER MATERIAL KEPT WITH OR  
4 WITHIN A COMMERCIAL CONTAINER, NOR ANY CARTON, CRATE, DRUG, OR  
5 OTHER PACKAGE IN WHICH COMMERCIAL CONTAINERS ARE STORED OR ARE  
6 USED FOR SHIPMENT OF CONTROLLED SUBSTANCES.

7 "CONTAMINATED WITH FILTH" MEANS CONSISTING, IN WHOLE OR IN  
8 PART, OF ANY DECOMPOSED, PUTRID OR FILTHY SUBSTANCE, OR  
9 PREPARED, PACKED OR HELD UNDER ANY UNSANITARY CONDITION OR  
10 EXPOSED WHEREBY THE ARTICLE OR PRODUCT CONCERNED MAY HAVE BECOME  
11 CONTAMINATED WITH FILTH, DIRT, DUST OR ANY FOREIGN MATERIAL, OR  
12 IN ANY MANNER RENDERED INJURIOUS TO HEALTH.

13 "CONTRABAND" MEANS ANY CONTROLLED SUBSTANCE, OTHER DRUG,  
14 DEVICE OR COSMETIC POSSESSED BY A PERSON NOT AUTHORIZED BY LAW  
15 TO POSSESS SUCH CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
16 COSMETIC, OR OBTAINED OR HELD IN A MANNER CONTRARY TO THE  
17 PROVISIONS OF THIS ACT.

18 "CONTROL" MEANS TO REMOVE, OR CHANGE THE PLACEMENT OF A  
19 CONTROLLED SUBSTANCE, OR IMMEDIATE PRECURSOR UNDER THE  
20 PROVISIONS OF THIS ACT.

21 "CONTROLLED SUBSTANCE" MEANS A DRUG, SUBSTANCE, OR IMMEDIATE  
22 PRECURSOR INCLUDED IN SCHEDULES I THROUGH V OF THIS ACT.

23 "COSMETIC" MEANS: (I) SUBSTANCES INTENDED TO BE RUBBED,  
24 POURED, SPRINKLED OR SPRAYED ON, INTRODUCED INTO OR OTHERWISE  
25 APPLIED TO THE HUMAN BODY OR OTHER ANIMAL BODY OR ANY PART  
26 THEREOF FOR CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS OR  
27 ALTERING THE APPEARANCE, AND (II) SUBSTANCES INTENDED FOR USE AS  
28 A COMPONENT OF ANY SUCH SUBSTANCES, EXCEPT THAT SUCH TERM SHALL  
29 NOT INCLUDE SOAP.

30 "COUNCIL" MEANS THE GOVERNOR'S DRUG AND ALCOHOL ABUSE

1 COUNCIL.

2 "COUNTERFEIT" MEANS A CONTROLLED SUBSTANCE, OTHER DRUG,  
3 DEVICE OR COSMETIC WHICH, OR THE CONTAINER OR LABELING OF WHICH,  
4 WITHOUT AUTHORIZATION, BEARS THE TRADEMARK, TRADE NAME, OR OTHER  
5 IDENTIFYING MARK, IMPRINT, NUMBER, OR DEVICE, OR ANY LIKENESS  
6 THEREOF, OF A MANUFACTURER, DISTRIBUTOR, OR DISPENSER OTHER THAN  
7 THE PERSON OR PERSONS WHO IN FACT MANUFACTURED, DISTRIBUTED, OR  
8 DISPENSED SUCH SUBSTANCE AND WHICH THEREBY IS FALSELY PURPORTED  
9 OR REPRESENTED TO BE THE PRODUCT OF, OR TO HAVE BEEN DISTRIBUTED  
10 BY, SUCH OTHER MANUFACTURER, DISTRIBUTOR, OR DISPENSER.

11 "COURT" MEANS ALL COURTS OF THE COMMONWEALTH OF PENNSYLVANIA,  
12 INCLUDING MAGISTRATES AND JUSTICES OF THE PEACE.

13 "DELIVER" OR "DELIVERY" MEANS THE ACTUAL, CONSTRUCTIVE, OR  
14 ATTEMPTED TRANSFER FROM ONE PERSON TO ANOTHER OF A CONTROLLED  
15 SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC WHETHER OR NOT THERE  
16 IS AN AGENCY RELATIONSHIP.

17 "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH OF THE  
18 COMMONWEALTH OF PENNSYLVANIA.

19 "DEVICE" MEANS INSTRUMENTS, APPARATUS AND CONTRIVANCES,  
20 INCLUDING THEIR COMPONENTS, PARTS AND ACCESSORIES, INTENDED: (I)  
21 FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT OR  
22 PREVENTION OF DISEASE OF MAN OR OTHER ANIMALS; OR (II) TO AFFECT  
23 THE STRUCTURE OR ANY FUNCTION OF THE BODY OF MAN OR OTHER  
24 ANIMALS.

25 "DISPENSE" MEANS TO DELIVER A CONTROLLED SUBSTANCE, OTHER  
26 DRUG OR DEVICE TO AN ULTIMATE USER OR RESEARCH SUBJECT BY OR  
27 PURSUANT TO THE LAWFUL ORDER OF A PRACTITIONER, INCLUDING THE  
28 PRESCRIBING, ADMINISTERING, PACKAGING, LABELING, OR COMPOUNDING  
29 NECESSARY TO PREPARE SUCH ITEM FOR THAT DELIVERY.

30 "DISPENSER" MEANS A PRACTITIONER WHO DISPENSES.

1 "DISTRIBUTE" MEANS TO DELIVER OTHER THAN BY ADMINISTERING OR  
2 DISPENSING A CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
3 COSMETIC.

4 "DISTRIBUTOR" MEANS ANY PERSON ENGAGED IN THE ACTIVITIES OF  
5 JOBBER, DEALER, OR WHOLESALER WHO SELLS, OR OTHERWISE  
6 DISTRIBUTES, ANY CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
7 COSMETIC FOR RESALE OR REDISTRIBUTION WHICH HE HAS NOT HIMSELF  
8 PREPARED, PRODUCED OR COMPOUNDED.

9 "DRUG" MEANS: (I) SUBSTANCES RECOGNIZED IN THE OFFICIAL  
10 UNITED STATES PHARMACOPEIA, OR OFFICIAL NATIONAL FORMULARY, OR  
11 ANY SUPPLEMENT TO EITHER OF THEM; AND (II) SUBSTANCES INTENDED  
12 FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT OR  
13 PREVENTION OF DISEASE IN MAN OR OTHER ANIMALS; AND (III)  
14 SUBSTANCES (OTHER THAN FOOD) INTENDED TO AFFECT THE STRUCTURE OR  
15 ANY FUNCTION OF THE HUMAN BODY OR OTHER ANIMAL BODY; AND (IV)  
16 SUBSTANCES INTENDED FOR USE AS A COMPONENT OF ANY ARTICLE  
17 SPECIFIED IN CLAUSE (I), (II) OR (III), BUT NOT INCLUDING  
18 DEVICES OR THEIR COMPONENTS, PARTS OR ACCESSORIES.

19 "DRUG DEPENDENT PERSON" MEANS A PERSON WHO IS USING A DRUG,  
20 CONTROLLED SUBSTANCE OR ALCOHOL, AND WHO IS IN A STATE OF  
21 PSYCHIC OR PHYSICAL DEPENDENCE, OR BOTH, ARISING FROM  
22 ADMINISTRATION OF THAT DRUG, CONTROLLED SUBSTANCE OR ALCOHOL ON  
23 A CONTINUING BASIS. SUCH DEPENDENCE IS CHARACTERIZED BY  
24 BEHAVIORAL AND OTHER RESPONSES WHICH INCLUDE A STRONG COMPULSION  
25 TO TAKE THE DRUG, CONTROLLED SUBSTANCE OR ALCOHOL ON A  
26 CONTINUOUS BASIS IN ORDER TO EXPERIENCE ITS PSYCHIC EFFECTS, OR  
27 TO AVOID THE DISCOMFORT OF ITS ABSENCE.

28 "IMMEDIATE PRECURSOR" MEANS A SUBSTANCE WHICH THE SECRETARY  
29 HAS FOUND TO BE AND BY REGULATION DESIGNATES AS BEING A  
30 PRINCIPAL COMPOUND COMMONLY USED OR PRODUCED PRIMARILY FOR USE,

1 AND WHICH IS AN IMMEDIATE CHEMICAL INTERMEDIARY USED OR LIKELY  
2 TO BE USED IN THE MANUFACTURE OF A CONTROLLED SUBSTANCE.

3 "LABEL" MEANS A DISPLAY OF WRITTEN, PRINTED OR GRAPHIC MATTER  
4 UPON THE COMMERCIAL CONTAINER OF ANY SUBSTANCE OR ARTICLE AND A  
5 REQUIREMENT MADE BY OR UNDER AUTHORITY OF THIS ACT THAT ANY  
6 WORD, STATEMENT OR OTHER INFORMATION APPEARING ON THE LABEL  
7 SHALL NOT BE CONSIDERED TO BE COMPLIED WITH UNLESS SUCH WORD,  
8 STATEMENT OR OTHER INFORMATION ALSO APPEARS ON THE OUTSIDE  
9 CONTAINER OR WRAPPER, IF ANY THERE BE, OF THE RETAIL PACKAGE OF  
10 SUCH SUBSTANCE OR IS EASILY LEGIBLE THROUGH THE OUTSIDE  
11 CONTAINER OR WRAPPER.

12 "LABELING" MEANS ALL LABELS AND OTHER WRITTEN, PRINTED, OR  
13 GRAPHIC MATTER: (I) UPON A SUBSTANCE OR ANY OF ITS CONTAINERS OR  
14 WRAPPERS; OR (II) ACCOMPANYING SUCH SUBSTANCE.

15 "MANUFACTURE" MEANS THE PRODUCTION, PREPARATION, PROPAGATION,  
16 COMPOUNDING, CONVERSION OR PROCESSING OF A CONTROLLED SUBSTANCE,  
17 OTHER DRUG OR DEVICE OR THE PACKAGING OR REPACKAGING OF SUCH  
18 SUBSTANCE OR ARTICLE, OR THE LABELING OR RELABELING OF THE  
19 COMMERCIAL CONTAINER OF SUCH SUBSTANCE OR ARTICLE, BUT DOES NOT  
20 INCLUDE THE ACTIVITIES OF A PRACTITIONER WHO, AS AN INCIDENT TO  
21 HIS ADMINISTRATION OR DISPENSING SUCH SUBSTANCE OR ARTICLE IN  
22 THE COURSE OF HIS PROFESSIONAL PRACTICE, PREPARES, COMPOUNDS,  
23 PACKAGES OR LABELS SUCH SUBSTANCE OR ARTICLE. THE TERM

24 "MANUFACTURER" MEANS A PERSON WHO MANUFACTURES A CONTROLLED  
25 SUBSTANCE, OTHER DRUG OR DEVICE.

26 "MARIHUANA" MEANS ALL PARTS OF THE PLANT CANNABIS SATIVA L.,  
27 WHETHER GROWING OR NOT; THE SEEDS THEREOF; THE RESIN EXTRACTED  
28 FROM ANY PART OF SUCH PLANT; AND EVERY COMPOUND, MANUFACTURE,  
29 SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF SUCH PLANT, ITS  
30 SEEDS OR RESIN; BUT SHALL NOT INCLUDE TETRAHYDROCANNABOL, THE

1 MATURE STALKS OF SUCH PLANT, FIBER PRODUCED FROM SUCH STALKS,  
2 OIL OR CAKE MADE FROM THE SEEDS OF SUCH PLANT, ANY OTHER  
3 COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION  
4 OF SUCH MATURE STALKS (EXCEPT THE RESIN EXTRACTED THEREFROM),  
5 FIBER, OIL, CAKE, OR THE STERILIZED SEED OF SUCH PLANT WHICH IS  
6 INCAPABLE OF GERMINATION.

7 "NARCOTIC" MEANS ANY OF THE FOLLOWING, WHETHER PRODUCED  
8 DIRECTLY OR INDIRECTLY BY EXTRACTION FROM SUBSTANCES OF  
9 VEGETABLE ORIGIN, OR INDEPENDENTLY BY MEANS OF CHEMICAL  
10 SYNTHESIS OR BY A COMBINATION OF EXTRACTION AND CHEMICAL  
11 SYNTHESIS: (I) OPIUM, (II) ANY OPIATE HAVING AN ADDICTION-  
12 FORMING OR ADDICTION-SUSTAINING CAPACITY SIMILAR TO MORPHINE,  
13 BUT NOT INCLUDING THE ISOQUINOLINE ALKALOIDS OF OPIUM, (III) ANY  
14 COMPOUND, MANUFACTURE, SALT, DERIVATIVE, OR PREPARATION OF OPIUM  
15 OR ANY OPIATE, AND (IV) ANY SUBSTANCE, COMPOUND, MANUFACTURE,  
16 SALT, DERIVATIVE, OR PREPARATION THEREOF, WHICH IS CHEMICALLY  
17 IDENTICAL WITH ANY OF THE SUBSTANCES REFERRED TO IN (I), (II) OR  
18 (III).

19 "NEW DRUG" MEANS (I) ANY DRUG THE COMPOSITION OF WHICH IS  
20 SUCH THAT SUCH DRUG IS NOT GENERALLY RECOGNIZED AMONG EXPERTS  
21 QUALIFIED BY SCIENTIFIC TRAINING AND EXPERIENCE TO EVALUATE THE  
22 SAFETY AND EFFECTIVENESS OF DRUGS AS SAFE AND EFFECTIVE FOR USE  
23 UNDER THE CONDITIONS PRESCRIBED, RECOMMENDED OR SUGGESTED IN THE  
24 LABELING THEREOF; OR (II) ANY DRUG THE COMPOSITION OF WHICH IS  
25 SUCH THAT SUCH DRUG, AS A RESULT OF INVESTIGATIONS TO DETERMINE  
26 ITS SAFETY AND EFFECTIVENESS FOR USE UNDER SUCH CONDITIONS, HAS  
27 BECOME SO RECOGNIZED, BUT WHICH HAS NOT, OTHERWISE THAN IN SUCH  
28 INVESTIGATIONS, BEEN USED TO A MATERIAL EXTENT OR FOR A MATERIAL  
29 TIME UNDER SUCH CONDITIONS.

30 "NONPROPRIETARY DRUG" MEANS ANY DRUG CONTAINING ANY QUANTITY



1 OF ANY CONTROLLED SUBSTANCE, A DRUG CONTAINING BIOLOGICALS OR  
2 SUBSTANCES OF GLANDULAR ORIGIN (EXCEPT INTESTINAL ENZYMES AND  
3 ALL LIVER PRODUCTS), DRUGS WHICH ARE ADMINISTERED PARENTERALLY,  
4 BUT NOT ANY SUCH DRUGS WHICH ARE PREPACKAGED WITH COMPLETE  
5 DOSAGE INSTRUCTIONS IN THE LABELING LIMITING THEIR USE TO THE  
6 CARE OR TREATMENT OF POULTRY AND LIVESTOCK.

7 "OFFICIAL COMPENDIUM" MEANS THE OFFICIAL UNITED STATES  
8 PHARMACOPEIA, THE OFFICIAL NATIONAL FORMULARY OR ANY SUPPLEMENT  
9 TO EITHER OF THEM.

10 "OPIATE" MEANS ANY SUBSTANCE HAVING AN ADDICTION-FORMING OR  
11 ADDICTION-SUSTAINING LIABILITY SIMILAR TO MORPHINE OR BEING  
12 CAPABLE OF CONVERSION INTO A DRUG HAVING ADDICTION-FORMING OR  
13 ADDICTION-SUSTAINING LIABILITY. IT DOES NOT INCLUDE THE  
14 DEXTROROTATORY ISOMER OF 3-METHOXY-N-METHLMORPHINAN AND ITS  
15 SALTS (DEXTROMETHORPHAN). IT DOES INCLUDE THE RACEMIC AND  
16 LEVOROTATORY FORMS.

17 "OPIUM POPPY" MEANS THE PLANT OF THE SPECIES PAPAVER  
18 SOMNIFERUM L., EXCEPT ITS SEEDS.

19 "PERSON" MEANS INDIVIDUAL, CORPORATION, GOVERNMENT OR  
20 GOVERNMENTAL SUBDIVISION OR AGENCY, BUSINESS TRUST, ESTATE,  
21 TRUST, PARTNERSHIP OR ASSOCIATION, OR ANY OTHER LEGAL ENTITY.

22 "POPPY STRAW" MEANS ALL PARTS, EXCEPT THE SEEDS, OF THE OPIUM  
23 POPPY, AFTER MOWING.

24 "PRACTITIONER" MEANS: (I) A PHYSICIAN, OSTEOPATH, DENTIST,  
25 VETERINARIAN, PHARMACIST, PODIATRIST, NURSE, SCIENTIFIC  
26 INVESTIGATOR, OR OTHER PERSON LICENSED, REGISTERED OR OTHERWISE  
27 PERMITTED TO DISTRIBUTE, DISPENSE, CONDUCT RESEARCH WITH RESPECT  
28 TO OR TO ADMINISTER A CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE  
29 IN THE COURSE OF PROFESSIONAL PRACTICE OR RESEARCH IN THE  
30 COMMONWEALTH OF PENNSYLVANIA; (II) A PHARMACY, HOSPITAL, CLINIC

1 OR OTHER INSTITUTION LICENSED, REGISTERED, OR OTHERWISE  
2 PERMITTED TO DISTRIBUTE, DISPENSE, CONDUCT RESEARCH WITH RESPECT  
3 TO OR TO ADMINISTER A CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE  
4 IN THE COURSE OF PROFESSIONAL PRACTICE OR RESEARCH IN THE  
5 COMMONWEALTH OF PENNSYLVANIA.

6 "PRODUCTION" INCLUDES THE MANUFACTURE, PLANTING, CULTIVATION,  
7 GROWING OR HARVESTING OF A CONTROLLED SUBSTANCE, OTHER DRUG,  
8 DEVICE AND COSMETIC.

9 "PRESCRIPTION" OR "PRESCRIPTION ORDER" MEANS AN ORDER FOR A  
10 CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE FOR MEDICATION WHICH  
11 IS DISPENSED TO OR FOR AN ULTIMATE USER BUT DOES NOT INCLUDE AN  
12 ORDER FOR A CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE FOR  
13 MEDICATION WHICH IS DISPENSED FOR IMMEDIATE ADMINISTRATION TO  
14 THE ULTIMATE USER. (E.G., AN ORDER TO DISPENSE A DRUG TO A BED  
15 PATIENT FOR IMMEDIATE ADMINISTRATION IN A HOSPITAL IS NOT A  
16 PRESCRIPTION ORDER.)

17 "REGISTRANT" MEANS ANY ONE PERSON REGISTERED UNDER THE LAWS  
18 OF THIS COMMONWEALTH TO MANUFACTURE, DISPENSE, DISTRIBUTE,  
19 ADMINISTER OR SELL DRUGS.

20 "SECRETARY" MEANS THE SECRETARY OF HEALTH OF THE COMMONWEALTH  
21 OF PENNSYLVANIA.

22 "ULTIMATE USER" MEANS A PERSON WHO LAWFULLY POSSESSES A  
23 CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC FOR HIS OWN  
24 USE OR FOR THE USE OF A MEMBER OF HIS HOUSEHOLD OR FOR  
25 ADMINISTERING TO AN ANIMAL IN HIS CARE.

26 Section 3. Authority to Control.--(a) The secretary shall  
27 control all substances ~~enumerated in section 4~~ LISTED IN <—  
28 SCHEDULES I THROUGH V of this act and may, by regulation, upon  
29 his own motion or on the petition of any interested party add,  
30 delete, or reschedule a substance as a controlled ~~dangerous~~ <—

1 substance. Such regulations shall be adopted in accordance with  
2 the act of July 31, 1968 (Act No. 240), known as the  
3 "Commonwealth Documents Law." Before so doing, the secretary  
4 shall request the advice in writing from the board whether a  
5 substance should be added, deleted, or rescheduled as a  
6 controlled ~~dangerous~~ substance. Such advice shall be rendered to <—  
7 the secretary within a reasonable time. The secretary shall  
8 consider with respect to each substance hereafter controlled:  
9 (1) Its actual or relative potential for abuse;  
10 (2) Scientific evidence of its pharmacological effect, if  
11 known;  
12 (3) State of current scientific knowledge regarding the  
13 substance;  
14 (4) Its history and current pattern of abuse;  
15 (5) The scope, duration, and significance of abuse;  
16 (6) ~~What, if any,~~ THE risk there is to the public health; <—  
17 (7) Its psychic or physiological dependence liability;  
18 (8) Whether the substance is controlled under Federal law;  
19 and  
20 (9) Whether the substance is an immediate precursor of a  
21 substance already controlled under this section. After  
22 considering the above factors, the secretary shall make findings  
23 with respect thereto and shall issue ~~an order~~ A REGULATION <—  
24 controlling the substance if he finds that the substance has a  
25 potential for abuse.  
26 (b) If the secretary designates a substance as an immediate  
27 precursor, substances which are precursors of the controlled  
28 precursor shall not be subject to control solely because they  
29 are precursors of the controlled precursor.  
30 ~~(c) When, for the purpose of greater protection of the~~ <—

1 ~~public, at the time a new drug application is submitted to the~~  
2 ~~board for any drug having a stimulant, depressant, or~~  
3 ~~hallucinogenic effect on the central nervous system, it appears~~  
4 ~~that such drug has an abuse potential such information shall be~~  
5 ~~submitted to review by the Scientific Advisory Committee of the~~  
6 ~~Board prior to their advising the secretary whether or not to~~  
7 ~~control such drug under this act.~~

8     ~~(d)~~ (C) The secretary shall not remove any Schedule I     <—  
9 substance ~~of section 4~~ of this act to Schedules II, III, IV or V     <—  
10 of such section, nor shall he delete such substances from the  
11 controls of this act unless specifically authorized by the  
12 ~~General Assembly~~ BOARD to do so.     <—

13     Section 4. Schedules of Controlled ~~Dangerous~~ Substances.--     <—  
14 The following schedules include the controlled ~~dangerous~~     <—  
15 substances listed or to be listed by whatever official name,  
16 common or usual name, chemical name, or trade name designated.

17     (1) Schedule I--In determining that a substance comes within  
18 this schedule, the secretary shall find: a high potential for  
19 abuse, no currently accepted medical use in the United States,  
20 and a lack of accepted safety for use under medical supervision.  
21 The following controlled ~~dangerous~~ substances are included in     <—  
22 this schedule:

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

- 28         1. Acetylmethadol.
- 29         2. Allylprodine.
- 30         3. ~~Alphacetylmethadol~~. ALPHACETYLMETHADOL.     <—

|    |     |   |
|----|-----|---|
| 1  | 4.  | Alphameprodine.                                   |
| 2  | 5.  | Alphamethadol.                                    |
| 3  | 6.  | Benzethidine.                                     |
| 4  | 7.  | Betacetylmethadol.                                |
| 5  | 8.  | Betameprodine.                                    |
| 6  | 9.  | Betamethadol.                                     |
| 7  | 10. | Betaprodine.                                      |
| 8  | 11. | Clonitazene.                                      |
| 9  | 12. | Dextromoramide.                                   |
| 10 | 13. | Dextrorphan (except its methylether).             |
| 11 | 14. | Diampromide.                                      |
| 12 | 15. | <del>Diethylambutene.</del> DIETHYLTHIAMBUTENE.   |
| 13 | 16. | Dimenoxadol.                                      |
| 14 | 17. | Dimepheptanol.                                    |
| 15 | 18. | <del>Dimethylambutene.</del> DIMETHYLTHIAMBUTENE. |
| 16 | 19. | Dioxaphetyl butyrate.                             |
| 17 | 20. | Dipipanone.                                       |
| 18 | 21. | Ethylmethylthiambutene.                           |
| 19 | 22. | Etonitazene.                                      |
| 20 | 23. | Etoxeridine.                                      |
| 21 | 24. | Furethidine.                                      |
| 22 | 25. | Hydroxypethidine.                                 |
| 23 | 26. | Ketobemidone.                                     |
| 24 | 27. | Levomoramide.                                     |
| 25 | 28. | Levophenacylmorphane.                             |
| 26 | 29. | Morpheridine.                                     |
| 27 | 30. | Noracymethadol.                                   |
| 28 | 31. | Norlevorphanol.                                   |
| 29 | 32. | Normethadone.                                     |
| 30 | 33. | Norpipanone.                                      |

<—

<—

- 1 34. Phenadoxone.
- 2 35. Phenampromide.
- 3 36. Phenomorphan.
- 4 37. Phenoperidine.
- 5 38. Piritramide.
- 6 39. Proheptazine.
- 7 40. Properidine.
- 8 41. Racemoramide.
- 9 42. Trimeperidine.

10 (ii) Any of the following opium derivatives, their salts,  
11 isomers and salts of isomers, unless specifically excepted,  
12 whenever the existence of such salts, isomers and salts of  
13 isomers is possible within the specific chemical designation:

- 14 1. Acetorphine.
- 15 2. Acetyldihydrocodeine.
- 16 3. Benzylmorphine.
- 17 4. Codeine ~~Methylbromide.~~ METHYLBROMIDE.
- 18 5. Codeine-N-Oxide.
- 19 6. Cyprenorphine.
- 20 7. Desomorphine.
- 21 8. Dihydromorphine.
- 22 9. Etorphine.
- 23 10. Heroin.
- 24 11. Hydromorphenol.
- 25 12. Methyldesorphine.
- 26 13. Methylhydromorphine.
- 27 14. Morphine methylbromide.
- 28 15. Morphine methylsulfonate.
- 29 16. Morphine-N-Oxide.
- 30 17. Myrophine.

<—

1 18. Nicocodeine.

2 19. Nicomorphine.

3 20. Normorphine.

4 21. Pholcodine.

5 22. Thebacon.

6 (iii) Any material, compound, mixture, or preparation which  
7 contains any quantity of the following hallucinogenic  
8 substances, their salts, isomers, and salts of isomers, unless  
9 specifically excepted, whenever the existence of such salts,  
10 isomers, and salts of isomers is possible within the specific  
11 chemical designation:

12 1. 3,4-methylenedioxy amphetamine.

13 2. 5-methoxy-3,4-methylenedioxy amphetamine.

14 3. 3,4,5-trimethoxy amphetamine.

15 4. Bufotenine.

16 5. Diethyltryptamine.

17 6. Dimethyltryptamine.

18 7. 4-methyl-2,5-dimethoxyamphetamine.

19 8. Ibogaine.

20 9. Lysergic acid diethylamide.

21 ~~10. Marijuana.~~

<—

22 ~~11.~~ 10. Mescaline.

<—

23 ~~12.~~ 11. Peyote.

<—

24 ~~13.~~ 12. N-ethyl-3-piperidyl benzilate.

<—

25 ~~14.~~ 13. N-methyl-3-piperidyl benzilate.

<—

26 ~~15.~~ 14. Psilocybin.

<—

27 ~~16.~~ 15. Psilocyn.

<—

28 ~~17. Tetrahydrocannabinols.~~ 16. TETRAHYDROCANNABINOLS.

<—

29 (IV) MARIHUANA.

<—

30 (2) Schedule II--In determining that a substance comes

1 within this schedule, the secretary shall find: a high potential  
2 for abuse, currently accepted medical use in the United States,  
3 or currently accepted medical use with severe restrictions, and  
4 abuse may lead to severe psychic or physical dependence. The  
5 following controlled ~~dangerous~~ substances are included in this <—  
6 schedule:

7 (i) Any of the following substances except those ~~narcotic~~ <—  
8 ~~drugs~~ NARCOTICS specifically excepted or listed in other <—  
9 schedules, whether produced directly or indirectly by extraction  
10 from substances of vegetable origin, or independently by means  
11 of chemical synthesis, or by combination of extraction and  
12 chemical synthesis:

13 1. Opium and opiate, and any salt, compound, derivative, or  
14 preparation of opium or opiate.

15 2. Any salt, compound, derivative, or preparation thereof  
16 which is chemically equivalent or identical with any of the  
17 substances referred to in subclause 1, except that these  
18 substances shall not include the isoquinoline alkaloids of  
19 opium.

20 3. Opium poppy and poppy straw.

21 4. Coca leaves and any salt, compound, derivative, or  
22 preparation of coca leaves, and any salt, compound, derivative,  
23 or preparation thereof which is chemically equivalent or  
24 identical with any of these substances, ~~except that the~~ <—  
25 ~~substances~~ BUT shall not include decocainized coca leaves or <—  
26 ~~extraction~~ EXTRACTS of coca leaves, which ~~extractions~~ EXTRACTS <—  
27 do not contain cocaine or ecgonine.

28 (ii) Any of the following opiates, including their isomers,  
29 esters, ethers, salts, and salts of isomers, esters and ethers,  
30 unless specifically excepted OR LISTED IN ANOTHER SCHEDULE, <—



1 whenever the existence of such isomers, esters, ethers and salts  
2 is possible within the specific chemical designation:

3 1. Alphaprodine.

4 2. Anileridine.

5 3. Bezitramide.

6 4. Dihydrocodeine.

7 5. Diphenoxylate.

8 6. Fentanyl.

9 7. Isomethadone.

10 8. Levomethorphan.

11 9. Levorphanol.

12 10. Metazocine.

13 11. Methadone.

14 12. Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-  
15 diphenyl butane.

16 13. Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-  
17 diphenyl-propane-carboxylic acid.

18 ~~14. PENTAZOCENE~~

<—

19 14. PENTAZOCINE

20 ~~14.~~ 15. Pethidine.

<—

21 ~~15.~~ 16. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-  
22 phenylpiperidine.

<—

23 ~~16.~~ 17. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-  
24 4-carboxylate.

<—

25 ~~17.~~ 18. Pethidine-Intermediate-C, 1-methyl-4-  
26 phenylpiperidine-4-carboxylic acid.

<—

27 ~~18.~~ 19. Phenazocine.

<—

28 ~~19.~~ 20. Piminodine.

<—

29 ~~20.~~ 21. Racemethorphan.

<—

30 ~~21.~~ 22. Racemorphan.

<—

1 (iii) Unless specifically excepted or unless listed in  
2 another schedule, any ~~injectable liquid~~ MATERIAL, COMPOUND, <—  
3 MIXTURE OR PREPARATION which contains any quantity of  
4 ~~methamphetamine, including its salts, isomers, and salts of~~ <—  
5 ~~isomers~~ THE FOLLOWING SUBSTANCES, HAVING A POTENTIAL FOR ABUSE <—  
6 ASSOCIATED WITH THE STIMULANT EFFECT ON THE CENTRAL NERVOUS  
7 SYSTEM:

8 1. AMPHETAMINE, ITS SALTS, OPTICAL ISOMERS, AND SALTS OF ITS  
9 OPTICAL ISOMERS.

10 2. PHENMETRAMINE AND ITS SALTS.

11 3. METHYLPHENIDATE.

12 4. ANY SUBSTANCE WHICH CONTAINS ANY QUANTITY OF  
13 METHAMPHETAMINE INCLUDING ITS SALTS, ISOMERS AND SALTS OF  
14 ISOMERS.

15 (iv) The phrase "opiates" as used in section 4 of this act  
16 and elsewhere throughout the act shall not include the  
17 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its  
18 salts, but does include its racemic and levorotatory forms.

19 (3) Schedule III--In determining that a substance comes  
20 within this schedule, the secretary shall find: a potential for  
21 abuse less than the substances listed in Schedules I and II;  
22 well documented and currently accepted medical use in the United  
23 States; and abuse may lead to moderate or low physical  
24 dependence or high psychological dependence. The following  
25 classes of controlled ~~dangerous~~ substances are included in this <—  
26 schedule:

27 ~~(i) Any material, compound, mixture, or preparation unless~~ <—  
28 ~~specifically excepted or unless listed in another schedule which~~  
29 ~~contains any quantity of the following substances having a~~  
30 ~~potential for abuse associated with a stimulant effect on the~~

1 ~~central nervous system:~~

2 ~~1. Amphetamine, its salts, optical isomers, and salts of its~~  
3 ~~optical isomers.~~

4 ~~2. Phenmetrazine and its salts.~~

5 ~~3. Any substance which contains any quantity of~~  
6 ~~methamphetamine, including its salts, isomers, and salts of~~  
7 ~~isomers.~~

8 ~~4. Methylphenidate.~~

9 ~~(ii)~~ (I) Any material, compound, mixture, or preparation <—  
10 unless specifically excepted or unless listed in another  
11 schedule which contains any quantity of the following substances  
12 having a potential for abuse associated with a depressant effect  
13 on the central nervous system:

14 1. Any substance which contains any quantity of a derivative  
15 of barbituric acid, or any salt of a derivative of barbituric  
16 acid.

17 2. Chorhexadol.

18 3. Glutethimide.

19 4. Lysergic acid.

20 5. Lysergic acid amide.

21 6. Methyprylon.

22 7. Phencyclidine.

23 8. Sulfondiethylmethane.

24 9. Sulfonethylmethane.

25 10. Sulfonmethane.

26 ~~(iii)~~ (II) Nalorphine. <—

27 ~~(iv)~~ (III) Any material, compound, mixture, or preparation <—  
28 containing limited quantities ~~of any~~ of the following narcotic <—  
29 drugs, or any salts thereof, ~~except those narcotic drugs~~ UNLESS <—  
30 specifically excepted or listed in other schedules:

1        1. Not more than ~~one and eighty one hundredths~~ 1.8 grams of <—  
2 codeine per ~~one hundred~~ 100 milliliters or not more than ~~ninety~~ <—  
3 90 milligrams per dosage unit, with an equal or greater quantity  
4 of an isoquinoline alkaloid of opium.

5        2. Not more than ~~one and eighty one hundredths~~ 1.8 grams of <—  
6 codeine per ~~one hundred~~ 100 milliliters or not more than ~~ninety~~ <—  
7 90 milligrams per dosage unit, with one or more active,  
8 nonnarcotic ingredients in recognized therapeutic amounts.

9        3. Not more than ~~three hundred~~ 300 milligrams of <—  
10 dihydrocodeinone per ~~one hundred~~ 100 milliliters or not more <—  
11 than ~~fifteen~~ 15 milligrams per dosage unit, with a fourfold or <—  
12 greater quantity of an isoquinoline alkaloid of opium.

13       4. Not more than ~~three hundred~~ 300 milligrams of <—  
14 dihydrocodeinone per ~~one hundred~~ 100 milliliters or not more <—  
15 than ~~fifteen~~ 15 milligrams per dosage unit, with one or more <—  
16 active, nonnarcotic ingredients in recognized therapeutic  
17 amounts.

18       5. Not more than ~~one and eighty one hundredths~~ 1.8 grams of <—  
19 dihydrocodeine per ~~one hundred~~ 100 milliliters or not more than <—  
20 ~~ninety~~ 90 milligrams per dosage unit, with one or more active, <—  
21 nonnarcotic ingredients in recognized therapeutic amounts.

22       6. Not more than ~~three hundred~~ 300 milligrams of <—  
23 ethylmorphine per ~~one hundred~~ 100 milliliters or not more than <—  
24 ~~fifteen~~ 15 milligrams per dosage unit, with one or more active, <—  
25 nonnarcotic ingredients in recognized therapeutic amounts.

26       7. Not more than ~~five hundred~~ 500 milligrams of opium per <—  
27 ~~one hundred~~ 100 milliliters or per ~~hundred~~ 100 grams, or not <—  
28 more than ~~twenty five~~ 25 milligrams per dosage unit, with one or <—  
29 more active, nonnarcotic ingredients in recognized therapeutic  
30 amounts.

1        8. Not more than ~~fifty~~ 50 milligrams of morphine per ~~one~~ <—  
2 ~~hundred~~ 100 milliliters or per ~~one hundred grams~~ 100 GRAMS AND <—  
3 NOT MORE THAN 2.5 MILLIGRAMS PER DOSAGE UNIT with one or more  
4 active, nonnarcotic ingredients in recognized therapeutic  
5 amounts.

6        (v) The secretary may by regulation except any compound,  
7 mixture, or preparation containing any drug or controlled  
8 ~~dangerous~~ substance listed in subclauses (i) and (ii) of this <—  
9 schedule above from the application of those provisions of this  
10 act covering controlled ~~drugs~~, SUBSTANCES, if the compound, <—  
11 mixture, or preparation contains one or more active medicinal  
12 ingredients not having a stimulant or depressant effect on the  
13 central nervous system: Provided, That such admixtures shall be  
14 included therein in such combinations, quantity, proportion, or  
15 concentration as to vitiate the potential for abuse of the  
16 substances which do have a stimulant or depressant effect on the  
17 central nervous system.

18        (vi) The secretary ~~shall~~ MAY SHALL by regulation exempt any <—  
19 nonnarcotic substance from the control under this act if such  
20 substance may, under the provisions of the Federal Food, Drug,  
21 and Cosmetic Act (21 U.S.C. 301 et seq.), be lawfully sold over  
22 the counter without a prescription.

23        (4) Schedule IV--In determining that a substance comes  
24 within this schedule, the secretary shall find: a low potential  
25 for abuse relative to substances in Schedule III; currently  
26 accepted medical use ~~in treatment~~ in the United States; and <—  
27 limited physical ~~dependence~~ and/or psychological dependence <—  
28 liability relative to the substances listed in Schedule III. The  
29 following controlled ~~dangerous~~ substances are included in this <—  
30 schedule:

1 (i) Any material, compound, mixture, or preparation, unless  
2 specifically excepted or unless listed in another schedule,  
3 which contains any quantity of the following substances having a  
4 potential for abuse associated with a depressant effect on the  
5 central nervous system:

6 1. Barbital.

7 ~~2.—CHLORDIAZEPOXIDE.~~ <—

8 ~~2.—3.~~ 2. Chloral betaine. <—

9 ~~3.—4.~~ 3. Chloral hydrate. <—

10 ~~5.—DIAZEPON.~~ <—

11 ~~4.—6.~~ 4. Ethchlorvynol. <—

12 ~~5.—7.~~ 5. Ethinamate. <—

13 ~~6.—8.~~ 6. Methohexital. <—

14 ~~7.—9.~~ 7. Meproamate. <—

15 ~~8.—10.~~ 8. Methylphenobarbital. <—

16 ~~9.—11.~~ 9. Paraldehyde. <—

17 ~~10.—12.~~ 10. Petrichloral. <—

18 ~~11.—13.~~ 11. Phenobarbital. <—

19 ~~14.—PROPOXYPHENE.~~ <—

20 (ii) The secretary may by regulation except any compound,  
21 mixture, or preparation containing any drug or controlled  
22 dangerous substance listed in subclause (i) of this schedule  
23 above from the application of those provisions of this act  
24 covering controlled drugs, if the compound, mixture, or  
25 preparation contains one or more active medicinal ingredients  
26 not having a stimulant or depressant effect on the central  
27 nervous system: Provided, That such admixtures shall be included  
28 therein in such combinations, quantity, proportion, or  
29 concentration as to vitiate the potential for abuse of the  
30 substances which do have a stimulant or depressant effect on the

1 central nervous system.

2 (iii) The secretary ~~shall~~ MAY SHALL by regulation exempt any <—  
3 nonnarcotic substance from the control under this act if such  
4 substance may, under the provisions of the Federal Food, Drug,  
5 and Cosmetic Act (21 U.S.C. 301 et seq.), be lawfully sold over  
6 the counter without a prescription.

7 (5) Schedule V--In determining that a substance comes within  
8 this schedule, the secretary shall find: a low potential for  
9 abuse relative to the substances listed in Schedule IV;  
10 currently accepted medical use in the United States; and limited  
11 physical dependence and/or psychological dependence liability  
12 relative to the substances listed in Schedule IV. The following  
13 controlled ~~dangerous~~ substances are included in this schedule: <—

14 (i) Any compound, mixture, or preparation containing limited  
15 quantities of any of the following ~~narcotic drugs~~ NARCOTICS OR <—  
16 ANY OF THEIR SALTS, which shall include one or more nonnarcotic  
17 active medicinal ingredients in sufficient proportion to confer  
18 upon the compound, mixture, or preparation, valuable medicinal  
19 qualities other than those possessed by the narcotic ~~drug~~ alone: <—

20 1. Not more than ~~two hundred~~ 200 milligrams of codeine, ~~per~~ <—  
21 ~~one hundred~~ OR ANY OF ITS SALTS, PER 100 milliliter or per ~~one~~ <—  
22 ~~hundred grams~~ 100 GRAMS AND NOT MORE THAN ~~100~~ 10 MILLIGRAMS PER <—  
23 DOSAGE UNIT.

24 2. Not more than ~~one hundred~~ 100 milligrams of <—  
25 dihydrocodeine, OR ANY OF ITS SALTS, per ~~one hundred~~ 100 <—  
26 milliliters or per ~~one hundred~~ 100 grams AND NOT MORE THAN 5 <—  
27 MILLIGRAMS PER DOSAGE UNIT.

28 3. Not more than ~~one hundred~~ 100 milligrams of ~~ethylmorphine~~ <—  
29 ~~per one hundred milliliters or per one hundred grams.~~  
30 ETHYLMORPHINE, OR ANY OF ITS SALTS, PER 100 MILLILITERS OR PER <—

1 100 GRAMS AND NOT MORE THAN 5 MILLIGRAMS PER DOSAGE UNIT.

2 4. Not more than ~~two and five tenths~~ 2.5 milligrams of <—  
3 diphenoxylate and not less than ~~twenty five~~ 25 micrograms of <—  
4 atropine sulfate per dosage unit.

5 5. Not more than ~~one hundred~~ 100 milligrams of opium per ~~one~~ <—  
6 ~~hundred~~ 100 milliliters or per ~~one hundred~~ 100 grams, or not <—  
7 more than ~~five~~ 5 milligrams per dosage unit. <—

8 ~~Section 5. Exempt Substances and Drugs. (a) In accordance~~ <—  
9 ~~with the provisions of section 3, the secretary, after~~  
10 ~~consultation and upon the recommendation of the board, may, by~~  
11 ~~regulation, exempt, from the provisions of this act relating to~~  
12 ~~controlled dangerous substances or controlled drugs to such~~  
13 ~~extent as he determines to be consistent with the public~~  
14 ~~welfare, substances and drugs found by the secretary:~~

15 ~~(1) Either to possess no addiction forming or addiction~~  
16 ~~sustaining liability or not to possess an addiction forming or~~  
17 ~~addiction sustaining liability sufficient to warrant imposition~~  
18 ~~of all of the requirements of this act; and~~

19 ~~(2) Not to permit recovery of a controlled dangerous~~  
20 ~~substance or controlled drug having such an addiction forming or~~  
21 ~~addiction sustaining liability with such relative technical~~  
22 ~~simplicity and degree of yield as to create a risk of improper~~  
23 ~~use.~~

24 ~~(b) In exercising the authority granted in subsection (a),~~  
25 ~~the secretary, by regulations and without special findings,~~  
26 ~~shall, unless cogent reasons require otherwise in the interest~~  
27 ~~of public health, grant exempt status to such substances and~~  
28 ~~drugs as are determined to be exempt under the Federal narcotic~~  
29 ~~law and regulations and the Federal law and regulations~~  
30 ~~pertaining to controlled drugs and controlled dangerous~~



1 ~~substances.~~

2 ~~(c) If the secretary shall subsequently determine that any~~  
3 ~~exempt substance or drug does possess a degree of addiction~~  
4 ~~liability that results in abusive use, he shall, by regulation,~~  
5 ~~remove such substance or drug from exempt status effective on a~~  
6 ~~date fixed by the regulation.~~

7 SECTION 5. EXEMPT CONTROLLED SUBSTANCES, OTHER DRUGS, <—  
8 DEVICES AND COSMETICS.--(A) EXCEPT AS OTHERWISE PROVIDED HEREIN,  
9 THE SECRETARY, AFTER CONSULTATION WITH AND UPON THE  
10 RECOMMENDATION OF THE BOARD, MAY, BY REGULATION, EXEMPT FROM THE  
11 PROVISIONS OF THIS ACT RELATING TO CONTROLLED SUBSTANCES, OTHER  
12 DRUGS, DEVICES AND COSMETICS TO SUCH EXTENT AS HE DETERMINES TO  
13 BE CONSISTENT WITH THE PUBLIC HEALTH.

14 Section 6. Registration.--(a) No person shall operate within  
15 this Commonwealth as a manufacturer, ~~wholesaler~~ DISTRIBUTOR or <—  
16 retailer of ~~drugs or~~ CONTROLLED SUBSTANCES, OTHER DRUGS AND <—  
17 devices nor sell, offer for sale nor solicit the purchase of  
18 ~~drugs or devices nor hold drugs or devices~~ CONTROLLED <—  
19 SUBSTANCES, OTHER DRUGS AND DEVICES NOR HOLD THEM for sale or  
20 resale until such person has registered under this act with the  
21 secretary. Such registration must be renewed annually in  
22 accordance with rules and regulations relating thereto.

23 (1) Any manufacturer or ~~wholesaler~~ DISTRIBUTOR not operating <—  
24 an establishment within this Commonwealth, but employing sales  
25 representatives or ~~detailmen~~ AGENTS within this Commonwealth, <—  
26 shall either register as a manufacturer or ~~wholesaler~~ <—  
27 DISTRIBUTOR as the case may be, or file, in lieu of <—  
28 registration, with the secretary the names and addresses of such  
29 representatives and ~~detailmen~~ AGENTS, and shall promptly inform <—  
30 the secretary of any changes in said list.

1       (2) Separate registration with the secretary shall be  
2 required annually for each place at which such person carries on  
3 activities as a manufacturer, ~~wholesaler~~ DISTRIBUTOR or retailer <—  
4 within this Commonwealth. The certificate evidencing such  
5 registration shall be conspicuously displayed and shall not be  
6 transferable.

7       (3) ~~Certificates of registration~~ REGISTRATIONS issued by the <—  
8 ~~State Board of Pharmacy~~ SECRETARY or under the law preceding <—  
9 this act to manufacturers, DISTRIBUTORS OR RETAILERS shall <—  
10 continue to be valid for the period issued and, upon expiration,  
11 shall be renewed in the manner provided for renewal of <—  
12 ~~certificates~~ of registration issued pursuant to this section.  
13 Nothing contained herein shall be construed to require the  
14 registration hereunder of ~~pharmacists registered by the Board of~~ <—  
15 ~~Pharmacy nor pharmacies licensed by said board,~~ ANY PRACTITIONER <—  
16 REGISTERED OR LICENSED BY THE APPROPRIATE STATE BOARD, nor to  
17 require the separate registration of agents or employees of  
18 persons registered pursuant to the provisions of this section,  
19 or of sales representatives or ~~detailmen~~ AGENTS of manufacturers <—  
20 or ~~wholesalers nor~~ DISTRIBUTORS NOT operating an establishment <—  
21 within this Commonwealth whose names and addresses are on file  
22 with the secretary: Provided, however, That all persons  
23 registered pursuant to this section, whether located within this  
24 Commonwealth or not, shall be deemed to have accepted and shall  
25 be subject to all provisions of this act.

26       (b) No person shall operate as a manufacturer of CONTROLLED <—  
27 SUBSTANCES OR OTHER drugs ~~or devices~~ unless ~~such drugs or~~ <—  
28 ~~devices~~ THEY are manufactured under the supervision of a <—  
29 registered pharmacist, chemist or other person possessing at  
30 least five years' experience in the manufacture of CONTROLLED <—

1 SUBSTANCES, OR OTHER drugs ~~or devices~~ or such other person <—  
2 approved by the secretary as qualified by scientific or  
3 technical training or experience to perform such duties of  
4 supervision as may be necessary to protect the public health and  
5 safety.

6 (c) Each application for registration as a manufacturer  
7 shall be accompanied by a fee of one hundred dollars (\$100).  
8 Each application for registration as a ~~wholesaler~~ DISTRIBUTOR <—  
9 shall be accompanied by a fee of twenty-five dollars (\$25). Each  
10 application for registration as a retailer shall be accompanied  
11 by a fee of two dollars (\$2). Applications shall be on forms  
12 prescribed by the secretary. Registration ~~certificates~~ shall be <—  
13 renewed annually and applications therefor shall be accompanied  
14 by the same fee as for initial applications.

15 (d) ~~Registration~~ INITIAL REGISTRATION shall become effective <—  
16 at noon on the sixtieth day after application therefor is filed:  
17 Provided, however, That the secretary shall have authority to  
18 issue a registration ~~certificate~~ or to issue an order denying <—  
19 such registration pursuant to subsection (e) hereof at any time  
20 prior to the expiration of such sixty day period. Renewal of  
21 registration shall be effective upon certification by the  
22 secretary that the applicant has met all requirements for such  
23 renewal.

24 (e) The secretary may refuse the initial registration ~~OR AND~~ <—  
25 MAY, AFTER NOTICE AND HEARING PURSUANT TO THE ADMINISTRATIVE  
26 AGENCY LAW, SUSPEND REGISTRATION (i) of any person who has made  
27 MATERIAL false representation in the application for <—  
28 registration; ~~or of any person or agent or employe of any person~~ <—  
29 ~~who manufactures drugs or devices other than under the~~  
30 ~~supervision of a registered pharmacist, chemist or other person~~

1 ~~possessing at least five years' experience in the manufacture of~~  
2 ~~said drugs or devices, or such person approved by the secretary~~  
3 ~~as provided herein, or who fails to comply with the standards of~~  
4 ~~sanitation, equipment, materials or supplies promulgated~~  
5 ~~pursuant to the provisions of this act, until such person has~~  
6 ~~filed a proper application and is in compliance with this~~  
7 ~~section and with said standards of sanitation, equipment,~~  
8 ~~materials and supplies; and (ii) in addition to the foregoing,~~  
9 ~~of (II) any manufacturer or wholesaler, (A) DISTRIBUTOR OR ANY~~ <—  
10 ~~EMPLOYEE THEREOF who has been convicted of a violation of any law~~  
11 ~~of this Commonwealth or of the United States relating to the~~  
12 ~~sale, use or possession of controlled drugs SUBSTANCES OR OTHER~~ <—  
13 ~~DRUGS OR DEVICES if such refusal shall be necessary for the~~  
14 ~~protection of the public health and safety. or (B) who knowingly~~ <—  
15 ~~employs in any capacity connected with the preparation, handling~~  
16 ~~or sale of controlled drugs any person convicted of a violation~~  
17 ~~of the laws of this Commonwealth or of the United States~~  
18 ~~relating to the sale, use or possession of narcotics, unless~~  
19 ~~prior consent shall have been obtained from the secretary.~~  
20 (f) ~~In addition to all other penalties provided for~~ <—  
21 ~~violations of this act, the~~ THE secretary may, after notice and <—  
22 hearing pursuant to the Administrative Agency Law as amended,  
23 ~~(i) in the case of a manufacturer registered hereunder, prohibit~~ <—  
24 the sale in Pennsylvania of any CONTROLLED SUBSTANCES, OTHER <—  
25 drugs or devices involved in any violation of this act. ~~which he~~ <—  
26 ~~commits with knowledge or reason to know of said violation, (ii)~~  
27 THE SECRETARY MAY AFTER NOTICE AND HEARING PURSUANT TO THE <—  
28 ADMINISTRATIVE AGENCY LAW suspend or revoke the registration of  
29 any ~~manufacturer if said~~ registrant, WHO (A) makes any sale in <—  
30 Pennsylvania of any CONTROLLED SUBSTANCES, OTHER ~~drug or device~~ <—

1 DRUGS OR DEVICES whose sale has been prohibited under the <—  
2 preceding clause. ~~or (B) is convicted of a violation of any law~~ <—  
3 ~~of this Commonwealth or of the United States relating to the~~  
4 ~~sale, use or possession of drugs or controlled substances if~~  
5 ~~such suspension or revocation shall be necessary for the~~  
6 ~~protection of the public health and safety, (C) knowingly~~  
7 ~~employs in any capacity connected with the preparation, handling~~  
8 ~~or sale of drugs or controlled substances any person convicted~~  
9 ~~of a violation of the laws of this Commonwealth or of the United~~  
10 ~~States relating to the sale, use or possession of drugs or~~  
11 ~~controlled substances unless prior consent shall have been~~  
12 ~~obtained from the secretary, (iii) in the case of a wholesaler~~  
13 ~~registered hereunder, suspend or revoke his registration for any~~  
14 ~~violation of this act which he commits with knowledge or reason~~  
15 ~~to know of said violation if such suspension or revocation shall~~  
16 ~~be necessary for the protection of the public health and safety.~~  
17 (g) If the secretary takes any action refusing registration  
18 or ~~disciplining any registrant~~ REVOKING OR SUSPENDING <—  
19 REGISTRATION under subsections (e) and (f), the aggrieved party  
20 may, within fifteen days after the date upon which a copy of the  
21 order is delivered to the address indicated on the application  
22 or the registration ~~certificate~~, whichever is applicable, <—  
23 petition the board for review. The board shall, within thirty  
24 days, grant a hearing and, as soon thereafter as practicable,  
25 adopt, modify or reject the action of the secretary. Any action  
26 by the board shall be deemed an adjudication to which the  
27 provisions of the Administrative Agency Law, as amended, shall  
28 be applicable.  
29 Section 7. Adulteration.--A CONTROLLED SUBSTANCE, OTHER <—  
30 drug, ~~or~~ device or cosmetic shall be deemed to be adulterated: <—

1 (1) (i) If it consists, in whole or in part, of any filthy,  
2 putrid or decomposed substance; (ii) if it has been prepared,  
3 packed or held under UNSANITARY conditions whereby it may have <—  
4 been contaminated with filth, or whereby it may have been  
5 rendered injurious to health; (iii) ~~if~~ AND IF IT IS A DRUG OR A <—  
6 DEVICE its container is composed, in whole or in part, of any  
7 poisonous or deleterious substance which may render the contents  
8 injurious to health; (iv) if it has been exposed to conditions  
9 of fire, water or extreme temperature, which may have rendered  
10 it injurious to health; (v) if (A) it bears or contains for  
11 purposes of coloring only a color additive, unless it be a hair  
12 dye which is unsafe within the meaning of section 9 of this act,  
13 or (B) it is a color additive the intended use of which in or on  
14 drugs, devices or cosmetics is for purposes of coloring only and  
15 is unsafe, unless it be a hair dye within the meaning of section  
16 9 of this act.

17 (2) If it purports to be or is represented as a drug OR <—  
18 DEVICE, the name of which is recognized in an official  
19 compendium and its strength differs from or its quality or  
20 purity falls below the standards set forth in such compendium.  
21 Such determination as to strength, quality or purity, shall be  
22 made in accordance with the tests or methods of assay set forth  
23 in such compendium, or in the absence of or inadequacy of such  
24 tests or methods of assay those prescribed under the authority  
25 of the Federal act. No drug OR DEVICE defined in an official <—  
26 compendium shall be deemed to be adulterated under this  
27 subsection because it differs from the standard of strength,  
28 quality or purity therefor set forth in such compendium, if its  
29 difference in strength, quality or purity from such standard is  
30 plainly stated on its label. ~~Whenever a drug is recognized in~~ <—

~~1 both the United States Pharmacopoeia and the Homeopathic~~  
~~2 Pharmacopoeia of the United States, it shall be subject to the~~  
~~3 requirements of the United States Pharmacopoeia unless it is~~  
~~4 labeled and offered for sale as a homeopathic drug, in which~~  
~~5 case, it shall be subject to the provisions of the Homeopathic~~  
~~6 Pharmacopoeia of the United States and not to those of the~~  
~~7 United States Pharmacopoeia.~~

8 (3) If it is a color additive and is to be used or is  
9 recommended for use as a hair dye and it is not exempt under  
10 section 9 unless its label bears the following legend  
11 conspicuously displayed thereon: "Caution. This product contains  
12 ingredients which may cause skin irritation on certain  
13 individuals and a preliminary test according to accompanying  
14 directions should first be made. This product must not be used  
15 for dyeing the eyelashes or eyebrows, to do so may cause  
16 blindness," and the labeling bears adequate directions for such  
17 preliminary testing. For the purpose of this paragraph, the term  
18 "hair dye" shall not include eyelash dyes or eyebrow dyes.

19 (4) If it is not subject to the provisions of clause (2) of  
20 this section and its strength differs from or its purity or  
21 quality falls below that which it purports or is represented to  
22 possess.

23 (5) If it is a drug OR DEVICE and any substance has been (i) <—  
24 mixed or packed therewith so as to reduce its quality or  
25 strength, or (ii) substituted wholly or in part therefor.

26 Section 8. Misbranding.--A CONTROLLED SUBSTANCE, OTHER drug <—  
27 or device or cosmetic shall be deemed to be misbranded:

28 (1) If its labeling is false or misleading in any  
29 particular.

30 (2) If in package form unless it bears a label containing

1 (i) the name and place of business of the manufacturer, packer  
2 or distributor, and (ii) an accurate statement of the quantity  
3 of the contents in terms of weight measure or numerical count:  
4 Provided, That under subclause (ii) of this clause, reasonable  
5 variations shall be permitted and exemptions as to small  
6 packages shall be established by regulations.

7 (3) If any word, statement or other information required by  
8 or under authority of this act to appear on the label, or  
9 labeling is not prominently placed thereon with such  
10 conspicuousness (as compared with other words, statements,  
11 designs or devices in the labeling), and in such terms as to  
12 render it likely to be read and understood by the ordinary  
13 individual under customary conditions of purchase and use.

14 (4) If it is for use by man and is a ~~narcotic, depressant or~~ <—  
15 ~~stimulant drug~~ CONTROLLED SUBSTANCE designated BY FEDERAL LAW as <—  
16 habit-forming, unless its label bears the ~~name and quantity or~~ <—  
17 ~~proportion of such substance or derivative and if required by~~  
18 ~~applicable Federal law or regulations, in juxtaposition~~  
19 ~~therewith~~ the statement "Warning. May Be Habit-Forming."

20 (5) If it is a drug and is not designated solely by a name  
21 recognized in an official compendium, unless its label bears (i)  
22 the common or usual name of the drug, if such there be, and (ii)  
23 in case it is fabricated from two or more ingredients, the  
24 common or usual name of each active ingredient including the  
25 kind and quantity or proportion of any alcohol and also  
26 including whether active or not, the name and quantity or  
27 proportion of any bromides, ether, chloroform, acetanilid,  
28 acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine,  
29 hyoscyamine, arsenic, digitalis ~~glucosides~~ GLYCOSIDES, mercury, <—  
30 ouabain, strophanthin, strychnine, thyroid or any derivative or



1 preparation of any such substances contained therein: Provided,  
2 That to the extent that compliance with the requirements of  
3 subclause (ii) of this clause is impracticable, exemptions shall  
4 be established by regulations.

5 (6) Unless its labeling bears (i) adequate directions for  
6 use, and (ii) such adequate warnings against use in those  
7 pathological conditions or by children where its use may be  
8 dangerous to health or against unsafe dosage or methods or  
9 duration of administration or application in such manner and  
10 form as are necessary for the protection of users: Provided,  
11 That where any requirement of subclause (i) of this clause as  
12 applied to any drug, ~~or~~ device OR COSMETIC is not necessary for <—  
13 the protection of the public health, regulations shall be  
14 promulgated exempting such drug, ~~or~~ device or cosmetic from such <—  
15 requirements.

16 (7) If it purports to be a drug OR DEVICE the name of which <—  
17 is recognized in an official compendium, unless it is packaged  
18 and labeled as prescribed therein: Provided, That the method of  
19 ~~packing~~ PACKAGING may be modified with a consent of the <—  
20 secretary. ~~Whenever a drug is recognized in both the United~~ <—  
21 ~~States Pharmacopoeia and the Homeopathic Pharmacopoeia of the~~  
22 ~~United States, it shall be subject to the requirements of the~~  
23 ~~United States Pharmacopoeia with respect to packaging and~~  
24 ~~labeling, unless it is labeled and offered for sale as a~~  
25 ~~homeopathic drug, in which case, it shall be subject to the~~  
26 ~~provisions of the Homeopathic Pharmacopoeia of the United States~~  
27 ~~and not to those of the United States Pharmacopoeia.~~

28 (8) If it has been found by the secretary to be a drug,  
29 DEVICE OR COSMETIC liable to deterioration unless it is packaged <—  
30 in such form and manner and its label bears a statement

1 specifying such precautions against deterioration as the  
2 secretary shall by regulation require as necessary for the  
3 protection of public health. ~~No such regulation shall be~~ <—  
4 ~~established for any drug recognized in an official compendium,~~  
5 ~~or for any drug which regulations specifying precautions against~~  
6 ~~deterioration have been promulgated by the Secretary of Health,~~  
7 ~~Education and Welfare under the Federal act.~~

8 (9) If it is offered for sale or sold under the name of  
9 another drug, device or cosmetic or brand of drug, device or  
10 cosmetic, or if it is manufactured, packaged, labeled or sold in  
11 such manner as to give rise to a reasonable probability that the  
12 purchaser will be led to believe he is purchasing such drug,  
13 device or cosmetic as another drug, device or cosmetic or as the  
14 product of another manufacturer.

15 (10) If it is dangerous to health when used in the dosage or  
16 with the frequency or duration prescribed, recommended or  
17 suggested in the labeling thereof.

18 ~~(11) A drug dispensed by filling or refilling a written or~~ <—  
19 ~~oral prescription issued by a person licensed by law to~~  
20 ~~administer or prescribe such drug (except a drug sold in the~~  
21 ~~course of the conduct of a business of selling drugs pursuant to~~  
22 ~~diagnosis by mail) shall be exempt from the requirements of this~~  
23 ~~section, except clauses (1) and (9) if such drug bears a label~~  
24 ~~containing the name and place of business of the dispenser, the~~  
25 ~~serial number and date of such prescription, the name of the~~  
26 ~~person prescribing such drug, the name of the patient and such~~  
27 ~~directions for use and cautionary statements, if any, contained~~  
28 ~~in such prescription.~~

29 ~~(12)~~ (11) If it is a DRUG, DEVICE OR cosmetic and its <—  
30 container is so made, formed or filled as to be misleading.

1 (12) IF IT IS A CONTROLLED SUBSTANCE ITS COMMERCIAL <—  
2 CONTAINER MUST BEAR A LABEL CONTAINING AN IDENTIFYING SYMBOL FOR  
3 SUCH SUBSTANCE IN ACCORDANCE WITH FEDERAL REGULATIONS.

4 Section 9. Color Additives.--A color additive shall be  
5 deemed unsafe unless there is in effect with respect to such  
6 additive a regulation issued pursuant to the Federal act  
7 permitting such use and unless such additive and use thereof  
8 conforms in all respects to the requirements of the Federal act  
9 and regulations issued pursuant thereto.

10 Section 10. New Drugs.--(a) No person shall sell, deliver, <—  
11 offer for sale, hold for sale, or give away, any new drug unless  
12 (i) an application with respect thereto has been approved OR A <—  
13 NOTICE OF CLAIMED INVESTIGATIONAL EXEMPTION FOR A NEW DRUG HAS  
14 BEEN FILED under the appropriate Federal act. ~~or (ii) when not~~ <—  
15 ~~subject to the Federal act unless such drug has been tested and~~  
16 ~~has not been found to be unsafe or ineffective for use under the~~  
17 ~~conditions prescribed, recommended or suggested in the labeling~~  
18 ~~thereof, and prior to selling or offering for sale such drug,~~  
19 ~~there has been filed with the secretary an application, setting~~  
20 ~~forth full reports of investigations which have been made to~~  
21 ~~show whether or not such drug is safe and effective for use, a~~  
22 ~~full list of the articles used as components of such drug, a~~  
23 ~~full statement of the composition of such drug, a full~~  
24 ~~description of the methods used in and the facilities and~~  
25 ~~controls used for the manufacture, processing and packing of~~  
26 ~~such drug, such samples of such drug and of the articles used as~~  
27 ~~components thereof as the secretary may require, and specimens~~  
28 ~~of the labeling proposed to be used for such drug.~~

29 ~~(b) An application provided for in subsection (a) (ii) shall~~  
30 ~~be submitted to the board for its recommendations but such~~

1 ~~application shall become effective on the sixtieth day after the~~  
2 ~~filing thereof except that if the secretary finds, after due~~  
3 ~~notice to the applicant and giving him an opportunity for a~~  
4 ~~hearing, that the drug is not safe and effective for use under~~  
5 ~~the conditions prescribed, recommended or suggested in the~~  
6 ~~proposed labeling thereof, he shall prior to the effective date~~  
7 ~~of the application issue an order refusing to permit the~~  
8 ~~application to become effective.~~

9 ~~(c) This section shall not apply:~~

10 ~~(1) To a drug intended solely for investigational use by~~  
11 ~~experts qualified by scientific training and experience to~~  
12 ~~investigate the safety in drugs, provided the drug is plainly~~  
13 ~~labeled "For investigational use only," or words of similar~~  
14 ~~import, and provided such investigator furnishes a statement to~~  
15 ~~the secretary showing that he has adequate facilities for such~~  
16 ~~investigation;~~

17 ~~(2) To a drug sold in this State at any time prior to~~  
18 ~~enactment of this act or introduced into interstate commerce at~~  
19 ~~any time prior to the enactment of the Federal act; or~~

20 ~~(3) To any drug which is licensed under the animal virus~~  
21 ~~serum and toxin law of March 4, 1913 (21 U.S.C. 151, et seq.) or~~  
22 ~~under the Public Health Service Act of July 1, 1944 (42 U.S.C.~~  
23 ~~201, et seq.).~~

24 ~~(d) An order refusing to permit an application under this~~  
25 ~~section to become effective may be revoked by the secretary.~~

26 Section 11. Professional Prescription, Administration, and  
27 Dispensing.--(a) ~~Except when dispensed directly by a licensed~~ <—

28 (A) EXCEPT WHEN DISPENSED OR ADMINISTERED DIRECTLY TO THE <—

29 PATIENT BY A practitioner OR HIS AUTHORIZED AGENT, other than a <—  
30 pharmacist, to an ultimate user, no controlled substance in

1 Schedule II, may be dispensed without the written prescription  
2 of a ~~licensed~~ practitioner, except in emergency situations, as <—  
3 prescribed by the secretary by regulation. No prescription for a  
4 controlled ~~dangerous~~ substance in Schedule II may be refilled. <—  
5 (b) Except when dispensed directly by a ~~licensed~~ <—  
6 practitioner, other than a pharmacist, to an ultimate user, no  
7 controlled substance in Schedule III or IV, ~~which is a~~ <—  
8 ~~prescription drug as determined under the Federal Food, Drug and~~  
9 ~~Cosmetic Act,~~ may be dispensed without a written or oral  
10 prescription. Such prescriptions ~~may~~ SHALL not be filled or <—  
11 refilled more than six months after the date thereof or be  
12 refilled more than five times after the date of the prescription  
13 unless renewed by the ~~licensed~~ practitioner. <—  
14 (c) No controlled substance in Schedule V ~~which is a drug~~ <—  
15 may be distributed or dispensed FOR other than ~~for a medical~~ <—  
16 MEDICINAL purpose. <—  
17 (d) A ~~licensed~~ practitioner may prescribe, administer, or <—  
18 dispense a controlled ~~dangerous~~ substance or OTHER drug OR <—  
19 DEVICE only (i) in good faith in the course of his professional  
20 practice, (ii) within the scope of the patient relationship, and  
21 (iii) in accordance with treatment principles accepted by a  
22 responsible segment of the medical profession. A ~~licensed~~ <—  
23 practitioner may cause a controlled ~~dangerous~~ substance, OTHER <—  
24 DRUG OR DEVICE or drug to be administered by a professional  
25 assistant under his direction and supervision.  
26 (e) A veterinarian may prescribe, administer, or dispense a  
27 controlled ~~dangerous~~ substance, ~~or~~ OTHER drug OR DEVICE only (i) <—  
28 in good faith in the course of his professional practice, and  
29 (ii) not for use by a human being. He may cause a controlled  
30 ~~dangerous~~ substance, ~~or~~ OTHER drug OR DEVICE to be administered <—

1 by a professional assistant under his direction and supervision.

2 (f) Any ~~narcotic~~ drug OR DEVICE dispensed by a pharmacist <—  
3 pursuant to a ~~written~~ prescription ~~shall bear~~ ORDER WHICH BEARS <—  
4 SHALL BEAR a label showing (i) the name and address of the  
5 pharmacy and any registration number obtained pursuant to any  
6 applicable Federal laws, (ii) the name of the patient, or, if  
7 the patient is an animal, the name of the owner of the animal  
8 and the species of the animal, (iii) the name, ~~address,~~ and any <—  
9 registration number required to be obtained pursuant to any  
10 applicable Federal laws, of the practitioner by whom the  
11 prescription ORDER was written, and ~~(iv) such directions as may~~ <—  
12 ~~be stated on the prescription ORDER INCLUDING THE STATEMENT~~ <—  
13 ~~"TRANSFER OF THIS DRUG TO ANYONE OTHER THAN THE PATIENT FOR WHOM~~  
14 ~~IT WAS PRESCRIBED IS ILLEGAL" AND (V) THE SERIAL NUMBER AND DATE~~  
15 ~~OF FILING OF THE PRESCRIPTION ORDER. AND (IV) THE SERIAL NUMBER~~  
16 AND DATE OF FILING OF THE PRESCRIPTION ORDER. IN ADDITION, THE  
17 FOLLOWING STATEMENT SHALL BE REQUIRED ON THE LABEL OF A  
18 CONTROLLED SUBSTANCE: "TRANSFER OF THIS DRUG TO ANYONE OTHER  
19 THAN THE PATIENT FOR WHOM IT WAS PRESCRIBED IS ILLEGAL."

20 Section 12. Records of Distribution of Controlled ~~Dangerous~~ <—  
21 Substances. ~~and Drugs,~~--(a) Every person who sells or otherwise <—  
22 distributes controlled ~~dangerous~~ substances, ~~or controlled~~ <—  
23 ~~drugs,~~ shall keep records of all purchases or other receipt and  
24 sales or other distribution of such ~~drugs~~ SUBSTANCES for two <—  
25 years from the date of purchase or sale. Such records shall  
26 include the name and address of the person from whom purchased  
27 or otherwise received or to whom sold or otherwise distributed,  
28 the date of purchase or receipt or sale or distribution, and the  
29 quantity involved: Provided, however, That this subsection shall  
30 not apply to a ~~licensed~~ practitioner ~~authorized by law to~~ <—

1 ~~administer and dispense~~ who dispenses controlled ~~dangerous~~ <—  
2 ~~substances or drugs~~ SUBSTANCES to his patients, unless the <—  
3 ~~licensed~~ practitioner is regularly engaged in charging his <—  
4 patients, whether separately or together with charges for other  
5 professional services, for substances so dispensed.

6 (b) Every practitioner licensed by law to administer,  
7 dispense or distribute ~~narcotic drugs~~ CONTROLLED SUBSTANCES <—  
8 shall keep a record of all such substances ~~and drugs,~~ <—  
9 administered, dispensed or distributed by him, showing the  
10 amount administered, dispensed or distributed, the date, the  
11 name and address of the patient, and in the case of a  
12 veterinarian, the name and address of the owners of the animal  
13 to whom such ~~drugs~~ SUBSTANCES are dispensed or distributed. Such <—  
14 record shall be kept for two years from the date of  
15 administering, dispensing or distributing such ~~drug~~ SUBSTANCE <—  
16 and shall be open for inspection by the proper authorities.

17 (C) PERSONS REGISTERED OR LICENSED TO MANUFACTURE OR <—  
18 DISTRIBUTE OR DISPENSE A CONTROLLED SUBSTANCE, OTHER DRUG OR  
19 DEVICE UNDER THIS ACT SHALL KEEP RECORDS AND MAINTAIN  
20 INVENTORIES IN CONFORMITY WITH THE RECORD-KEEPING, ORDER FORM <—  
21 AND INVENTORY REQUIREMENTS OF FEDERAL LAW AND WITH ANY  
22 ADDITIONAL REGULATIONS THE SECRETARY ISSUES. CONTROLLED <—  
23 SUBSTANCES IN SCHEDULES I AND II SHALL BE DISTRIBUTED BY A  
24 REGISTRANT TO ANOTHER REGISTRANT ONLY PURSUANT TO AN ORDER FORM.

25 ~~Section 13. Lawful Acts. The following acts are lawful~~ <—  
26 ~~within the Commonwealth:~~

27 ~~(1) The possession, control, dealing in, dispensing,~~  
28 ~~selling, delivery, distribution, prescription, trafficking in,~~  
29 ~~or giving of, any controlled dangerous substance, controlled~~  
30 ~~paraphernalia or controlled drug in strict compliance with the~~

~~1 provisions of this act and in the regular and lawful course of a  
2 business, profession, employment, occupation or duties of (i)  
3 manufacturers of drugs, (ii) persons engaged in the wholesale  
4 drug trade, (iii) importers or exporters of drugs, (iv)  
5 registered pharmacists in any licensed pharmacy, (v) bona fide  
6 owners of pharmacies or drugstores, (vi) practitioners licensed  
7 by law to administer, prescribe or dispense such drugs, (vii)  
8 persons in the employ of the United States or of this  
9 Commonwealth or of any county, municipality or township of this  
10 Commonwealth and having such drugs in their possession by reason  
11 of their official duties, (viii) warehousemen or common carriers  
12 engaged bona fide in handling or transporting drugs, (ix) nurses  
13 under the supervision of a physician, (x) persons in charge of a  
14 laboratory where such drugs are used for the purpose of medical  
15 or scientific investigation, teaching or analysis and not for  
16 further distribution, (xi) captains or proper officers of ships,  
17 upon which no regular physician is employed, for the actual  
18 medical needs of the officers and crew of their own ships only,  
19 (xii) persons in the bona fide employ of any of the persons  
20 above enumerated, (xiii) the provisions of this clause  
21 pertaining to possession shall also apply to, in addition to the  
22 foregoing, (A) persons having said drugs in their possession for  
23 their own personal use only: Provided, That they have obtained  
24 the same in good faith, for their own use, from a practitioner  
25 licensed to prescribe or dispense such drugs, or in pursuance of  
26 a prescription given them by a practitioner licensed to  
27 prescribe such drugs or except as otherwise authorized by this  
28 act, (B) persons having said drugs in their possession for the  
29 use of an animal belonging to them: Provided, That they have  
30 obtained the same in good faith, from a duly licensed~~



~~veterinarian, for the use of such animal, or in pursuance of a  
prescription given by a duly licensed veterinarian.~~

~~(2) The sale, dispensation, distribution or gift by any  
manufacturer, producer, importer or person engaged in the  
wholesale drug trade of any controlled dangerous substance or  
controlled drug as evidenced by a written order signed by the  
person authorized by law to possess, sell, dispense or prescribe  
such drugs to whom such drug is sold, dispensed, distributed or  
given. "Written order" hereunder shall include bills of lading,  
invoices, receipts or written memorandums signed by the person  
authorized by law to receive such drugs, showing the names and  
quantities of drugs purchased.~~

~~(3) The sale, dispensation, distribution or gift by any  
registered pharmacist in any licensed pharmacy of any controlled  
dangerous substance or controlled drug to (i) a practitioner  
licensed by law to administer, dispense or prescribe such drug,  
(ii) a bona fide hospital, dispensary, asylum, sanatorium or  
public institution, (iii) an individual in pursuance of a  
written prescription, or an oral prescription subject to the  
requirements hereinafter set forth, issued by a practitioner  
licensed by law to prescribe such drug, which prescription shall  
be dated as of the day on which signed and shall be signed by  
the practitioner who issued the same, (iv) a person in charge of  
a laboratory where such drugs are used in medical or scientific  
investigation, teaching or analysis and not for sale or further  
distribution, (v) the captain or proper officer of a ship upon  
which no regular physician is employed for the actual medical  
needs of the officers and crew of such ship only, (vi) a person  
in the employ of the United States or of this Commonwealth or of  
any county, municipality or township thereof, purchasing or~~

1 ~~receiving the same in his official capacity.~~

2 ~~(4) Using, taking, administering to the person or causing to~~  
3 ~~be administered to the person, or administering to any other~~  
4 ~~person or causing to be administered to any other person, any~~  
5 ~~controlled dangerous substance or controlled drug under the~~  
6 ~~advice and direction and with the consent of a practitioner~~  
7 ~~licensed by law to prescribe or administer such drugs to human~~  
8 ~~beings.~~

9 ~~Section 14. Prohibited Acts; Penalties. (a) The following~~  
10 ~~commercial type acts and the causing thereof within the~~  
11 ~~Commonwealth are hereby prohibited:~~

12 ~~(1) The manufacture, sale or delivery, holding, offering for~~  
13 ~~sale, or possession of any drug, device or cosmetic that is~~  
14 ~~adulterated or misbranded.~~

15 ~~(2) The adulteration or misbranding of any drug, device or~~  
16 ~~cosmetic.~~

17 ~~(3) The receipt in commerce of any drug, device or cosmetic~~  
18 ~~that is adulterated or misbranded and the delivery or proffered~~  
19 ~~delivery thereof for pay or otherwise.~~

20 ~~(4) The sale, delivery for sale, holding for sale or~~  
21 ~~offering for sale of any article in violation of section 10.~~

22 ~~(5) The dissemination or publication of any false or~~  
23 ~~materially misleading advertisement.~~

24 ~~(6) The removal or disposal of a detained or embargoed~~  
25 ~~article in violation of section 25, whether or not such article~~  
26 ~~is in fact adulterated or misbranded.~~

27 ~~(7) The adulteration, mutilation, destruction, obliteration~~  
28 ~~or removal of the whole or any part of the labeling of, or the~~  
29 ~~doing of any other act with respect to a drug, device or~~  
30 ~~cosmetic, if such act is done while such article is held for~~

1 ~~sale and results in such article being adulterated or~~  
2 ~~misbranded.~~

3 ~~(8) Forging, counterfeiting, simulating or falsely~~  
4 ~~representing, or without proper authority using any mark, stamp,~~  
5 ~~tag, label or other identification device authorized or required~~  
6 ~~by regulation promulgated under the provisions of this act.~~

7 ~~(9) Placing or causing to be placed upon any drug or~~  
8 ~~pharmaceutical preparation, or upon the container of any drug or~~  
9 ~~pharmaceutical preparation, with intent to defraud, the~~  
10 ~~trademark, trade name or other identifying mark, imprint or~~  
11 ~~device of another, or any likeness of any of the foregoing.~~

12 ~~(10) Selling, dispensing, disposing of or causing to be~~  
13 ~~sold, dispensed or disposed of, or keeping in possession,~~  
14 ~~control or custody, or concealing any drug or pharmaceutical~~  
15 ~~preparation or any container of any drug or pharmaceutical~~  
16 ~~preparation with knowledge that the trademark, trade name or~~  
17 ~~other identifying mark, imprint or device of another, or any~~  
18 ~~likeness of any of the foregoing, has been placed thereon in a~~  
19 ~~manner prohibited by clause (9) hereof.~~

20 ~~(11) Making, selling, disposing of or causing to be made,~~  
21 ~~sold, or disposed of, or keeping in possession, control or~~  
22 ~~custody, or concealing with intent to defraud, any punch, die,~~  
23 ~~plate, stone or other thing designed to print, imprint or~~  
24 ~~reproduce the trademark, trade name or other identifying mark,~~  
25 ~~imprint or device of another or any likeness of any of the~~  
26 ~~foregoing upon any drug, pharmaceutical preparation, or~~  
27 ~~container thereof.~~

28 ~~(12) The use on the labeling of any drug, or in any~~  
29 ~~advertisement relating to such drug, of any representation or~~  
30 ~~suggestion that any application with respect to such drug is~~

1 ~~effective under section 10 or that such drug complies with the~~  
2 ~~provisions of such section.~~

3 ~~(13) The use of any statement or representation in~~  
4 ~~advertising or promoting the retail sale of any drug that the~~  
5 ~~seller of such drug is registered under this act.~~

6 ~~(14) The sale at retail of a nonproprietary drug except by a~~  
7 ~~registered pharmacist in a licensed pharmacy or by a~~  
8 ~~practitioner.~~

9 ~~(15) The operation of a drug manufacturing, wholesaling or~~  
10 ~~retailing establishment, except by registered pharmacists in a~~  
11 ~~licensed pharmacy, without conforming with such standards~~  
12 ~~respecting sanitation, materials, equipment and supplies as the~~  
13 ~~secretary, after consultation with the board, may establish by~~  
14 ~~regulation for the protection of the public health and safety.~~

15 ~~(16) The sale, dispensation, distribution or gift by any~~  
16 ~~registered pharmacist or operator of a licensed pharmacy of any~~  
17 ~~controlled dangerous substance or controlled drug listed in~~  
18 ~~Schedules II, III and IV of section 4 except in pursuance of an~~  
19 ~~oral order or a written order signed by the person to whom such~~  
20 ~~drugs are sold, dispensed, distributed or given as provided for~~  
21 ~~in section 11, when such drugs are sold, dispensed, distributed~~  
22 ~~or given to an individual in pursuance of a prescription. Such~~  
23 ~~prescription shall be regarded as the written order herein~~  
24 ~~required and no further written order shall be necessary. Such~~  
25 ~~orders shall be kept and preserved for a period of two years.~~  
26 ~~Where there is no initial written order in an emergency~~  
27 ~~situation, said order shall be verified by a written memorandum~~  
28 ~~signed by the vendee.~~

29 ~~(17) The sale, dispensation, distribution, prescription or~~  
30 ~~gift by any practitioner otherwise authorized by law so to do of~~

~~any controlled drug or controlled dangerous substance to any person known to such practitioner to be a drug dependent person, unless said drug is prescribed, administered, dispensed or given, for the cure or treatment of some malady other than the drug habit, except that a controlled drug such as methadone may be permitted by such regulations for the treatment of the drug habit pursuant to regulations providing for such use.~~

~~(18) The administration, dispensation, delivery, gift or prescription by any practitioner otherwise authorized by law so to do of any controlled dangerous substance or controlled drug except after a physical or visual examination of the person or animal for whom said drugs are intended, said examination to be made at the time said prescription is issued or at the time said drug is administered, dispensed, given away or delivered by said practitioner, or except where the practitioner is satisfied by evidence that the person is not a drug dependent person. No veterinarian shall sell, dispense, distribute, give or prescribe any narcotic drug for the use of a human being.~~

~~(19) The sale at retail or dispensing of any controlled drug or controlled dangerous substance listed in Schedules II, III and IV to any person, except to one authorized by law to sell, dispense, prescribe or possess such drugs or substances, unless upon the written or oral prescription of a person licensed by law to prescribe such drug and unless compounded or dispensed by a registered pharmacist or under the immediate personal supervision of a registered pharmacist, or the refilling of a written or oral prescription for a drug, unless such refilling is authorized by the prescriber either in the original written prescription or by written confirmation of the original oral prescription. The provisions of this subsection shall not apply~~

1 ~~to a practitioner licensed to prescribe or dispense such drugs,~~  
2 ~~who keeps a record of the amount of such drugs purchased and a~~  
3 ~~dispensing record showing the date, name, and quantity of the~~  
4 ~~drug dispensed and the name and address of the patient, as~~  
5 ~~required by this act.~~

6 ~~(20) The dispensing of any controlled drug or controlled~~  
7 ~~dangerous substance by a pharmacist without affixing to the~~  
8 ~~container in which the drug is sold or dispensed a label bearing~~  
9 ~~the name and address of the pharmacy, the name of the patient,~~  
10 ~~the date compounded and the consecutive number of the~~  
11 ~~prescription under which it is recorded in his prescription~~  
12 ~~files, together with the name of the practitioner prescribing~~  
13 ~~it.~~

14 ~~(21) The dispensing of a controlled drug or controlled~~  
15 ~~dangerous substance by a practitioner otherwise authorized by~~  
16 ~~law so to do without affixing to the container in which the drug~~  
17 ~~is sold or dispensed a label bearing the name and address of the~~  
18 ~~practitioner, the date dispensed, the name of the patient and~~  
19 ~~the directions for the use of the drug by the patient.~~

20 ~~(22) The selling or possession by a pharmacy or wholesaler~~  
21 ~~of any drug or controlled dangerous substance defined herein~~  
22 ~~unless the container bears a label, securely attached thereto,~~  
23 ~~stating conspicuously the specific name of the drug and the~~  
24 ~~proportion or amount thereof. Such label shall not be necessary~~  
25 ~~when the drug is dispensed by a pharmacist upon a prescription~~  
26 ~~or dispensed by a practitioner authorized by law to dispense~~  
27 ~~such drugs to his own patients and the container is labeled in~~  
28 ~~the manner prescribed in this act.~~

29 ~~(23) The purchase or receipt in commerce by any person of~~  
30 ~~any drugs or devices from any person not authorized by law to~~

1 ~~sell, distribute, dispense or otherwise deal in such drugs or~~  
2 ~~devices.~~

3 ~~(24) The using by any person to his own advantage or~~  
4 ~~revealing other than to the secretary or officers or employes of~~  
5 ~~the Department of Health or to the council or to the board or to~~  
6 ~~courts or a hearing examiner when relevant to proceedings under~~  
7 ~~this act any information acquired under authority of this act~~  
8 ~~concerning any method or process which as a trade secret is~~  
9 ~~entitled to protection. Such information obtained under the~~  
10 ~~authority of this act shall not be admitted in evidence in any~~  
11 ~~proceeding before any court of the Commonwealth except in~~  
12 ~~proceedings under this act.~~

13 ~~Any person who violates any of the provisions of this~~  
14 ~~subsection (a) shall be guilty of a misdemeanor, and shall, on~~  
15 ~~conviction thereof, be sentenced to imprisonment for not more~~  
16 ~~than one year or a fine of not more than five thousand dollars~~  
17 ~~(\$5,000), or both; but if the violation is committed after a~~  
18 ~~prior conviction of such person, for a violation of this act~~  
19 ~~under this section, has become final, such person shall be~~  
20 ~~sentenced to imprisonment for not more than three years or a~~  
21 ~~fine of not more than twenty five thousand dollars (\$25,000), or~~  
22 ~~both.~~

23 ~~(b) Any person who is an otherwise legitimate producer,~~  
24 ~~manufacturer, or distributor and who fails to register or obtain~~  
25 ~~a license as required by this act shall be guilty of a~~  
26 ~~misdemeanor, and shall, on conviction thereof, be punished only~~  
27 ~~as follows:~~

28 ~~(1) Upon conviction of the first such offense, he shall be~~  
29 ~~sentenced to imprisonment for not more than six months, or fined~~  
30 ~~not exceeding ten thousand dollars (\$10,000), or both.~~

~~(2) Upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding forty thousand dollars (\$40,000), or both.~~

~~(c) Any person who fails to maintain or permit inspection of records as required by this act or divulges information in violation of this act shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(1) Upon conviction of the first such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or have his license revoked for not exceeding one year, or any of these.~~

~~(2) Upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than ten years, or fined not exceeding thirty thousand dollars (\$30,000), or have his license revoked for not more than five years, or any of these.~~

~~(d) Any person, not authorized by law to do so, who acquires, receives, possesses, stores, sells or distributes any controlled paraphernalia shall be guilty of a felony and shall, on conviction thereof, be sentenced to imprisonment for not more than three years or a fine of not more than five thousand dollars (\$5,000), or both.~~

~~(e) It shall be unlawful for any person to obtain or attempt to obtain a controlled dangerous substance or controlled drug by:~~

~~(1) Misrepresentation, deception, or subterfuge, (i) from any person that he believes uses such a substance or drug in research, teaching, or chemical analysis, and who in fact is authorized by law to administer, dispense, or distribute such a~~



1 ~~substance or drug; or (ii) from any person that he believes is~~  
2 ~~lawfully entitled to possess and distribute a controlled~~  
3 ~~dangerous substance or controlled drug, and who in fact is~~  
4 ~~authorized by law to administer, dispense, or distribute such a~~  
5 ~~substance or drug;~~

6 ~~(2) Use of a prescription that has been forged, or that has~~  
7 ~~been altered by someone other than the prescribing practitioner;~~  
8 ~~or~~

9 ~~(3) Use of a false name or address on a prescription.~~

10 ~~Any person who obtained a controlled drug or controlled~~  
11 ~~dangerous substance by any means of fraud or deceit as herein~~  
12 ~~set forth shall be guilty of a misdemeanor and shall, upon~~  
13 ~~conviction thereof, be punished as follows:~~

14 ~~(1) Upon conviction of the first such offense, he shall be~~  
15 ~~sentenced to imprisonment for not more than one year, or fined~~  
16 ~~not exceeding five thousand dollars (\$5,000), or both.~~

17 ~~(2) Upon conviction of the second and subsequent such~~  
18 ~~offense, he shall be sentenced to imprisonment for not more than~~  
19 ~~two years, or fined not exceeding ten thousand dollars~~  
20 ~~(\$10,000), or both.~~

21 ~~(3) Any person who is a drug dependent person and who~~  
22 ~~violates this provision to satisfy his drug dependence, and who~~  
23 ~~is not charged with a trafficking offense involving distribution~~  
24 ~~of a controlled drug or controlled dangerous substance at~~  
25 ~~wholesale or distribution at retail of any controlled drug or~~  
26 ~~dangerous substance as part of an organized professional system,~~  
27 ~~shall be handled only pursuant to the provisions relating to~~  
28 ~~care, treatment and civil commitment.~~

29 ~~(f) It shall be unlawful for any person who is not~~  
30 ~~registered or licensed as required by law to possess a~~

~~controlled drug or controlled dangerous substance with intent to distribute it or to distribute a controlled drug or controlled dangerous substance in violation of this act and shall, upon conviction thereof, be punished as follows:~~

~~(1) Trafficking in the First Degree. A person who in violation of this act possesses a controlled drug or controlled dangerous substance except marihuana with intent to distribute it or who in violation of this act distributes a controlled drug or controlled dangerous substance except marihuana at wholesale to another distributor shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(i) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is a narcotic drug, such person shall be sentenced to imprisonment for not more than twenty years and fined without limitation an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than life, and fined without limitation an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity;~~

~~(ii) upon conviction of the first such offense involving a controlled drug or dangerous substance classified in Schedule I or II which is not a narcotic drug or any controlled drug or controlled dangerous substance classified in Schedule III, such person shall be sentenced to imprisonment for not more than five years, or fined not exceeding fifteen thousand dollars (\$15,000), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment~~

~~for not more than ten years, or fined not exceeding thirty thousand dollars (\$30,000), or both:~~

~~(iii) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule IV, such person shall be sentenced to imprisonment for not more than three years, or fined not exceeding ten thousand dollars (\$10,000), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment of not more than six years, or fined not exceeding twenty thousand dollars (\$20,000), or both:~~

~~(iv) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule V, such person shall be sentenced to imprisonment of not more than one year, or fined not exceeding five thousand dollars (\$5,000), or both and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or both.~~

~~(2) Trafficking in the Second Degree. A person who in violation of this act possesses a controlled drug or controlled dangerous substance except marihuana with intent to distribute it to an ultimate user thereof in violation of this act, or who in violation of this act distributes a controlled drug or controlled dangerous substance except marihuana to an ultimate user thereof, shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(i) upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is a narcotic drug, such person shall be sentenced to imprisonment for not more than twenty years, and~~

~~1 fined an amount sufficient to exhaust the assets utilized in and  
2 the profits obtained by the illegal activity, and upon  
3 conviction of the second and subsequent such offense, he shall  
4 be sentenced to imprisonment for not more than forty years, and  
5 fined an amount sufficient to exhaust the assets utilized in and  
6 the profits obtained by the illegal activity;~~

~~7 (ii) upon conviction of the first such offense involving a  
8 controlled drug or controlled dangerous substance classified in  
9 Schedule I or II which is not a narcotic drug or any controlled  
10 drug or controlled dangerous substance classified in Schedule  
11 III, such person shall be sentenced to imprisonment for not more  
12 than five years, or fined not exceeding five thousand dollars  
13 (\$5,000), or both and upon conviction of the second and  
14 subsequent such offense, he shall be sentenced to imprisonment  
15 for not more than ten years, or fined not exceeding ten thousand  
16 dollars (\$10,000), or both;~~

~~17 (iii) upon conviction of the first such offense involving a  
18 controlled drug or controlled dangerous substance classified in  
19 Schedule IV, such person shall be sentenced to imprisonment for  
20 not more than three years, or fined not exceeding three thousand  
21 dollars (\$3,000), or both and upon conviction of the second and  
22 subsequent such offense, he shall be sentenced to imprisonment  
23 for not more than six years, or fined not exceeding six thousand  
24 dollars (\$6,000), or both;~~

~~25 (iv) upon conviction of the first such offense involving a  
26 controlled drug or controlled dangerous substance classified in  
27 Schedule V, such person shall be sentenced to imprisonment for  
28 not more than one year, or fined not exceeding two thousand  
29 dollars (\$2,000), or both, and upon conviction of the second and  
30 subsequent such offense, he shall be sentenced to imprisonment~~

~~for not more than two years, or fined not exceeding three thousand dollars (\$3,000), or both.~~

~~(3) Trafficking in the Third Degree. A person who in violation of this act possesses marihuana with intent to distribute it, or who in violation of this act distributes marihuana, shall be guilty of a felony, and shall, on conviction thereof, be punished as follows:~~

~~(i) upon conviction of the first such offense, he shall be sentenced to imprisonment for not more than ten years, and fined an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity;~~

~~(ii) upon conviction of the second such offense, he shall be sentenced to imprisonment for not more than twenty years, and fined an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.~~

~~(g) Any person who manufactures or distributes a counterfeit drug or substance or who possesses a counterfeit drug or substance with intent to distribute it, knowing it to be a counterfeit drug or substance, or who manufactures or distributes any device intended to reproduce any identifying name or mark upon any drug or substance or container or labeling so as to render such drug or substance a counterfeit drug, shall be guilty of a felony, and shall, upon conviction thereof, be punished as follows:~~

~~(1) Upon conviction of the first such offense involving a counterfeit substance classified in Schedule I or II which is a narcotic drug, such person shall be sentenced to imprisonment for not more than ten years, and fined without limitation in an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity and upon conviction of~~

1 ~~the second and subsequent such offense, he shall be sentenced to~~  
2 ~~imprisonment for not more than thirty years, and fined without~~  
3 ~~limitation an amount sufficient to exhaust the assets utilized~~  
4 ~~in and the profits obtained by the illegal activity.~~

5 ~~(2) Upon conviction of the first such offense involving a~~  
6 ~~counterfeit substance classified in Schedule I or II which is~~  
7 ~~not a narcotic drug or any counterfeit substance classified in~~  
8 ~~Schedule III, shall be sentenced to imprisonment for not more~~  
9 ~~than five years, or fined not exceeding ten thousand dollars~~  
10 ~~(\$10,000), or both and upon the second and subsequent such~~  
11 ~~offense, he shall be sentenced to imprisonment for not more than~~  
12 ~~ten years, or fined not exceeding twenty thousand dollars~~  
13 ~~(\$20,000), or both.~~

14 ~~(3) Upon conviction of the first such offense involving a~~  
15 ~~counterfeit substance classified in Schedule IV, such person~~  
16 ~~shall be sentenced to imprisonment for not more than three~~  
17 ~~years, or fined not exceeding seven thousand five hundred~~  
18 ~~dollars (\$7,500), or both and upon conviction of the second and~~  
19 ~~subsequent such offense, he shall be sentenced to imprisonment~~  
20 ~~for not more than six years, or fined not exceeding fifteen~~  
21 ~~thousand dollars (\$15,000), or both.~~

22 ~~(4) Upon conviction of the first such offense involving a~~  
23 ~~counterfeit substance classified in Schedule V, such person~~  
24 ~~shall be sentenced to imprisonment for not more than one year,~~  
25 ~~or fined not exceeding five thousand dollars (\$5,000), or both~~  
26 ~~and upon conviction of the second and subsequent such offense,~~  
27 ~~he shall be sentenced to imprisonment for not more than two~~  
28 ~~years, or fined not exceeding ten thousand dollars (\$10,000), or~~  
29 ~~both.~~

30 ~~(h) Any person who acquires a controlled drug or controlled~~

1 ~~dangerous substance in violation of this act with intent to~~  
2 ~~distribute, administer, or dispense it in accordance with this~~  
3 ~~act, or who acquires a controlled drug or controlled dangerous~~  
4 ~~substance in violation of this act and distributes, administers,~~  
5 ~~or dispenses it in accordance with this act, shall be guilty of~~  
6 ~~a felony, and shall, on conviction thereof, be punished only as~~  
7 ~~follows:~~

8 ~~(1) Upon conviction of the first such offense involving a~~  
9 ~~controlled drug or controlled dangerous substance classified in~~  
10 ~~Schedule I or II which is a narcotic drug, such person shall be~~  
11 ~~sentenced to imprisonment for not more than four years, or fined~~  
12 ~~not exceeding twenty thousand dollars (\$20,000), or have his~~  
13 ~~license suspended for not exceeding six months, or any of these~~  
14 ~~and upon conviction of the second and subsequent such offense,~~  
15 ~~he shall be sentenced to imprisonment for not more than ten~~  
16 ~~years, or fined not exceeding fifty thousand dollars (\$50,000),~~  
17 ~~or have his license suspended or revoked, or any of these.~~

18 ~~(2) Upon conviction of the first such offense involving a~~  
19 ~~controlled drug or controlled dangerous substance classified in~~  
20 ~~Schedule I or II which is not a narcotic drug and any controlled~~  
21 ~~drug or controlled dangerous substance classified in Schedule~~  
22 ~~III, such person shall be sentenced to imprisonment for not more~~  
23 ~~than three years, or fined not exceeding fifteen thousand~~  
24 ~~dollars (\$15,000), or have his license suspended for not~~  
25 ~~exceeding four months, or any of these and upon conviction of~~  
26 ~~the second and subsequent such offense, he shall be sentenced to~~  
27 ~~imprisonment for not more than eight years, or fined not~~  
28 ~~exceeding thirty thousand dollars (\$30,000), or have his license~~  
29 ~~suspended or revoked, or any of these.~~

30 ~~(3) Upon conviction of the first such offense involving a~~

~~controlled drug or controlled dangerous substance classified in Schedule IV, such person shall be sentenced to imprisonment for not more than two years, or fined not exceeding ten thousand dollars (\$10,000), or have his license suspended for not exceeding three months, or any of these and upon conviction of the second and subsequent such offense, he shall be sentenced to imprisonment for not more than six years, or fined not exceeding twenty thousand dollars (\$20,000), or have his license suspended or revoked, or any of these.~~

~~(4) Upon conviction of the first such offense involving a controlled drug or controlled dangerous substance classified in Schedule V, such person shall be sentenced to imprisonment for not more than one year, or fined not exceeding five thousand dollars (\$5,000), or have his license suspended for not exceeding two months, or any of these and upon conviction of the second and subsequent offense, he shall be sentenced to imprisonment for not more than four years, or fined not exceeding ten thousand dollars (\$10,000), or have his license suspended or revoked, or any of these.~~

~~(i) Any person who prescribes, administers, dispenses, or investigates a controlled drug or controlled dangerous substance in violation of this act shall be guilty of a misdemeanor for the first and second offense and shall be guilty of a felony for the third and subsequent offense and shall, on conviction thereof, be punished as follows:~~

~~(1) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is a narcotic drug, such person shall be sentenced to imprisonment for not more than one year, or fined not more than five thousand dollars (\$5,000), or~~



~~have his license suspended for not exceeding three months, or any of these and upon conviction of the third and subsequent such offense he shall be sentenced to imprisonment for not more than ten years, or fined not exceeding thirty thousand dollars (\$30,000), or have his license suspended or revoked, or any of these.~~

~~(2) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance classified in Schedule I or II which is not a narcotic drug, and any controlled drug or controlled dangerous substance classified in Schedule III, such person shall be sentenced to imprisonment for not more than six months, or fined not more than three thousand dollars (\$3,000), or have his license suspended for not exceeding two months, or any of these and upon conviction of the third and subsequent such offense he shall be sentenced to imprisonment for not more than eight years, or fined not exceeding eighteen thousand dollars (\$18,000), or have his license suspended or revoked, or any of these.~~

~~(3) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance classified in Schedule IV, such person shall be sentenced to imprisonment for not more than three months, or fined not exceeding two thousand dollars (\$2,000), or have his license suspended for not exceeding one month, or any of these and upon conviction of the third and subsequent such offense he shall be sentenced to imprisonment for not more than six years, or fined not exceeding twelve thousand dollars (\$12,000), or have his license suspended or revoked, or any of these.~~

~~(4) Upon conviction of the first and second such offense involving a controlled drug or controlled dangerous substance~~

1 ~~classified in Schedule V, such person shall be sentenced to~~  
2 ~~imprisonment for not more than two months, or fined not~~  
3 ~~exceeding one thousand dollars (\$1,000), or have his license~~  
4 ~~suspended for not exceeding one month, or any of these and upon~~  
5 ~~conviction of the third and subsequent such offense he shall be~~  
6 ~~sentenced to imprisonment for not more than four years, or fined~~  
7 ~~not exceeding six thousand dollars (\$6,000), or have his license~~  
8 ~~suspended or revoked, or any of these.~~

9 ~~(j) Any person who has possession illegally of any~~  
10 ~~controlled drug or controlled dangerous substance for personal~~  
11 ~~use or distribution not for remuneration shall be guilty of a~~  
12 ~~misdemeanor, and shall, on conviction thereof, be punished only~~  
13 ~~as follows:~~

14 ~~(1) Possession in the First Degree. Any person who in~~  
15 ~~violation of this act possesses a controlled drug or controlled~~  
16 ~~dangerous substance except marihuana for personal use, or who in~~  
17 ~~violation of this act possesses a controlled drug or controlled~~  
18 ~~dangerous substance except marihuana with intent to distribute~~  
19 ~~it but not for remuneration or for the purpose of making another~~  
20 ~~dependent upon the drug or substance, or who in violation of~~  
21 ~~this act distributes a controlled drug or controlled dangerous~~  
22 ~~substance except marihuana but not for remuneration or for the~~  
23 ~~purpose of making another dependent upon the drug or substance,~~  
24 ~~shall be admonished by the court about the seriousness of the~~  
25 ~~violation, or required to complete a course on drug abuse~~  
26 ~~prescribed by the council, or imprisoned not exceeding two~~  
27 ~~years, or fined not exceeding ten thousand dollars (\$10,000), or~~  
28 ~~any of these.~~

29 ~~(2) Possession in the Second Degree. Any person who in~~  
30 ~~violation of this act possesses marihuana for personal use, or~~

~~1 who in violation of this act possesses marihuana with intent to~~  
~~2 distribute it but not for remuneration or for the purpose of~~  
~~3 introducing another to the drug, or who in violation of this act~~  
~~4 distributes marihuana but not for remuneration or for the~~  
~~5 purpose of introducing another to the drug shall be admonished~~  
~~6 by the court about the seriousness of the violation, or required~~  
~~7 to complete a prescribed course on drug abuse, or imprisonment~~  
~~8 not exceeding thirty days, or fined not exceeding five hundred~~  
~~9 dollars (\$500), or any of these.~~

10 SECTION 13. PROHIBITED ACTS; PENALTIES.--(A) THE FOLLOWING <—  
11 ACTS AND THE CAUSING THEREOF WITHIN THE COMMONWEALTH ARE HEREBY  
12 PROHIBITED:

13 (1) THE MANUFACTURE, SALE OR DELIVERY, HOLDING, OFFERING FOR  
14 SALE, OR POSSESSION OF ANY CONTROLLED SUBSTANCE, OTHER DRUG,  
15 DEVICE OR COSMETIC THAT IS ADULTERATED OR MISBRANDED.

16 (2) THE ADULTERATION OR MISBRANDING OF ANY CONTROLLED  
17 SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC.

18 (3) THE DISSEMINATION OR PUBLICATION OF ANY FALSE OR  
19 MATERIALLY MISLEADING ADVERTISEMENT.

20 (4) THE REMOVAL OR DISPOSAL OF A DETAINED OR EMBARGOED  
21 SUBSTANCE OR ARTICLE, WHETHER OR NOT SUCH SUBSTANCE OR ARTICLE  
22 IS IN FACT ADULTERATED OR MISBRANDED.

23 (5) THE ADULTERATION, MUTILATION, DESTRUCTION, OBLITERATION  
24 OR REMOVAL OF THE WHOLE OR ANY PART OF THE LABELING OF, OR THE  
25 DOING OF ANY OTHER ACT WITH RESPECT TO A CONTROLLED SUBSTANCE,  
26 OTHER DRUG, DEVICE OR COSMETIC, IF SUCH ACT IS DONE WHILE SUCH  
27 SUBSTANCE OR ARTICLE IS HELD FOR SALE AND RESULTS IN SUCH  
28 SUBSTANCE OR ARTICLE BEING ADULTERATED OR MISBRANDED.

29 (6) FORGING, COUNTERFEITING, SIMULATING OR FALSELY  
30 REPRESENTING, OR WITHOUT PROPER AUTHORITY USING ANY MARK, STAMP,

1 TAG, LABEL OR OTHER IDENTIFICATION SYMBOL AUTHORIZED OR REQUIRED  
2 BY REGULATION PROMULGATED UNDER THE PROVISIONS OF THIS ACT.

3 (7) PLACING OR CAUSING TO BE PLACED UPON ANY CONTROLLED  
4 SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC, OR UPON THE CONTAINER  
5 OF ANY CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR COSMETIC,  
6 WITH INTENT TO DEFRAUD, THE TRADEMARK, TRADE NAME OR OTHER  
7 IDENTIFYING MARK, IMPRINT OR SYMBOL OF ANOTHER, OR ANY LIKENESS  
8 OF ANY OF THE FOREGOING.

9 (8) SELLING, DISPENSING, DISPOSING OF OR CAUSING TO BE SOLD,  
10 DISPENSED OR DISPOSED OF, OR KEEPING IN POSSESSION, CONTROL OR  
11 CUSTODY, OR CONCEALING ANY CONTROLLED SUBSTANCE, OTHER DRUG,  
12 DEVICE OR COSMETIC OR ANY CONTAINER OF ANY DRUG, DEVICE OR  
13 COSMETIC WITH KNOWLEDGE THAT THE TRADEMARK, TRADE NAME OR OTHER  
14 IDENTIFYING MARK, IMPRINT OR SYMBOL OF ANOTHER, OR ANY LIKENESS  
15 OF ANY OF THE FOREGOING, HAS BEEN PLACED THEREON IN A MANNER  
16 PROHIBITED BY CLAUSE (7) HEREOF.

17 (9) MAKING, SELLING, DISPOSING OF OR CAUSING TO BE MADE,  
18 SOLD, OR DISPOSED OF, OR KEEPING IN POSSESSION, CONTROL OR  
19 CUSTODY, OR CONCEALING WITH INTENT TO DEFRAUD, ANY PUNCH, DIE,  
20 PLATE, STONE OR OTHER THING DESIGNED TO PRINT, IMPRINT OR  
21 REPRODUCE THE TRADEMARK, TRADE NAME OR OTHER IDENTIFYING MARK,  
22 IMPRINT OR SYMBOL OF ANOTHER OR ANY LIKENESS OF ANY OF THE  
23 FOREGOING UPON ANY CONTROLLED SUBSTANCE, OTHER DRUG, DEVICE OR  
24 COSMETIC OR CONTAINER THEREOF.

25 (10) THE SALE AT RETAIL OF A NONPROPRIETARY DRUG EXCEPT BY A  
26 REGISTERED PHARMACIST IN A LICENSED PHARMACY OR BY A  
27 PRACTITIONER.

28 (11) THE OPERATION OF A DRUG MANUFACTURING, DISTRIBUTING OR  
29 RETAILING ESTABLISHMENT, EXCEPT BY REGISTERED PHARMACISTS IN A  
30 LICENSED PHARMACY, WITHOUT CONFORMING WITH SUCH STANDARDS

1 RESPECTING SANITATION, PERSONNEL, MATERIALS, EQUIPMENT AND  
2 SUPPLIES AS THE SECRETARY, AFTER CONSULTATION WITH THE BOARD,  
3 MAY ESTABLISH BY REGULATION FOR THE PROTECTION OF THE PUBLIC  
4 HEALTH AND SAFETY.

5 (12) THE ACQUISITION OR OBTAINING OF POSSESSION OF A  
6 CONTROLLED SUBSTANCE BY MISREPRESENTATION, FRAUD, FORGERY,  
7 DECEPTION OR SUBTERFUGE.

8 (13) THE SALE, DISPENSING, DISTRIBUTION, PRESCRIPTION OR  
9 GIFT BY ANY PRACTITIONER OTHERWISE AUTHORIZED BY LAW SO TO DO OF  
10 ANY CONTROLLED SUBSTANCE TO ANY PERSON KNOWN TO SUCH  
11 PRACTITIONER TO BE OR WHOM SUCH PRACTITIONER HAS REASON TO KNOW  
12 IS A DRUG DEPENDENT PERSON, UNLESS SAID DRUG IS PRESCRIBED,  
13 ADMINISTERED, DISPENSED OR GIVEN, FOR THE CURE OR TREATMENT OF  
14 SOME MALADY OTHER THAN DRUG DEPENDENCY, EXCEPT THAT A CONTROLLED  
15 SUBSTANCE, INCLUDING BUT NOT LIMITED TO, METHADONE MAY BE  
16 PERMITTED FOR THE TREATMENT OF DRUG DEPENDENCY PURSUANT TO  
17 REGULATIONS OF THE SECRETARY PROVIDING FOR SUCH USE. THIS CLAUSE  
18 SHALL NOT PROHIBIT ANY PRACTITIONER FROM PRESCRIBING,  
19 DISTRIBUTING OR DISPENSING ANY CONTROLLED SUBSTANCE ON A SHORT  
20 TERM BASIS PENDING CONFIRMED ADMISSION OF THE PATIENT TO A  
21 HOSPITAL OR REHABILITATION CENTER.

22 (14) THE ADMINISTRATION, DISPENSING, DELIVERY, GIFT OR  
23 PRESCRIPTION BY ANY PRACTITIONER OTHERWISE AUTHORIZED BY LAW SO  
24 TO DO OF ANY CONTROLLED SUBSTANCE EXCEPT AFTER A PHYSICAL OR  
25 VISUAL EXAMINATION OF THE PERSON OR ANIMAL FOR WHOM SAID DRUGS  
26 ARE INTENDED, SAID EXAMINATION TO BE MADE AT THE TIME SAID  
27 PRESCRIPTION ORDER IS ISSUED OR AT THE TIME SAID DRUG IS  
28 ADMINISTERED, DISPENSED, GIVEN AWAY OR DELIVERED BY SAID  
29 PRACTITIONER, OR EXCEPT WHERE THE PRACTITIONER IS SATISFIED BY  
30 EVIDENCE THAT THE PERSON IS NOT A DRUG DEPENDENT PERSON.

1       (15) THE SALE AT RETAIL OR DISPENSING OF ANY CONTROLLED  
2 SUBSTANCE LISTED IN SCHEDULES II, III AND IV TO ANY PERSON,  
3 EXCEPT TO ONE AUTHORIZED BY LAW TO SELL, DISPENSE, PRESCRIBE OR  
4 POSSESS SUCH SUBSTANCES, UNLESS UPON THE WRITTEN OR ORAL  
5 PRESCRIPTION OF A PERSON LICENSED BY LAW TO PRESCRIBE SUCH DRUG  
6 AND UNLESS COMPOUNDED OR DISPENSED BY A REGISTERED PHARMACIST OR  
7 PHARMACY INTERN UNDER THE IMMEDIATE PERSONAL SUPERVISION OF A  
8 REGISTERED PHARMACIST, OR THE REFILLING OF A WRITTEN OR ORAL  
9 PRESCRIPTION ORDER FOR A DRUG, UNLESS SUCH REFILLING IS  
10 AUTHORIZED BY THE PRESCRIBER EITHER IN THE ORIGINAL WRITTEN  
11 PRESCRIPTION ORDER OR BY WRITTEN CONFIRMATION OF THE ORIGINAL  
12 ORAL PRESCRIPTION ORDER. THE PROVISIONS OF THIS SUBSECTION SHALL  
13 NOT APPLY TO A PRACTITIONER LICENSED TO PRESCRIBE OR DISPENSE  
14 SUCH DRUGS, WHO KEEPS A RECORD OF THE AMOUNT OF SUCH DRUGS  
15 PURCHASED AND A DISPENSING RECORD SHOWING THE DATE, NAME, AND  
16 QUANTITY OF THE DRUG DISPENSED AND THE NAME AND ADDRESS OF THE  
17 PATIENT, AS REQUIRED BY THIS ACT.

18       (16) KNOWINGLY OR INTENTIONALLY POSSESSING A CONTROLLED  
19 SUBSTANCE BY A PERSON NOT REGISTERED UNDER THIS ACT, OR A       <—  
20 PRACTITIONER NOT REGISTERED OR LICENSED BY THE APPROPRIATE STATE  
21 BOARD, UNLESS THE SUBSTANCE WAS OBTAINED DIRECTLY FROM, OR  
22 PURSUANT TO, A VALID PRESCRIPTION ORDER OR ORDER OF A  
23 PRACTITIONER, OR EXCEPT AS OTHERWISE AUTHORIZED BY THIS ACT.

24       (17) THE WILFUL DISPENSING OF A CONTROLLED SUBSTANCE BY A  
25 PRACTITIONER OTHERWISE AUTHORIZED BY LAW SO TO DO WITHOUT  
26 AFFIXING TO THE CONTAINER IN WHICH THE DRUG IS SOLD OR DISPENSED  
27 A LABEL BEARING THE NAME AND ADDRESS OF THE PRACTITIONER, THE  
28 DATE DISPENSED, THE NAME OF THE PATIENT AND THE DIRECTIONS FOR  
29 THE USE OF THE DRUG BY THE PATIENT.

30       (18) THE SELLING BY A PHARMACY OR DISTRIBUTOR OF ANY

1 CONTROLLED SUBSTANCE OR OTHER DRUG UNLESS THE CONTAINER BEARS A  
2 LABEL, SECURELY ATTACHED THERETO, STATING THE SPECIFIC NAME OF  
3 THE DRUG AND THE PROPORTION OR AMOUNT THEREOF.

4 (19) THE INTENTIONAL PURCHASE OR KNOWING RECEIPT IN COMMERCE  
5 BY ANY PERSON OF ANY CONTROLLED SUBSTANCE, OTHER DRUG OR DEVICE  
6 FROM ANY PERSON NOT AUTHORIZED BY LAW TO SELL, DISTRIBUTE,  
7 DISPENSE OR OTHERWISE DEAL IN SUCH CONTROLLED SUBSTANCE, OTHER  
8 DRUG OR DEVICE.

9 (20) THE USING BY ANY PERSON TO HIS OWN ADVANTAGE OR  
10 REVEALING OTHER THAN TO THE SECRETARY OR OFFICERS OR EMPLOYES OF  
11 THE DEPARTMENT OR TO THE COUNCIL OR TO THE BOARD OR TO COURTS OR  
12 A HEARING EXAMINER WHEN RELEVANT TO PROCEEDINGS UNDER THIS ACT  
13 ANY INFORMATION ACQUIRED UNDER AUTHORITY OF THIS ACT CONCERNING  
14 ANY METHOD OR PROCESS WHICH AS A TRADE SECRET IS ENTITLED TO  
15 PROTECTION. SUCH INFORMATION OBTAINED UNDER THE AUTHORITY OF  
16 THIS ACT SHALL NOT BE ADMITTED IN EVIDENCE IN ANY PROCEEDING  
17 BEFORE ANY COURT OF THE COMMONWEALTH EXCEPT IN PROCEEDINGS UNDER  
18 THIS ACT.

19 (21) THE REFUSAL OR FAILURE TO MAKE, KEEP OR FURNISH ANY  
20 RECORD, NOTIFICATION, ORDER FORM, STATEMENT, INVOICE OR  
21 INFORMATION REQUIRED UNDER THIS ACT.

22 (22) THE REFUSAL OF ENTRY INTO ANY PREMISES FOR ANY  
23 INSPECTION AUTHORIZED BY THIS ACT.

24 (23) THE UNAUTHORIZED REMOVING, BREAKING, INJURING, OR  
25 DEFACING A SEAL PLACED UPON EMBARGOED SUBSTANCES OR THE REMOVAL  
26 OR DISPOSAL OF SUBSTANCES SO PLACED UNDER SEAL.

27 (24) THE FAILURE BY A MANUFACTURER OR DISTRIBUTOR TO  
28 REGISTER OR OBTAIN A LICENSE AS REQUIRED BY THIS ACT.

29 (25) THE MANUFACTURE OF A CONTROLLED SUBSTANCE BY A  
30 REGISTRANT WHO KNOWS OR WHO HAS REASON TO KNOW, THE

1 MANUFACTURING IS NOT AUTHORIZED BY HIS REGISTRATION, OR WHO  
2 KNOWINGLY DISTRIBUTES A CONTROLLED SUBSTANCE NOT AUTHORIZED BY  
3 HIS REGISTRATION TO ANOTHER REGISTRANT OR OTHER AUTHORIZED  
4 PERSON.

5 (26) THE KNOWING DISTRIBUTION BY A REGISTRANT OF A  
6 CONTROLLED SUBSTANCE CLASSIFIED IN SCHEDULES I OR II, EXCEPT  
7 PURSUANT TO AN ORDER FORM AS REQUIRED BY THIS ACT.

8 (27) THE USE IN THE COURSE OF THE MANUFACTURE OR  
9 DISTRIBUTION OF A CONTROLLED SUBSTANCE OF A REGISTRATION NUMBER  
10 WHICH IS FICTITIOUS, REVOKED, SUSPENDED, OR ISSUED TO ANOTHER  
11 PERSON.

12 (28) THE FURNISHING OF FALSE OR FRAUDULENT MATERIAL  
13 INFORMATION IN, OR OMISSION OF ANY MATERIAL INFORMATION FROM ANY  
14 APPLICATION, REPORT, OR OTHER DOCUMENT REQUIRED TO BE KEPT OR  
15 FILED UNDER THIS ACT, OR ANY RECORD REQUIRED TO BE KEPT BY THIS  
16 ACT.

17 (29) THE INTENTIONAL MAKING, DISTRIBUTING, OR POSSESSING OF  
18 ANY PUNCH, DIE, PLATE, STONE, OR OTHER THING DESIGNED TO PRINT,  
19 IMPRINT, OR REPRODUCE THE TRADEMARK, TRADE NAME, OR OTHER  
20 IDENTIFYING MARK, IMPRINT, OR SYMBOL OF ANOTHER OR ANY LIKENESS  
21 OF ANY OF THE FOREGOING UPON ANY DRUG OR CONTAINER OR LABELING  
22 THEREOF SO AS TO RENDER THE DRUG A COUNTERFEIT SUBSTANCE.

23 (30) EXCEPT AS AUTHORIZED BY THIS ACT, THE MANUFACTURE,  
24 DELIVERY, OR POSSESSION WITH INTENT TO MANUFACTURE OR DELIVER, A  
25 CONTROLLED SUBSTANCE BY A PERSON NOT REGISTERED UNDER THIS ACT, <—  
26 OR A PRACTITIONER NOT REGISTERED OR LICENSED BY THE APPROPRIATE  
27 STATE BOARD, OR KNOWINGLY CREATING, DELIVERING OR POSSESSING  
28 WITH INTENT TO DELIVER, A COUNTERFEIT CONTROLLED SUBSTANCE.

29 (31) NOTWITHSTANDING OTHER SUBSECTIONS OF THIS SECTION, (I)  
30 THE POSSESSION OF A SMALL AMOUNT OF MARIHUANA ONLY FOR PERSONAL



1 USE; (II) THE POSSESSION OF A SMALL AMOUNT OF MARIHUANA WITH THE  
2 INTENT TO DISTRIBUTE IT BUT NOT TO SELL IT; OR (III) THE  
3 DISTRIBUTION OF A SMALL AMOUNT OF MARIHUANA BUT NOT ~~TO SELL IT.~~ <—  
4 FOR SALE.

5 FOR PURPOSES OF THIS SUBSECTION, THIRTY (30) GRAMS ~~OR LESS~~ OF <—  
6 MARIHUANA OR EIGHT (8) GRAMS OF HASHISH SHALL BE CONSIDERED A  
7 SMALL AMOUNT OF MARIHUANA.

8 (B) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF CLAUSES  
9 (1) THROUGH (20) OF SUBSECTION (A) SHALL BE GUILTY OF A  
10 MISDEMEANOR, AND EXCEPT FOR CLAUSES (4), (6), (7), (8), (9) AND  
11 (19) SHALL, ON CONVICTION THEREOF, BE SENTENCED TO IMPRISONMENT  
12 NOT EXCEEDING ONE YEAR OR TO PAY A FINE NOT EXCEEDING FIVE  
13 THOUSAND DOLLARS (\$5,000), OR BOTH AND FOR CLAUSES (4), (6),  
14 (7), (8), (9) AND (19) SHALL, ON CONVICTION THEREOF, BE  
15 SENTENCED TO IMPRISONMENT NOT EXCEEDING THREE YEARS OR TO PAY A  
16 FINE NOT EXCEEDING FIVE THOUSAND DOLLARS (\$5,000), OR BOTH; BUT,  
17 IF THE VIOLATION IS COMMITTED AFTER A PRIOR CONVICTION OF SUCH  
18 PERSON FOR A VIOLATION OF THIS ACT UNDER THIS SECTION HAS BECOME  
19 FINAL, SUCH PERSON SHALL BE SENTENCED TO IMPRISONMENT NOT  
20 EXCEEDING THREE YEARS OR TO PAY A FINE NOT EXCEEDING TWENTY-FIVE  
21 THOUSAND DOLLARS (\$25,000), OR BOTH.

22 (C) ANY PERSON WHO VIOLATES THE PROVISIONS OF ~~CLAUSE~~ CLAUSES <—  
23 (21), (22) AND (24) OF SUBSECTION (A) SHALL BE GUILTY OF A  
24 MISDEMEANOR, AND SHALL, ON CONVICTION THEREOF, BE PUNISHED ONLY  
25 AS FOLLOWS:

26 (1) UPON CONVICTION OF THE FIRST SUCH OFFENSE, HE SHALL BE  
27 SENTENCED TO IMPRISONMENT NOT EXCEEDING SIX MONTHS, OR TO PAY A  
28 FINE NOT EXCEEDING TEN THOUSAND DOLLARS (\$10,000), OR BOTH.

29 (2) UPON CONVICTION OF THE SECOND AND SUBSEQUENT OFFENSE, HE  
30 SHALL BE SENTENCED TO IMPRISONMENT NOT EXCEEDING TWO YEARS, OR

1 TO PAY A FINE NOT EXCEEDING TWENTY-FIVE THOUSAND DOLLARS  
2 (\$25,000), OR BOTH.

3 (D) ANY PERSON WHO KNOWINGLY OR INTENTIONALLY VIOLATES ~~ANY~~ <—  
4 ~~OF CLAUSES (21) THROUGH~~ CLAUSE (23) OF SUBSECTION (A) IS GUILTY  
5 OF A MISDEMEANOR AND UPON CONVICTION THEREOF SHALL BE SENTENCED  
6 TO IMPRISONMENT NOT EXCEEDING ~~ONE YEAR~~ THREE YEARS, OR TO PAY A <—  
7 FINE NOT EXCEEDING FIFTEEN THOUSAND DOLLARS (\$15,000), OR BOTH.

8 (E) ANY PERSON WHO VIOLATES CLAUSES (25) THROUGH (29) OF  
9 SUBSECTION (A) IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION  
10 SHALL BE SENTENCED TO IMPRISONMENT NOT EXCEEDING THREE YEARS, OR  
11 TO PAY A FINE NOT EXCEEDING TWENTY-FIVE THOUSAND DOLLARS  
12 (\$25,000), OR BOTH.

13 (F) ANY PERSON WHO VIOLATES CLAUSE (30) OF SUBSECTION (A)  
14 WITH RESPECT TO:

15 (1) A CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
16 CLASSIFIED IN SCHEDULE I OR II WHICH IS A NARCOTIC DRUG, IS  
17 GUILTY OF A FELONY AND UPON CONVICTION THEREOF SHALL BE  
18 SENTENCED TO IMPRISONMENT NOT EXCEEDING FIFTEEN YEARS, OR TO PAY  
19 A FINE NOT EXCEEDING TWO HUNDRED FIFTY THOUSAND DOLLARS  
20 (\$250,000), OR BOTH.

21 (2) ANY OTHER CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
22 CLASSIFIED IN SCHEDULE I, II, OR III, IS GUILTY OF A FELONY AND  
23 UPON CONVICTION THEREOF SHALL BE SENTENCED TO IMPRISONMENT NOT  
24 EXCEEDING FIVE YEARS, OR TO PAY A FINE NOT EXCEEDING FIFTEEN  
25 THOUSAND DOLLARS (\$15,000), OR BOTH.

26 (3) A CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
27 CLASSIFIED IN SCHEDULE IV, IS GUILTY OF A FELONY AND UPON  
28 CONVICTION THEREOF SHALL BE SENTENCED TO IMPRISONMENT NOT  
29 EXCEEDING THREE YEARS, OR TO PAY A FINE NOT EXCEEDING TEN  
30 THOUSAND DOLLARS (\$10,000), OR BOTH.

1 (4) A CONTROLLED SUBSTANCE OR COUNTERFEIT SUBSTANCE  
2 CLASSIFIED IN SCHEDULE V, IS GUILTY OF A MISDEMEANOR AND UPON  
3 CONVICTION THEREOF SHALL BE SENTENCED TO IMPRISONMENT NOT  
4 EXCEEDING ONE YEAR, OR TO PAY A FINE NOT EXCEEDING FIVE THOUSAND  
5 DOLLARS (\$5,000), OR BOTH.

6 (G) ANY PERSON WHO VIOLATES CLAUSE (31) OF SUBSECTION (A) IS  
7 GUILTY OF A MISDEMEANOR AND UPON CONVICTION THEREOF SHALL BE  
8 SENTENCED TO IMPRISONMENT NOT EXCEEDING THIRTY DAYS, OR TO PAY A  
9 FINE NOT EXCEEDING FIVE HUNDRED DOLLARS (\$500), OR BOTH.

10 ~~Section 15. Additional Penalties. Any~~ (H) ANY penalty <—  
11 imposed for violation of this act shall be in addition to, and  
12 not in lieu of, any civil or administrative penalty or sanction  
13 authorized by law.

14 ~~Section 16.~~ 14. Distribution to Persons Under Age <—  
15 Eighteen.--Any person who is at least ~~eighteen~~ TWENTY-ONE years <—  
16 of age who violates this act by distributing a controlled  
17 ~~dangerous~~ substance listed in Schedules I ~~or II which is a~~ <—  
18 ~~narcotic drug~~ THROUGH V to a person under eighteen years of age <—  
19 who is at least ~~three~~ FIVE years his junior is punishable by a <—  
20 term of imprisonment up to twice that otherwise authorized by  
21 subsection ~~(f)~~ (B) (F) of section ~~14~~ 13 of this act, in addition <—  
22 to any fine authorized by this act. ~~Any person who is at least~~ <—  
23 ~~eighteen years of age who violates this act by distributing any~~  
24 ~~other controlled drug or controlled dangerous substance listed~~  
25 ~~in Schedules I, II, III, IV and V to a person under eighteen~~  
26 ~~years of age who is at least three years his junior is~~  
27 ~~punishable by a term of imprisonment up to twice that authorized~~  
28 ~~by subsection (f) of section 14 of this act, in addition to any~~  
29 ~~fine authorized by this act. Imposition or execution of such~~  
30 ~~sentence shall not be suspended and probation shall not be~~

1 ~~granted.~~

2 SECTION 15. SECOND OR SUBSEQUENT OFFENSE.--(A) ANY PERSON <—  
3 CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE UNDER CLAUSE (30) OF  
4 SUBSECTION (A) OF SECTION 13 OF THIS ACT OR OF A SIMILAR OFFENSE  
5 UNDER ANY STATUTE OF THE UNITED STATES OR OF ANY STATE PRIOR TO  
6 THE COMMISSION OF THE SECOND OFFENSE MAY BE IMPRISONED FOR A  
7 TERM UP TO TWICE THE TERM OTHERWISE AUTHORIZED, FINED AN AMOUNT  
8 UP TO TWICE THAT OTHERWISE AUTHORIZED, OR BOTH.

9 (B) FOR PURPOSES OF THIS SECTION, AN OFFENSE IS CONSIDERED A  
10 SECOND OR SUBSEQUENT OFFENSE, IF, PRIOR TO THE COMMISSION OF THE  
11 SECOND OFFENSE, THE OFFENDER HAS AT ANY TIME BEEN CONVICTED  
12 UNDER THIS ACT OR UNDER ANY STATUTE OF THE UNITED STATES OR OF  
13 ANY STATE RELATING TO CONTROLLED SUBSTANCES.

14 Section ~~17.~~ 16. Enforcement Provisions.--The following <—  
15 guidelines shall be applicable in the enforcement of any  
16 penalties imposed by this act:

17 (1) No publisher, radio broadcast licensee, or agency or  
18 medium for the dissemination of an advertisement, except the  
19 manufacturer, distributor or seller of the article to which a  
20 false advertisement relates, shall be liable under section ~~14~~ 12 <—  
21 of this act by reason of the dissemination by him of such false  
22 advertisement unless he has refused on the request of the  
23 secretary to furnish the secretary with the name and post office  
24 address of the manufacturer, distributor, seller or advertising  
25 agency who causes him to disseminate such advertisement or  
26 unless he publishes such advertisement knowing or having good  
27 cause to know that it is false or otherwise in violation of the  
28 law.

29 (2) For purposes of this section, any ~~adjudication of~~ <—  
30 ~~violation or~~ conviction under any Federal or State law ~~or of any~~ <—

1 ~~ordinance of any political subdivision~~ relating to any  
2 controlled ~~drug or substance~~ SUBSTANCE OR OTHER DRUG, other than <—  
3 a juvenile violation, shall constitute a prior offense if it  
4 related to the type of conduct against which a subsequent  
5 offense is directed.

6 (3) Any penalty relating to license OR REGISTRATION <—  
7 suspension or revocation shall be executed by the appropriate  
8 licensing OR REGISTRATION agency upon receipt of a court order <—  
9 setting forth the penalty.

10 ~~(4) No person shall be convicted of an offense under section~~ <—  
11 ~~14 of this act unless he knew with respect to each element of~~  
12 ~~the offense that he was engaged in the act or omission~~  
13 ~~prescribed, but knowledge that the act or omission constituted a~~  
14 ~~civil or criminal offense shall not be required for conviction.~~

15 ~~(5) Imprisonment may be imposed for failure to pay all or~~  
16 ~~any part of a fine imposed under this section only when the~~  
17 ~~offender does not show that such failure is caused by indigence~~  
18 ~~or a lack of sufficient funds.~~

19 ~~(6) All fines collected under this section shall be utilized~~  
20 ~~for the treatment and rehabilitation services established by~~  
21 ~~law.~~

22 ~~(7)~~ (4) The probation or parole or other conditional release <—  
23 OR DISCHARGE of any ~~drug abuser or drug dependent~~ person <—  
24 convicted of an offense under this act or of any other offense  
25 may be conditioned on the person's agreement to periodic ~~urine~~ <—  
26 ~~analyses.~~ Neither a URINALYSES OR OTHER REASONABLE MEANS OF <—  
27 DETECTION. A relapse into drug abuse one or more times or the  
28 failure to conform to a set schedule for rehabilitation, or  
29 both, ~~shall be sufficient in themselves to~~ SHALL NOT require <—  
30 that his status be revoked or treatment denied.

~~(8) The court without a jury shall hold a full and fair hearing for the purpose of setting the amount of any fine pursuant to this section, during which the district attorney and the defendant may introduce evidence. The defendant shall be permitted to cross examine any adverse witness or rebut any adverse evidence. The amount of any fine set by the court shall be supported by substantial evidence.~~

~~(9)~~ SECTION 17. PROBATION WITHOUT VERDICT.--A person may be entitled to probation without verdict under the following circumstances:

~~(i)~~ (1) A person who has not previously been convicted of an offense relating to a controlled drug or controlled dangerous substance under any law of this Commonwealth, UNDER THIS ACT OR UNDER A SIMILAR ACT OF the United States, or any other state, shall be IS eligible for probation without verdict if he pleads nolo contendere or guilty to, or is found guilty of, any NONVIOLENT offense under this act. The court may, without entering a judgment, and with the consent of such person, defer further proceedings and place him on probation for a specific time period NOT TO EXCEED THE MAXIMUM FOR THE OFFENSE upon such reasonable terms and conditions as it may require. Probation without verdict shall not be available to any such person who is charged with a trafficking offense involving distribution of a controlled drug or controlled dangerous substance at wholesale or distribution at retail of any controlled drug or controlled dangerous substance as part of an organized professional system.

~~(ii)~~ (2) Upon violation of a term or condition of probation, the court may enter a judgment and proceed as in any criminal case, or may continue the probation without verdict.

~~(iii)~~ (3) Upon fulfillment of the terms and conditions of

1 probation, the court shall discharge such person and dismiss the  
2 proceedings against him. Discharge and dismissal shall be  
3 without adjudication of guilt and shall not constitute a  
4 conviction for any purpose whatever, INCLUDING THE PENALTIES <—  
5 IMPOSED FOR SECOND OR SUBSEQUENT CONVICTIONS: Provided, That  
6 probation without verdict shall be available to any person only  
7 once: AND FURTHER PROVIDED, THAT NOTWITHSTANDING ANY OTHER <—  
8 PROVISION OF THIS ACT, THE PROSECUTING ATTORNEY OR THE COURT MAY  
9 KEEP A LIST OF THOSE PERSONS PLACED ON PROBATION WITHOUT  
10 VERDICT, WHICH LIST MAY ONLY BE USED TO DETERMINE THE  
11 ELIGIBILITY OF PERSONS FOR PROBATION WITHOUT VERDICT.

12 SECTION 18. DISPOSITION IN LIEU OF TRIAL.--(A) IF A PERSON  
13 CHARGED WITH A NONVIOLENT CRIME CLAIMS TO BE DRUG DEPENDENT OR A  
14 DRUG ABUSER AND PRIOR TO TRIAL HE REQUESTS APPROPRIATE  
15 TREATMENT, INCLUDING BUT NOT LIMITED TO, ADMISSION OR COMMITMENT  
16 UNDER THE MENTAL HEALTH AND MENTAL RETARDATION ACT OF 1966 IN  
17 LIEU OF CRIMINAL PROSECUTION, A PHYSICIAN EXPERIENCED OR TRAINED  
18 IN THE FIELD OF DRUG DEPENDENCY OR DRUG ABUSE SHALL BE APPOINTED  
19 BY THE COURT TO EXAMINE, IF NECESSARY, AND TO REVIEW THE  
20 ACCUSED'S RECORD AND ADVISE THE GOVERNMENT ATTORNEY, THE ACCUSED  
21 AND THE COURT IN WRITING SETTING FORTH THAT FOR THE TREATMENT  
22 AND REHABILITATION OF THE ACCUSED IT WOULD BE PREFERABLE FOR THE  
23 CRIMINAL CHARGES TO BE HELD IN ABEYANCE OR WITHDRAWN IN ORDER TO  
24 INSTITUTE TREATMENT FOR DRUG DEPENDENCE OR FOR THE CRIMINAL  
25 CHARGES TO BE PROSECUTED. THE GOVERNMENT ATTORNEY SHALL EXERCISE  
26 HIS DISCRETION WHETHER OR NOT TO ACCEPT THE PHYSICIAN'S  
27 RECOMMENDATION.

28 (B) IN THE EVENT THAT HE DOES NOT ACCEPT THE PHYSICIAN'S  
29 RECOMMENDATION HE SHALL STATE IN WRITING AND FURNISH THE  
30 DEFENDANT A COPY OF HIS DECISION AND THE REASONS THEREFOR.

1 (C) IF THE GOVERNMENT ATTORNEY ACCEPTS THE PHYSICIAN'S  
2 ADVICE TO HOLD IN ABEYANCE, HE SHALL ARRANGE FOR A HEARING  
3 BEFORE THE APPROPRIATE COURT TO HOLD IN ABEYANCE THE CRIMINAL  
4 PROSECUTION. THE COURT, UPON ITS APPROVAL, SHALL PROCEED TO MAKE  
5 APPROPRIATE ARRANGEMENTS FOR TREATMENT.

6 (D) THE GOVERNMENT ATTORNEY, UPON HIS OWN APPLICATION, MAY  
7 INSTITUTE PROCEEDINGS FOR APPROPRIATE TREATMENT, INCLUDING BUT  
8 NOT LIMITED TO, COMMITMENT PURSUANT TO THE MENTAL HEALTH AND  
9 MENTAL RETARDATION ACT OF 1966.

10 (E) A CRIMINAL CHARGE MAY BE HELD IN ABEYANCE PURSUANT TO  
11 THIS SECTION FOR NO LONGER THAN THE LESSER OF EITHER (I) THE  
12 APPROPRIATE STATUTE OF LIMITATIONS OR (II) THE MAXIMUM TERM THAT  
13 COULD BE IMPOSED FOR THE OFFENSE CHARGED. AT THE EXPIRATION OF  
14 SUCH PERIOD, THE CRIMINAL CHARGE SHALL BE AUTOMATICALLY  
15 DISMISSED. A CRIMINAL CHARGE MAY NOT BE PROSECUTED EXCEPT BY  
16 ORDER OF COURT SO LONG AS THE MEDICAL DIRECTOR OF THE TREATMENT  
17 FACILITY CERTIFIES THAT THE ACCUSED IS COOPERATING IN A  
18 PRESCRIBED TREATMENT PROGRAM AND IS BENEFITING FROM TREATMENT.

19 (F) IF, AFTER CONVICTION, THE DEFENDANT REQUESTS PROBATION  
20 WITH TREATMENT OR CIVIL COMMITMENT FOR TREATMENT IN LIEU OF  
21 CRIMINAL PUNISHMENT THE COURT MAY APPOINT A QUALIFIED PHYSICIAN  
22 TO ADVISE THE COURT IN WRITING WHETHER IT WOULD BE PREFERABLE  
23 FOR THE PURPOSES OF TREATMENT AND REHABILITATION FOR HIM TO  
24 RECEIVE A SUSPENDED SENTENCE AND PROBATION ON THE CONDITION THAT  
25 HE UNDERGO EDUCATION AND TREATMENT FOR DRUG ABUSE AND DRUG  
26 DEPENDENCY, OR TO BE COMMITTED PURSUANT TO THE MENTAL HEALTH AND  
27 MENTAL RETARDATION ACT OF 1966 FOR TREATMENT IN LIEU OF CRIMINAL  
28 PUNISHMENT, OR TO RECEIVE CRIMINAL INCARCERATION. A COPY OF THE  
29 PHYSICIAN'S REPORT SHALL BE FURNISHED THE COURT, THE DEFENDANT  
30 AND THE GOVERNMENT ATTORNEY. THE COURT SHALL EXERCISE ITS



1 DISCRETION WHETHER TO ACCEPT THE PHYSICIAN'S ADVICE.

2 (G) DISPOSITION IN LIEU OF TRIAL AS PROVIDED IN THIS SECTION  
3 SHALL BE AVAILABLE TO ANY PERSON ONLY ONCE.

4 SECTION 19. EXPUNGING CRIMINAL RECORDS.--(A) ANY RECORDS OF  
5 ARREST OR PROSECUTION OR BOTH FOR A CRIMINAL OFFENSE UNDER THIS  
6 ACT OR UNDER THE PROVISIONS PREVIOUSLY GOVERNING CONTROLLED  
7 SUBSTANCES IN THE COMMONWEALTH OF PENNSYLVANIA OR ANY POLITICAL  
8 SUBDIVISION THEREOF SHALL BE PROMPTLY EXPUNGED FROM THE OFFICIAL  
9 AND UNOFFICIAL ARREST AND OTHER CRIMINAL RECORDS, FILES AND  
10 OTHER DOCUMENTS PERTAINING TO THE PARTICULAR ARREST OR  
11 PROSECUTION OR BOTH WHEN THE CHARGES ARE WITHDRAWN OR DISMISSED  
12 OR THE PERSON IS ACQUITTED OF THE CHARGES: PROVIDED THAT SUCH  
13 EXPUNGMENT SHALL BE AVAILABLE AS A MATTER OF RIGHT TO ANY PERSON  
14 ONLY ONCE. WITHIN FIVE DAYS AFTER SUCH WITHDRAWAL, DISMISSAL OR  
15 ACQUITTAL THE COURT, IN WRITING, SHALL ORDER THE APPROPRIATE  
16 KEEPERS OF CRIMINAL RECORDS (I) TO EXPUNGE AND DESTROY THE  
17 OFFICIAL AND UNOFFICIAL ARREST AND OTHER CRIMINAL RECORDS, FILES  
18 AND OTHER DOCUMENTS PERTAINING TO THE ARREST OR PROSECUTION OR  
19 BOTH, TO REQUEST IN SO FAR AS THEY ARE ABLE THE RETURN OF SUCH  
20 RECORDS AS THEY HAVE MADE AVAILABLE TO FEDERAL AND OTHER STATE  
21 AGENCIES, AND TO DESTROY SUCH RECORDS ON RECEIPT THEREOF; AND  
22 (II) TO FILE WITH THE COURT WITHIN THIRTY DAYS AN AFFIDAVIT THAT  
23 SUCH RECORDS HAVE BEEN EXPUNGED AND DESTROYED, TOGETHER WITH THE  
24 COURT'S EXPUNCTION ORDER AND TO RETAIN NO COPIES THEREOF. UPON  
25 RECEIPT OF SUCH AFFIDAVIT, THE COURT SHALL SEAL THE SAME  
26 TOGETHER WITH THE ORIGINAL AND ALL COPIES OF ITS EXPUNCTION  
27 ORDER AND SHALL NOT PERMIT ANY PERSON OR AGENCY TO EXAMINE SUCH  
28 SEALED DOCUMENTS.

29 (B) ANY EXPUNGED RECORD OF ARREST OR PROSECUTION SHALL NOT  
30 HEREFTER BE REGARDED AS AN ARREST OR PROSECUTION FOR THE

1 PURPOSE OF ANY STATUTE OR REGULATION OR LICENSE OR QUESTIONNAIRE  
2 OR ANY CIVIL OR CRIMINAL PROCEEDING OR ANY OTHER PUBLIC OR  
3 PRIVATE PURPOSE. NO PERSON SHALL BE PERMITTED TO LEARN OF AN  
4 EXPUNGED ARREST OR PROSECUTION, OR OF THE EXPUNCTION, EITHER  
5 DIRECTLY OR INDIRECTLY. ANY PERSON, EXCEPT THE INDIVIDUAL  
6 ARRESTED OR PROSECUTED, WHO DIVULGES SUCH INFORMATION IN  
7 VIOLATION OF THIS SUBSECTION SHALL BE GUILTY OF A MISDEMEANOR  
8 AND SHALL, UPON CONVICTION THEREOF, BE PUNISHED BY IMPRISONMENT  
9 NOT EXCEEDING NINETY (90) DAYS OR A FINE NOT EXCEEDING ONE  
10 THOUSAND DOLLARS (\$1,000), OR BOTH.

11 (C) NOTHING CONTAINED IN THIS SECTION SHALL PROHIBIT A  
12 PERSON ACTING PURSUANT TO PRIOR PRACTICE FROM PETITIONING AN  
13 APPROPRIATE COURT FOR AN EXPUNCTION ORDER.

14 Section ~~18~~. 20. Offenses by a Corporation, Copartnership or <—  
15 Association.--If any violation of the provisions of this act is  
16 by a corporation, copartnership or association, the officers and  
17 directors of such corporation or the members of such  
18 copartnership or association, the agents and employees with prior  
19 guilty knowledge of the fact, shall be deemed guilty of a  
20 violation of the provisions of this act to the same extent as  
21 though said violation were committed by them personally.

22 ~~Section 19. Expunging Criminal Records. (a) Any arrest for <—~~  
23 ~~a criminal offense under this act or under the provisions~~  
24 ~~previously governing narcotics and dangerous drugs or substances <—~~  
25 ~~in the Commonwealth of Pennsylvania, or any political~~  
26 ~~subdivision thereof, shall promptly be expunged from the~~  
27 ~~person's public arrest and other public criminal records when~~  
28 ~~the charges are withdrawn or dismissed or the person is~~  
29 ~~acquitted of the charges.~~

30 ~~(b) Any conviction of a criminal offense under this act or~~

~~under the provisions previously governing narcotics and dangerous drugs or substances in the Commonwealth of Pennsylvania or any political subdivision thereof may be expunged from all public criminal records by a court upon the filing of a petition supported by substantial evidence of good conduct since the petitioner's conviction. Copies of the petition shall be served on the Attorney General and the district attorney, who shall be responsible for consulting other appropriate public agencies and departments. If a district attorney files a motion to dismiss the petition within sixty days, the court, without a jury, shall hold a full and fair hearing before ruling on the issue. The petitioner shall have the right to cross examine any adverse witness or rebut any adverse evidence. The proceeding shall be private. The petition shall be granted if supported by substantial evidence of good conduct since the petitioner's conviction unless the court finds, on the basis of evidence of record, good cause not to accept the petitioner's allegations of good conduct. The petition may be filed and heard only after the following time lapses:~~

~~(1) For a conviction for trafficking in the third degree or possession in the second degree, or any offense under prior law that would not come within any of these provisions, after two years from the date of release from a penal institution or from the date of conviction if not sent to a penal institution.~~

~~(2) For a conviction for possession in the first degree, or any offense under prior law that would not come within any of these provisions, after three years from the date of release from a penal institution or from the date of conviction if not sent to a penal institution.~~

~~(3) For a conviction for any other offense under this act,  
or any offense under prior law that would now come within any of  
these provisions, or any offense under prior law governing  
narcotics and controlled drugs or controlled dangerous  
substances that would not now come within any of these  
provisions, after three years from the date of release from a  
penal institution or from the date of conviction if not sent to  
a penal institution.~~

~~(c) Any expunged arrest or conviction shall not thereafter  
be regarded as an arrest or conviction for the purpose of any  
statute or regulation or license or questionnaire or any other  
public or private purpose: Provided, That it shall continue to  
constitute an offense for purposes of any criminal statute under  
which the existence of a prior conviction is relevant to the  
penalty to be imposed. No person shall be permitted to learn of  
an expunged arrest or conviction, or of the expungement, by any  
means whatever: Provided, That the judiciary, court personnel,  
and district attorneys may learn of an expunged arrest or  
conviction, and of the expungement, where it becomes relevant to  
a penalty to be imposed in a subsequent case. Any person who  
seeks or divulges such information in violation of this  
subsection shall be guilty of a misdemeanor, and shall, upon  
conviction thereof be punished by imprisonment not exceeding  
ninety days, or a fine not exceeding one thousand dollars  
(\$1,000), or both.~~

~~Section 20. 21. Burden of Proving Exemptions.--In any  
prosecution under this act, it shall not be necessary to negate  
any of the exemptions OR EXCEPTIONS of this act in any  
complaint, information or indictment TRIAL. The burden of  
proving any exemption under this act shall be upon the~~

<—

<—

<—

<—

1 ~~defendant.~~ PROOF OF SUCH EXEMPTION OR EXCEPTION SHALL BE UPON <—  
2 THE PERSON CLAIMING IT.

3 SECTION 22. JUDICIAL REVIEW.--ANY PERSON AGGRIEVED BY A  
4 FINAL ADMINISTRATIVE DECISION MAY OBTAIN REVIEW OF THE DECISION  
5 PURSUANT TO THE PROVISIONS OF THE ADMINISTRATIVE AGENCY LAW.

6 Section ~~21.~~ 23. Revocation of Licenses of Practitioners.-- <—

7 (a) Any license OR REGISTRATION heretofore issued to any <—

8 ~~physician, dentist, veterinarian, pharmacist or nurse may be~~ <—

9 ~~either~~ PRACTITIONER MAY EITHER BE revoked or suspended by the <—

10 proper officers or boards having power to issue licenses OR <—

11 REGISTRATION to any of the foregoing, upon proof that the

12 licensee OR REGISTRANT is ~~addicted to~~ A DRUG DEPENDENT PERSON ON <—

13 the use of any ~~narcotic drugs~~ CONTROLLED SUBSTANCE after giving <—

14 such licensee OR REGISTRANT reasonable notice and opportunity to <—

15 be heard.

16 (b) The appropriate licensing boards in the Department of

17 State are hereby authorized to revoke or suspend the

18 registration or license of any ~~physician, surgeon, dentist,~~ <—

19 ~~veterinarian, pharmacist or nurse,~~ PRACTITIONER when such person <—

20 has pleaded guilty or nolo contendere or has been ~~found guilty~~ <—

21 ~~by a judge or jury of violating~~ CONVICTED OF A FELONY UNDER THIS <—

22 ACT OR any SIMILAR State or Federal law. ~~pertaining to the sale,~~ <—

23 ~~use or distribution of narcotics.~~ Before any such revocation or

24 suspension, the licensee or registrant shall be given a hearing

25 before the appropriate board. At such hearing the accused may be

26 represented by counsel and shall be entitled to compulsory

27 attendance of witnesses.

28 Section ~~22.~~ 24. Administrative Inspections and Warrants.-- <—

29 (a) As used in this section, the term "controlled premises"

30 means:

1 (1) Places where original or other records or documents  
2 required under this act are kept or required to be kept; and

3 (2) Places, including factories, warehouses, or other  
4 establishments, and conveyances, where persons registered under  
5 section 6 (or exempted from registration under section 6) may  
6 lawfully hold, manufacture, or distribute, dispense, administer  
7 or otherwise dispose of controlled ~~dangerous~~ substances. <—

8 (b) (1) For the purpose of inspecting, copying, and  
9 verifying the correctness of records, reports, or other  
10 documents required to be kept or made under this act and  
11 otherwise facilitating the carrying out of his functions under  
12 this act, the ~~Secretary of Health~~ SECRETARY is authorized, in <—  
13 accordance with this section, to enter controlled premises and  
14 to conduct administrative inspections thereof, and of the things  
15 specified in this section, relevant to those functions.

16 (2) Such entries and inspections shall be carried out  
17 through officers or employees (hereinafter referred to as  
18 ~~"agents"~~ "OFFICERS") designated by the secretary. Any such ~~agent~~ <—  
19 OFFICER upon stating his purpose and presenting to the owner, <—  
20 operator, or ~~agent~~ OFFICER in charge of such premises (i) <—  
21 appropriate credentials and (ii) a written notice of his  
22 inspection authority (which notice in the case of an inspection  
23 requiring, or in fact supported by, an administrative inspection  
24 warrant shall consist of such warrant), shall have the right to  
25 enter such premises and conduct such inspection at reasonable  
26 times.

27 (3) Except as may otherwise be indicated in an applicable  
28 inspection warrant, the ~~agent~~ OFFICER shall have the right: (i) <—  
29 to inspect and copy records, reports, and other documents  
30 required to be kept or made under this act; (ii) to inspect,

1 within reasonable limits and in a reasonable manner, controlled  
2 premises and all pertinent equipment, finished and unfinished  
3 drugs and other substances or materials, containers, and  
4 labeling found therein, and, except as provided in ~~clause (5) of~~ <—  
5 this subsection, all other things therein (including records,  
6 files, papers, processes, controls, and facilities) appropriate  
7 for verification of the records, reports, and documents referred  
8 to in subclause (i) or otherwise bearing on the provisions of  
9 this act; and (iii) to inventory any stock of any controlled  
10 substance, OTHER DRUG, DEVICE AND COSMETIC therein and obtain <—  
11 samples of any such substance OR ARTICLE. <—

12 (4) Except when the owner, operator, or ~~agent~~ OFFICER in <—  
13 charge of the controlled premises so consents in writing, no  
14 inspection authorized by this section shall extend to: (i)  
15 financial data; (ii) sales data other than shipment data; ~~or~~ <—  
16 (iii) pricing data; OR (IV) RESEARCH DATA. <—

17 (c) A warrant under this section shall not be required for  
18 the inspection of books and records pursuant to an  
19 administrative subpoena issued in accordance with any provisions  
20 of any Act of Assembly nor for entries and administrative  
21 inspections (including seizures of property):

22 (1) With the consent of the owner, operator, or ~~agent~~ <—  
23 OFFICER in charge of the controlled premises; <—

24 (2) In situations presenting imminent danger to health or  
25 safety;

26 (3) In situations involving inspection of conveyances where  
27 there is reasonable cause to believe that the mobility of the  
28 conveyance makes it impracticable to obtain a warrant;

29 (4) In any other exceptional or emergency circumstance where  
30 time or opportunity to apply for a warrant is lacking; or

1 (5) In any other situations where a warrant is not  
2 constitutionally required.

3 (d) Issuance and execution of administrative inspection  
4 warrants shall be as follows:

5 (1) Any judge of a ~~Commonwealth court of record~~ COURT, may, <—  
6 within his territorial jurisdiction, and upon proper oath or  
7 affirmation showing probable cause, issue warrants for the  
8 purpose of conducting administrative inspections authorized by  
9 this act or regulations thereunder, and seizures of property  
10 appropriate to such inspections. For the purposes of this  
11 section, the term "probable cause" ~~means~~ EXISTS UPON SHOWING a <—  
12 valid public interest in the effective enforcement of this act  
13 or regulations thereunder sufficient to justify administrative  
14 inspections of the area, premises, building, or conveyance, or  
15 contents thereof, in the circumstances specified in the  
16 application for the warrant.

17 (2) A warrant shall issue only upon an affidavit of ~~an~~ A <—  
18 DESIGNATED officer or employe having knowledge of the facts  
19 alleged, sworn to before the judge and establishing the grounds  
20 for issuing the warrant. If the judge is satisfied that grounds  
21 for the application exist or that there is probable cause to  
22 believe they exist, he shall issue a warrant identifying the  
23 area, premises, building, or conveyance to be inspected, the  
24 purpose of such inspection, and, where appropriate, the type of  
25 property to be inspected, if any. The warrant shall identify the  
26 items or types of property to be seized, if any. The warrant  
27 shall be directed to a person authorized under subsection (b)  
28 (2) to execute it. The warrant shall state the grounds for its  
29 issuance and the name of the person or persons whose affidavit  
30 has been taken in support thereof. It shall command the person



1 to whom it is directed to inspect the area, premises, building,  
2 or conveyance identified for the purpose specified, and, where  
3 appropriate, shall direct the seizure of the property specified.  
4 The warrant shall direct that it be served during normal  
5 business hours. It shall designate the judge to whom it shall be  
6 returned.

7 (3) A warrant issued pursuant to this section must be  
8 executed and returned within ten days of its date unless, upon a  
9 showing by the ~~Secretary of Health~~ SECRETARY of a need therefor, <—  
10 the judge allows additional time in the warrant. If property is  
11 seized pursuant to a warrant, the person executing the warrant  
12 shall give to the person from whom or from whose premises the  
13 property was taken a copy of the warrant and a receipt for the  
14 property taken or shall leave the copy and receipt at the place  
15 from which the property was taken. The return of the warrant  
16 shall be made promptly and shall be accompanied by a written  
17 inventory of any property taken. The inventory shall be made in  
18 the presence of the person executing the warrant and of the  
19 person from whose possession or premises the property was taken,  
20 if they are present, or in the presence of at least one credible  
21 person other than the person making such inventory, and shall be  
22 verified by the person executing the warrant. ~~The judge upon~~ <—  
23 ~~request, shall deliver a~~ A copy of the inventory SHALL BE <—  
24 DELIVERED to the person from whom or from whose premises the  
25 property was taken and to the applicant for the warrant.

26 (4) The judge who has issued a warrant under this section  
27 shall attach to the warrant a copy of the return and all papers  
28 RETURNABLE filed in connection therewith and shall file them <—  
29 with the clerk of the court for the judicial district in which  
30 the inspection was made.

1       Section ~~23~~. 25. Injunctive Relief.--In addition to the       <—  
2 remedies provided herein, the secretary is hereby authorized to  
3 apply to the court of common pleas in the county in which such  
4 violation occurs or to the Commonwealth Court for, and such  
5 court shall have jurisdiction to grant, a temporary or permanent  
6 injunction restraining any person from continued violation of  
7 any provision of this act irrespective of the existence of an  
8 adequate remedy at law.

9       Section ~~24~~. 26. Cooperation With Other Authorities.--The       <—  
10 agencies charged with the enforcement of this act shall actively  
11 cooperate and coordinate with the agencies charged with the  
12 enforcement of all Federal and State laws relating to the  
13 regulation of the distribution of controlled ~~drugs or dangerous~~       <—  
14 substances, OTHER DRUGS, DEVICES OR COSMETICS.       <—

15       Section ~~25~~. 27. Embargo ~~and Seizure~~.--(a) Whenever a duly       <—  
16 authorized ~~agent~~ OFFICER of the secretary finds or has probable       <—  
17 cause to believe that any CONTROLLED SUBSTANCE, OTHER drug,       <—  
18 device or cosmetic is adulterated or misbranded or contraband,  
19 the same shall be deemed subject to embargo and he shall affix  
20 to such SUBSTANCE OR article ~~or articles~~ a tag or other       <—  
21 appropriate marking, approved by the secretary, giving notice  
22 that such SUBSTANCE OR article is or is suspected of being       <—  
23 adulterated, misbranded or contraband and warning all persons  
24 not to remove or dispose of such SUBSTANCE OR article ~~or~~       <—  
25 ~~articles~~ until permission so to do has been granted by such  
26 ~~agent~~ OFFICER, or until it shall have determined by proper       <—  
27 authority that such SUBSTANCE OR article ~~or articles are~~ IS not       <—  
28 adulterated, misbranded or contraband. At the time such notice  
29 is offered, the ~~agent~~ OFFICER shall provide the person in charge       <—  
30 of such ~~articles~~ SUBSTANCE OR ARTICLE, if any, or the owner, if       <—

1 he is known, a statement in writing, setting forth both the  
2 basis for the embargo and supporting facts.

3 (b) When ~~an article or articles~~ A SUBSTANCE OR ARTICLE is <—  
4 detained or embargoed under subsection (a), the secretary shall  
5 serve within three days from the date of such embargo a citation  
6 upon the claimant thereof or owner, if he is known, setting  
7 forth both the basis for the embargo and supporting facts and  
8 fixing a date for a hearing not later than ten days from the  
9 date of service of said citation at which a hearing examiner,  
10 appointed under the authority of section ~~27~~ 30, will receive <—  
11 evidence pertaining to the alleged offense. Unless postponed by  
12 mutual consent, failure to serve a citation or commence hearings  
13 within the time herein specified shall operate to void such  
14 embargo.

15 (c) If, after hearing, the examiner is satisfied from the  
16 evidence presented that a detained or embargoed SUBSTANCE OR <—  
17 article is adulterated, misbranded or contraband, he shall,  
18 within five days of the conclusion of the hearing, order such  
19 SUBSTANCE OR article ~~or articles~~ destroyed at the expense of the <—  
20 claimant thereof under supervision of an agent of the secretary:  
21 Provided, That when the embargo is based on an adulteration or  
22 misbranding which can be corrected by proper labeling or  
23 processing of the SUBSTANCE OR article, the examiner, after <—  
24 entry of the order and after such costs, fees and expenses have  
25 been paid and a good and sufficient bond conditioned that such  
26 SUBSTANCE OR article shall be so labeled or processed has been <—  
27 executed, may by order direct that such SUBSTANCE OR article be <—  
28 released to the claimant thereof for such labeling or processing  
29 under the supervision of an ~~agent~~ OFFICER of the secretary. The <—  
30 expense of such supervision, if any, shall be paid by the

1 claimant. Such SUBSTANCE OR article shall be released to the <—  
2 claimant ~~of the article when the article~~ WHEN IT is no longer in <—  
3 violation of this act and the expenses of such supervision have  
4 been paid.

5 (d) If no claimant shall appear to defend such proceedings,  
6 the hearing examiner may order the embargoed SUBSTANCES OR <—  
7 articles destroyed or distributed to a nonprofit institution.

8 Section ~~26~~. 28. Forfeiture.--(a) The following shall be <—  
9 subject to forfeiture to the Commonwealth and no property right  
10 shall exist in them:

11 (1) All controlled ~~paraphernalia~~ SUBSTANCES OR OTHER DRUGS <—  
12 which have been manufactured, distributed, dispensed, or  
13 acquired in violation of this act.

14 (2) All raw materials, products, and equipment of any kind  
15 which are used, or intended for use in manufacturing,  
16 compounding, processing, delivering, importing, or exporting any  
17 controlled ~~dangerous~~ substance OR OTHER DRUG in violation of <—  
18 this act.

19 (3) All property which is used, or intended for use, as a  
20 container for property described in clause (1) or (2) of this  
21 subsection.

22 (4) All conveyances, including aircraft, vehicles, or  
23 vessels, which are used or are intended for use, to transport,  
24 or in any manner to facilitate the transportation, sale,  
25 receipt, possession, or concealment of property described in  
26 clause (1) or (2) except that:

27 (i) no conveyance used by any person as a common carrier in  
28 the transaction of business as a common carrier shall be  
29 forfeited under the provisions of this section unless it shall  
30 appear that the owner or other person in charge of such

1 conveyance was a consenting party or privy to a violation of  
2 this title; ~~and~~ <—

3 (ii) no conveyance shall be forfeited under the provisions  
4 of this section by reason of any act or omission established by  
5 the owner thereof to have been committed or omitted without his  
6 knowledge or consent; AND <—

7 (iii) No ~~perfected~~ BONA FIDE security interest retained or <—  
8 acquired under the Uniform Commercial Code by any merchant  
9 dealing in new or used aircraft, vehicles or vessels, or  
10 retained or acquired by any licensed or regulated finance  
11 company, bank, lending institution, or by any other business  
12 regularly engaged in the financing of, or lending on the  
13 security of, such aircraft, vehicles or vessels, shall be  
14 subject to forfeiture or impairment. ~~under the provisions of~~ <—  
15 ~~this subheading.~~

16 (5) All books, records, and research, including formulas,  
17 microfilm, tapes and data which are used, or intended for use,  
18 in violation of this act.

19 (b) Property subject to forfeiture under this act may be  
20 seized by the law enforcement authority upon process issued by  
21 any court of common pleas having jurisdiction over the property.  
22 Seizure without process may be made if:

23 (1) The seizure is incident to an arrest or a search under a  
24 search warrant or inspection under an administrative inspection  
25 warrant;

26 (2) The property subject to seizure has been the subject of  
27 a prior judgment in favor of the Commonwealth in a criminal  
28 injunction or forfeiture proceeding under this act;

29 (3) There is probable cause to believe that the property is  
30 ~~directly or indirectly~~ dangerous to health or safety; or <—

1 (4) There is probable cause to believe that the property has  
2 been used or is intended to be used in violation of this act.

3 (c) In the event seizure without process occurs, as provided  
4 herein, proceedings for the issuance thereof shall be instituted  
5 ~~promptly.~~ FORTHWITH. <—

6 (d) Property taken or detained under this section shall not  
7 be subject to replevin, but is deemed to be in the custody of  
8 the law enforcement authority subject only to the orders and  
9 decrees of the court of common pleas having jurisdiction over  
10 the forfeiture proceedings AND OF THE SECRETARY. When property <—  
11 is seized under this act, the law enforcement authority ~~may~~ <—  
12 SHALL: <—

13 (1) Place the property under seal; AND EITHER <—

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

15 (3) Require that the ~~proper administrative authority~~ <—  
16 DEPARTMENT take custody of the property and remove it to an <—  
17 appropriate location for disposition in accordance with law.

18 (e) Whenever property is forfeited under this act, the ~~law~~ <—  
19 ~~enforcement authority may~~ PROPERTY SHALL BE TRANSFERRED TO THE <—  
20 CUSTODY OF THE DEPARTMENT AND THE SECRETARY MAY:

21 (1) Retain the property for official use;

22 (2) Sell any forfeited property which is not required to be  
23 destroyed by law and which is not harmful to the public, but the  
24 proceeds from any such sale shall be used to pay all proper  
25 expenses of the proceedings for forfeiture and sale including  
26 expenses of seizure, maintenance of custody, advertising and  
27 court costs. <—

28 ~~(3) Require that the appropriate administrative agency take~~ <—  
29 ~~custody of the property and remove it for disposition in~~  
30 ~~accordance with law; or~~

~~(4) Forward it to the council, or its successor agency, for disposition.~~

~~(f) Procedure with respect to seized property subject to liens and rights of lienholders:~~

~~(1) Notification of owner of confiscated vehicle, vessel or aircraft. The person or governmental agency that~~

SECTION 29. PROCEDURE WITH RESPECT TO SEIZED PROPERTY <—

SUBJECT TO LIENS AND RIGHTS OF LIENHOLDERS.--(A) THE PERSON WHO seized said property shall notify the registered owner and

lienholder, where possible, and shall publish notice in a newspaper of general circulation in the county or the city, where seized, of any vehicle, vessel or aircraft confiscated

~~under this subheading,~~ informing interested persons of the seizure and right to file a claim protesting the confiscation of said vehicle, vessel or aircraft. <—

~~(2) Claim for return of confiscated property.~~ (B) Any lawful lienholder, or other person showing a legal right, title or interest in a vehicle, vessel or aircraft, confiscated pursuant to this subtitle may, within thirty days of publication of notice file a claim protesting such seizure with the court or with the person ~~or governmental agency~~ having jurisdiction thereof. When such a claim is filed, the court of common pleas of the county wherein the property was confiscated, shall proceed in rem to hear and determine the question of forfeiture. <—

~~(3) Rights of lienholders.~~ (C) If the court determines any property is subject to forfeiture it shall also determine whether any lawful lienholder who has filed a timely claim and protest had knowledge of such intended unlawful use. If the court shall find such knowledge then the lienholder's right, title and interest to the property shall likewise be deemed <—

1 forfeited. If the court does not find such knowledge and the  
2 property is otherwise subject to forfeiture, it shall be  
3 forfeited and the person ~~or agency~~ having custody of such <—  
4 property shall either pay the outstanding indebtedness secured  
5 by such lawful lien and keep the property or deliver the  
6 property to the said lienholder.

7 Section ~~27~~. 30. Hearing Examiners.--(a) The secretary shall <—  
8 appoint, with the approval of the Governor, such hearing  
9 examiners as shall be necessary to conduct hearings as provided  
10 in section ~~25~~ 27. <—

11 (b) Hearing examiners appointed under this act shall have  
12 the power to issue subpoenas requiring the attendance and  
13 testimony of, or the production of, pertinent books and papers  
14 by persons whom they believe to have information relevant to any  
15 matter pending before him. Such examiner shall also have the  
16 power to administer oaths.

17 (c) Any person who refuses to obey a subpoena issued  
18 hereunder or to be sworn or affirmed or to testify, or who is  
19 guilty of any contempt after summons to appear, may be punished  
20 as for contempt of court. For this purpose, an application may  
21 be made by the examiner to the court of common pleas within the  
22 territorial jurisdiction of which the offense was committed for  
23 which purpose such court is hereby given jurisdiction.

24 (d) In any action or proceeding before him, the hearing  
25 examiner may assess all costs incurred in connection with the  
26 prosecution of such proceeding, including investigative and  
27 laboratory costs incurred by the Commonwealth, against  
28 respondent in such proceeding; such costs to be in addition to  
29 any other penalty imposed and to be retained by the Department  
30 of Health and applied to cost to the department administering



1 this act.

2 (e) Hearings shall be conducted under the provisions of the  
3 Administrative Agency Law, as amended, and subject to such other  
4 rules and regulations not inconsistent therewith as the  
5 secretary may provide and any person aggrieved by any action of  
6 the hearing examiner may appeal in accordance with the  
7 provisions of the Administrative Agency Law, as amended.

8 Section ~~28~~ 31. Board Creation.--(a) There is hereby created <—  
9 within the Department of Health a departmental administrative  
10 board to be known as the "Pennsylvania Drug, Device and Cosmetic  
11 Board."

12 (b) The board shall consist of the Secretary of Health, his  
13 successors in office, and ten additional members whom the  
14 Governor shall appoint, by and with the advice and consent of  
15 two-thirds of all the members of the Senate. Of the members: one  
16 shall be a physician, one a dentist, one a veterinarian, one a  
17 psychologist OR PSYCHIATRIST and one a pharmacist, each of whom <—  
18 shall be duly licensed in their respective professions by the  
19 Commonwealth; one shall be a biochemist and one shall be a  
20 pharmacologist, each of whom shall have earned an advanced  
21 degree in that field from an institution of higher learning and  
22 shall have been engaged as such for three years in this State;  
23 one shall be a manufacturer registered to manufacture drugs or  
24 an employe thereof; and the two remaining persons shall be  
25 members of the general public not engaged in any of the  
26 aforementioned ~~professional fields, who shall be citizens of~~ <—  
27 ~~this State.~~ BUT ONE OF WHOM SHALL BE WELL INFORMED ON THE <—  
28 PROBLEMS CAUSED BY THE ABUSE AND MISUSE OF DRUGS OR OTHER  
29 CHEMICALS. Two members initially shall serve for terms of one,  
30 two, three and four years, respectively, the particular term of

1 each to be designated by the Governor at the time of  
2 appointment. Any additional member, the appointment of whom is  
3 authorized by amending act, shall serve for a term of four  
4 years. The terms of all their successors shall be four years  
5 each, except that any person appointed to fill a vacancy shall  
6 serve only for the unexpired term. Every member's term shall  
7 extend until his successor is appointed and qualified. Any  
8 appointed member of the board shall be eligible for  
9 reappointment. Each member of the board shall receive  
10 compensation at a rate of ~~thirty dollars (\$30)~~ FIFTY DOLLARS <—  
11 (\$50) per diem in addition to expenses incurred when actually  
12 engaged in official meetings or otherwise in the performance of  
13 their official duties as directed by the chairman.

14 (c) The Secretary of Health, or his designate, shall serve  
15 as chairman of the board. A majority of the members shall  
16 constitute a quorum for the purpose of organizing the board,  
17 conducting its business, and exercising all of its powers. A  
18 vote of the majority of the members present shall be sufficient  
19 for all actions of the board unless the bylaws require a greater  
20 number.

21 (d) The board shall have the power to prescribe, amend and  
22 repeal bylaws, rules and regulations governing the manner in  
23 which the business of the body is conducted and the manner in  
24 which the powers granted to it are exercised. The board may  
25 delegate supervision of the administration of board activities  
26 to an administrative secretary and such other employees as the  
27 Secretary of Health shall appoint.

28 (e) The board shall have the power to do all things  
29 necessary or convenient to carry out the powers granted to it by  
30 this act.

1 (f) The board may, for the authentication of its records,  
2 process and proceedings, adopt, keep and use a common seal of  
3 which seal judicial notice shall be taken in all courts of this  
4 Commonwealth and any process, writ, notice or other document,  
5 which the board may be authorized by law to issue, shall be  
6 deemed sufficient if signed by the chairman or secretary of the  
7 board and authenticated by such seal. All acts, proceedings,  
8 orders, papers, findings, minutes and records of the board, and  
9 all reports and documents filed with the board, may be proved in  
10 any court of this Commonwealth by a copy thereof certified to by  
11 the chairman or secretary of the board with the seal of the  
12 board attached.

13 (g) In order to enable the board to carry out the provisions  
14 of this act, including its power to advise the secretary on  
15 various matters, it shall have the power to issue subpoenas,  
16 requiring the attendance and testimony of, or the production of,  
17 pertinent books and papers by persons whom the board believes to  
18 have information, books or papers of importance to it in  
19 carrying out the purposes and intent of this act. Each member of  
20 the board and such officers, employees or others employed in the  
21 work of the board designated by the chairman of the board also  
22 shall have the power to administer oaths and affirmations, to  
23 question witnesses thereunder, and to examine such books and  
24 papers. The board may issue commissions, letters rogatory, or  
25 other appropriate processes outside the Commonwealth.

26 (h) Any person who refuses to obey a subpoena issued  
27 hereunder, or to be sworn or affirmed, or to testify, or who is  
28 guilty of any contempt after summons to appear, may be punished  
29 as for contempt of court. For this purpose an application may be  
30 made by the board to the court of common pleas within the

1 territorial jurisdiction of which the offense was committed, for  
2 which purpose, such court is hereby given jurisdiction.

3 Section ~~29~~. 32. Persons Authorized to Prescribe Drugs to <—  
4 Remain as Heretofore.--No provision of this act or any rule or  
5 regulation promulgated pursuant to this act shall authorize or  
6 be construed as authorizing any person to prescribe drugs who is  
7 not specifically so authorized under existing law.

8 Section ~~30~~. 33. Conformity With Federal Law.--No CONTROLLED <—  
9 SUBSTANCE, OTHER drug, device or cosmetic shall be deemed to be  
10 adulterated or misbranded under this act if ~~such drug, device or~~ <—  
11 ~~cosmetic~~ IT complies with the applicable Federal act and/or <—  
12 regulations and interpretations issued pursuant thereto, unless  
13 the secretary, after consultation with and upon the  
14 recommendation of the board, shall have previously promulgated a  
15 regulation stating that the applicable provision of the Federal  
16 act and/or regulations and interpretations thereof would not be  
17 followed.

18 Section ~~31~~. 34. Administration of Act.--(a) Except as may be <—  
19 otherwise provided by law, the provisions of this act shall be  
20 administered by the ~~Department of Health of the Commonwealth of~~ <—  
21 ~~Pennsylvania~~. DEPARTMENT. The ~~Secretary of Health~~ SECRETARY is <—  
22 authorized to employ ~~such consultants, assistants,~~ <—  
23 ~~stenographers, clerks and other employes as, in his opinion, may~~  
24 ~~be necessary~~ PERSONNEL and to fix their compensation subject to <—  
25 THE ACT OF APRIL 9, 1929 (P.L.177), KNOWN AS "The Administrative <—  
26 Code of 1929," 1929." ~~as amended, act of April 9, 1929~~ <—  
27 ~~(P.L.177).~~

28 ~~(b) The secretary is authorized and directed to establish a~~  
29 ~~Bureau of Narcotics Control within the department and to employ~~  
30 ~~therein sufficient law enforcement personnel to act as agents~~

1 ~~for the purpose of performing the inspection, training,~~  
2 ~~prevention and enforcement duties imposed upon the department by~~  
3 ~~this act.~~

4 ~~(c) Any officer or employe of the Bureau of Narcotics of the~~  
5 ~~department may:~~

6 (B) THE SECRETARY IS AUTHORIZED AND DIRECTED TO ESTABLISH A <—  
7 BUREAU OF DRUG CONTROL WITHIN THE DEPARTMENT AND TO EMPLOY  
8 THEREIN SUFFICIENT PERSONNEL TO PERFORM THE DUTIES IMPOSED UPON  
9 THE DEPARTMENT BY THIS ACT.

10 (C) THE SECRETARY MAY DESIGNATE SPECIFIC OFFICERS AND  
11 EMPLOYES OF THE BUREAU OF DRUG CONTROL AS LAW ENFORCEMENT  
12 PERSONNEL AND AUTHORIZE SUCH PERSONNEL TO:

13 (1) Carry firearms in the performance of his official  
14 duties;

15 (2) Execute and serve search warrants, arrest warrants,  
16 administrative inspection warrants, subpoenas, and summonses  
17 issued under the authority of the Commonwealth;

18 (3) Make arrests without warrant for any offense under this  
19 act committed in his presence, or if he has probable cause to  
20 believe that the person to be arrested has committed or is  
21 committing a violation of this act which may constitute a  
22 felony;

23 (4) Make seizures of property pursuant to this act; or

24 (5) Perform other law enforcement duties as the secretary  
25 designates.

26 (d) Nothing contained herein shall be deemed to limit the  
27 authority of the Bureau of ~~Narcotics Control~~ or DRUG CONTROL, <—  
28 THE PENNSYLVANIA STATE POLICE, the Department of Justice or any  
29 other law enforcement agency in dealing with law enforcement  
30 matters with respect to ~~professional criminals~~ PERSONS engaged <—

1 in the unlawful importation, manufacture, DISTRIBUTION, sale and <—  
2 production of ~~drugs and~~ controlled ~~dangerous~~ substances, OTHER <—  
3 DRUGS OR DEVICES OR COSMETICS nor the authority of the council  
4 in performing any duties imposed upon it by the "Pennsylvania  
5 Drug ~~Narcotic~~ and Alcohol Abuse ~~Act of 1971.~~" ACT." <—  
6 Section ~~32.~~ 35. Promulgation of Regulations.--~~(a)~~ The <—  
7 secretary shall have the authority to promulgate in accordance  
8 with the provisions of this section and of the act of July 31,  
9 1968 (Act No. 240), known as the "Commonwealth Documents Law"  
10 any regulations hereinbefore referred to in this act and such  
11 other regulations ~~upon the advice~~ WITH THE CONSENT of the board <—  
12 regarding the possession, DISTRIBUTION, sale, purchase or <—  
13 manufacture of CONTROLLED SUBSTANCES, OTHER drugs OR devices or <—  
14 cosmetics as may be necessary to aid in the enforcement of this  
15 act.  
16 ~~(b) (i) Prior to the promulgation, amendment or repeal of~~ <—  
17 ~~any regulation under this act the secretary shall give at least~~  
18 ~~thirty days public notice of his proposed action, and shall~~  
19 ~~afford all interested persons an opportunity to present their~~  
20 ~~views thereon either orally or in writing. As soon as~~  
21 ~~practicable thereafter, the secretary shall either withdraw such~~  
22 ~~proposal or shall promulgate the proposed regulation.~~  
23 ~~(ii) Any person aggrieved by the promulgation, amendment or~~  
24 ~~repeal of a regulation, or by the refusal to promulgate, amend~~  
25 ~~or repeal a regulation, may file objections with the secretary~~  
26 ~~specifying, with particularity, the reason why such action is~~  
27 ~~deemed objectionable and the grounds for such objection. As soon~~  
28 ~~as possible after the filing of objections, the secretary shall~~  
29 ~~hold a public hearing for the purpose of receiving evidence~~  
30 ~~relevant to such objections. As soon as practicable after~~

1 ~~completion of hearings, the secretary shall issue an appropriate~~  
2 ~~order either confirming, modifying or withdrawing the regulation~~  
3 ~~in question.~~

4 ~~(iii) Any party to proceedings, conducted pursuant to~~  
5 ~~paragraph (ii) hereof, aggrieved by the order of the secretary,~~  
6 ~~shall have a right of appeal in accordance with the provisions~~  
7 ~~of the Administrative Agency Law, as amended, and such order~~  
8 ~~shall be deemed an "adjudication" as that term is defined and~~  
9 ~~used in the Administrative Agency Law, as amended.~~

10 Section ~~33.~~ 36. Administrative Procedure.--The <—  
11 Administrative Agency Law, as amended, shall be applicable in  
12 its entirety to the Department of Health in the administration  
13 of this act.

14 SECTION 37. COOPERATIVE AGREEMENTS AND CONFIDENTIALITY.--(A) <—  
15 THE SECRETARY SHALL COOPERATE WITH FEDERAL AND OTHER STATE  
16 AGENCIES IN DISCHARGING HIS RESPONSIBILITIES CONCERNING TRAFFIC  
17 IN CONTROLLED SUBSTANCES, OTHER DRUGS, DEVICES AND COSMETICS AND  
18 IN SUPPRESSING THE ABUSE OF SUCH SUBSTANCES AND ARTICLES. TO  
19 THIS END, HE MAY:

20 (1) ARRANGE FOR THE EXCHANGE OF INFORMATION AMONG  
21 GOVERNMENTAL OFFICIALS CONCERNING THE USE AND ABUSE OF SUCH  
22 SUBSTANCES AND ARTICLES;

23 (2) COORDINATE AND COOPERATE IN TRAINING PROGRAMS CONCERNING  
24 LAW ENFORCEMENT AT LOCAL AND STATE LEVELS;

25 (3) REQUEST THE FEDERAL BUREAU OF NARCOTICS AND DANGEROUS  
26 DRUGS TO ESTABLISH A CENTRALIZED UNIT TO COLLECT, ACCEPT,  
27 CATALOGUE AND FILE NONCONFIDENTIAL STATISTICS AND MAKE THE  
28 INFORMATION AVAILABLE FOR FEDERAL, STATE AND LOCAL LAW  
29 ENFORCEMENT PURPOSES; AND

30 (4) CONDUCT PROGRAMS OF ERADICATION AIMED AT DESTROYING WILD

1 OR ILLICIT GROWTH OF PLANT SPECIES FROM WHICH DRUGS MAY BE  
2 EXTRACTED.

3 (B) RESULTS, INFORMATION, AND EVIDENCE RECEIVED FROM THE  
4 BUREAU RELATING TO THE REGULATORY FUNCTIONS OF THIS ACT,  
5 INCLUDING RESULTS OF INSPECTIONS CONDUCTED BY IT MAY BE RELIED  
6 AND ACTED UPON BY THE SECRETARY IN THE EXERCISE OF HIS  
7 REGULATORY FUNCTIONS UNDER THIS ACT.

8 (C) A PRACTITIONER ENGAGED IN MEDICAL PRACTICE OR CLINICAL  
9 RESEARCH IS NOT REQUIRED NOR MAY HE BE COMPELLED TO FURNISH THE  
10 NAME OR IDENTITY OF A PATIENT OR RESEARCH SUBJECT TO THE  
11 SECRETARY, NOR MAY HE BE COMPELLED IN ANY STATE OR LOCAL CIVIL,  
12 CRIMINAL, ADMINISTRATIVE, LEGISLATIVE OR OTHER PROCEEDINGS TO  
13 FURNISH THE NAME OR IDENTITY OF SUCH AN INDIVIDUAL.

14 (D) THIS SECTION SHALL NOT EXEMPT THE PRACTITIONER FROM  
15 REGULATIONS OF THE SECRETARY PERTAINING TO THE PRESCRIPTION OF  
16 CONTROLLED SUBSTANCES TO A PATIENT OVER AN EXTENDED PERIOD OR IN  
17 AN INCREASINGLY LARGE DOSAGE.

18 Section ~~34~~. 38. Savings Provision.--The provisions of this <—  
19 act shall not affect any act done, liability incurred, or right  
20 accrued or vested, or affect any suit or prosecution pending to  
21 enforce any right or penalty or punish any offense under the  
22 authority of any Act of Assembly, or part thereof, repealed by  
23 this act.

24 ~~Section 35. Severability. The provisions of this act are <—~~  
25 ~~severable and, if any provision or part hereof shall be held~~  
26 ~~invalid or unconstitutional or inapplicable to any person or~~  
27 ~~circumstances, such invalidity, unconstitutionality or~~  
28 ~~inapplicability shall not affect or impair the remaining~~  
29 ~~provisions of the act. It is hereby declared to be the~~  
30 ~~legislative intent that this act would have been adopted if such~~



1 ~~invalid, unconstitutional or inapplicable provision had not been~~  
2 ~~included therein.~~

3 SECTION 39. PENDING PROCEEDINGS.--(A) PROSECUTION FOR ANY <—  
4 VIOLATION OF LAW OCCURRING PRIOR TO THE EFFECTIVE DATE OF THIS  
5 ACT IS NOT AFFECTED OR ABATED BY THIS ACT. IN ANY CASE NOT YET  
6 FINAL IF THE OFFENSE IS SIMILAR TO ONE SET OUT IN THIS ACT, THE  
7 PENALTIES UNDER THIS ACT APPLY IF THEY ARE LESS THAN THOSE UNDER  
8 PRIOR LAW.

9 (B) CIVIL SEIZURES OR FORFEITURES AND INJUNCTIVE PROCEEDINGS  
10 COMMENCED PRIOR TO THE EFFECTIVE DATE OF THIS ACT ARE NOT  
11 AFFECTED BY THIS ACT.

12 (C) ALL ADMINISTRATIVE PROCEEDINGS PENDING UNDER PRIOR LAWS  
13 WHICH ARE SUPERSEDED BY THIS ACT SHALL BE CONTINUED AND BROUGHT  
14 TO A FINAL DETERMINATION IN ACCORD WITH THE LAWS AND RULES IN  
15 EFFECT PRIOR TO THE EFFECTIVE DATE OF THE ACT. ANY SUBSTANCE  
16 CONTROLLED UNDER PRIOR LAW WHICH IS NOT LISTED WITHIN SCHEDULES  
17 I THROUGH V, IS AUTOMATICALLY CONTROLLED WITHOUT FURTHER  
18 PROCEEDINGS AND SHALL BE LISTED IN THE APPROPRIATE SCHEDULE.

19 (D) THE SECRETARY SHALL INITIALLY PERMIT PERSONS TO REGISTER  
20 WHO OWN OR OPERATE ANY ESTABLISHMENT ENGAGED IN THE MANUFACTURE  
21 OR DISTRIBUTION OF ANY CONTROLLED SUBSTANCE PRIOR TO THE  
22 EFFECTIVE DATE OF THIS ACT AND WHO ARE REGISTERED OR LICENSED BY  
23 THIS COMMONWEALTH.

24 (E) THIS ACT APPLIES TO VIOLATIONS OF LAW, SEIZURES AND  
25 FORFEITURES, INJUNCTIVE PROCEEDINGS, ADMINISTRATIVE PROCEEDINGS  
26 AND INVESTIGATIONS WHICH OCCUR FOLLOWING ITS EFFECTIVE DATE.

27 SECTION 40. CONTINUATION OF REGULATIONS.--ANY ORDERS AND  
28 REGULATIONS PROMULGATED UNDER ANY LAW AFFECTED BY THIS ACT AND  
29 IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT AND NOT IN CONFLICT  
30 WITH IT CONTINUE IN EFFECT UNTIL MODIFIED, SUPERSEDED OR

1 REPEALED.

2 SECTION 41. UNIFORMITY OF INTERPRETATION.--THIS ACT SHALL BE  
3 SO APPLIED AND CONSTRUED AS TO EFFECTUATE ITS GENERAL PURPOSE TO  
4 MAKE UNIFORM THE LAW WITH RESPECT TO THE SUBJECT OF THIS ACT  
5 AMONG THOSE STATES WHICH ENACT SIMILAR LEGISLATION.

6 SECTION 42. BAR TO PROSECUTION.--IF A VIOLATION OF THIS ACT  
7 IS A VIOLATION OF A FEDERAL LAW OR THE LAW OF ANOTHER STATE, A  
8 CONVICTION OR ACQUITTAL UNDER FEDERAL LAW OR THE LAW OF ANOTHER  
9 STATE FOR THE SAME ACT IS A BAR TO PROSECUTION IN THIS  
10 COMMONWEALTH.

11 Section ~~36~~. 43. Repeals.--(a) The act of September 26, 1961 <—  
12 (P.L.1664), known as "The Drug, Device and Cosmetic Act," is  
13 hereby repealed.

14 (b) All other acts, or parts of acts, inconsistent with this  
15 act are hereby repealed.

16 ~~Section 37. Effective Date. This act shall take effect~~ <—  
17 ~~sixty days after the enactment thereof.~~