HB3695

LRB09604213RLC21759b

96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3695

Introduced 2/25/2009, by Rep. Ron Stephens

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Controlled Substances Act. Eliminates the State drug classification Schedules. Provides that the controlled scheduled substances are those listed by the authorized federal agency. Provides that any federally scheduled substance may be scheduled higher by administrative rule. Makes technical changes. Effective July 1, 2009.

LRB096 04213 RLC 21759 b

CORRECTIONAL BUDGET AND IMPACT NOTE ACT MAY APPLY

FISCAL NOTE ACT MAY APPLY

A BILL FOR

AN ACT concerning criminal law.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Controlled Substances Act is amended by changing Sections 102, 201, 202, 205, 207, 209, 211, 214, 301, 302, 303, 303.05, 303.1, 304, 305, 306, 309, 312, 313, 318, 405, 405.1, 410, 501, 501.1, 505, and 507 as follows:

(720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

Sec. 102. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any person who habitually uses any drug, chemical, substance or dangerous drug other than alcohol so as to endanger the public morals, health, safety or welfare or who is so far addicted to the use of a dangerous drug or controlled substance other than alcohol as to have lost the power of self control with reference to his or her addiction.

(b) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient, research subject, or animal (as defined by the Humane Euthanasia in Animal Shelters Act) by:

(1) a practitioner (or, in his or her presence, by his or her authorized agent),

(2) the patient or research subject at the lawful direction of the practitioner, or

(3) a euthanasia technician as defined by the Humane Euthanasia in Animal Shelters Act.

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

(c-1) "Anabolic Steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth. ~~, and includes:~~

~~(i) boldenone,~~

~~(ii) chlorotestosterone,~~

~~(iii) chostebol,~~

~~(iv) dehydrochlormethyltestosterone,~~

~~(v) dihydrotestosterone,~~

~~(vi) drostanolone,~~

~~(vii) ethylestrenol,~~

~~(viii) fluoxymesterone,~~

~~(ix) formebulone,~~

~~(x) mesterolone,~~

~~(xi) methandienone,~~

~~(xii) methandranone,~~

~~(xiii) methandriol,~~

~~(xiv) methandrostenolone,~~

~~(xv) methenolone,~~

~~(xvi) methyltestosterone,~~

~~(xvii) mibolerone,~~

~~(xviii) nandrolone,~~

~~(xix) norethandrolone,~~

~~(xx) oxandrolone,~~

~~(xxi) oxymesterone,~~

~~(xxii) oxymetholone,~~

~~(xxiii) stanolone,~~

~~(xxiv) stanozolol,~~

~~(xxv) testolactone,~~

~~(xxvi) testosterone,~~

~~(xxvii) trenbolone, and~~

~~(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.~~

~~Any person who is otherwise lawfully in possession of an anabolic steroid, or who otherwise lawfully manufactures, distributes, dispenses, delivers, or possesses with intent to deliver an anabolic steroid, which anabolic steroid is expressly intended for and lawfully allowed to be administered through implants to livestock or other nonhuman species, and which is approved by the Secretary of Health and Human Services for such administration, and which the person intends to administer or have administered through such implants, shall not be considered to be in unauthorized possession or to~~

~~unlawfully manufacture, distribute, dispense, deliver, or possess with intent to deliver such anabolic steroid for purposes of this Act.~~

(d) "Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule under Article II of this Act whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means a drug, substance, or immediate precursor in the Schedules of Article II of this Act.

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

(h) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a controlled substance, with or without consideration, whether or not there is an agency relationship.

(i) "Department" means the Illinois Department of Human Services (as successor to the Department of Alcoholism and Substance Abuse) or its successor agency.

(j) "Department of State Police" means the Department of

State Police of the State of Illinois or its successor agency.

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Financial and Professional Regulation" means the Department of Financial and Professional Regulation of the State of Illinois or its successor agency.

(m) "Depressant" or "stimulant substance" means:

(1) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid which has been designated as habit forming under section 502 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (d)); or

(2) a drug which contains any quantity of (i) amphetamine or methamphetamine and any of their optical isomers; (ii) any salt of amphetamine or methamphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Department, after investigation, has found to be, and by rule designated as, habit forming because of its depressant or stimulant effect on the central nervous system; or

(3) lysergic acid diethylamide; or

(4) any drug which contains any quantity of a substance which the Department, after investigation, has found to have, and by rule designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(n) (Blank).

(o) "Director" means the Director of the Department of State Police ~~or the Department of Professional Regulation~~ or his or her designated agents.

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

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

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

(t-1) "Drug Schedule" means the classification system established by the federal Food and Drug Administration and the

federal Drug Enforcement Administration.

(t-5) "Euthanasia agency" means an entity certified by the Department of Professional Regulation for the purpose of animal euthanasia that holds an animal control facility license or animal shelter license under the Animal Welfare Act. A euthanasia agency is authorized to purchase, store, possess, and utilize Schedule II nonnarcotic and Schedule III nonnarcotic drugs for the sole purpose of animal euthanasia.

(t-10) "Euthanasia drugs" means Schedule II or Schedule III substances (nonnarcotic controlled substances) that are used by a euthanasia agency for the purpose of animal euthanasia.

(u) "Good faith" means the prescribing or dispensing of a controlled substance by a practitioner in the regular course of professional treatment to or for any person who is under his or her treatment for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided herein: and application of the term to a pharmacist shall mean the dispensing of a controlled substance pursuant to the prescriber's order which in the professional judgment of the pharmacist is lawful. The pharmacist shall be guided by accepted professional standards including, but not limited to the following, in making the judgment:

(1) lack of consistency of doctor-patient relationship,

(2) frequency of prescriptions for same drug by one

prescriber for large numbers of patients,

(3) quantities beyond those normally prescribed,

(4) unusual dosages,

(5) unusual geographic distances between patient, pharmacist and prescriber,

(6) consistent prescribing of habit-forming drugs.

(u-1) "Home infusion services" means services provided by a pharmacy in compounding solutions for direct administration to a patient in a private residence, long-term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(v) "Immediate precursor" means a substance:

(1) which the Department has found to be and by rule designated as being a principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(w) "Instructional activities" means the acts of teaching, educating or instructing by practitioners using controlled substances within educational facilities approved by the State Board of Education or its successor agency.

(x) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(y) "Look-alike substance" means a substance, other than a controlled substance which (1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, or (2) is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of subsection (y), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

(a) statements made by the owner or person in control of the substance concerning its nature, use or effect;

(b) statements made to the buyer or recipient that the substance may be resold for profit;

(c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;

(d) whether the distribution or attempted distribution

included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

Clause (1) of this subsection (y) shall not apply to a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble.

Nothing in this subsection (y) prohibits the dispensing or distributing of noncontrolled substances by persons authorized to dispense and distribute controlled substances under this Act, provided that such action would be deemed to be carried out in good faith under subsection (u) if the substances involved were controlled substances.

Nothing in this subsection (y) or in this Act prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

(y-1) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States, other than Illinois, that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(z) "Manufacture" means the production, preparation,

propagation, compounding, conversion or processing of a controlled substance other than methamphetamine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that this term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his or her own use; or

(2) by a practitioner, or his or her authorized agent under his supervision, the preparation, compounding, packaging, or labeling of a controlled substance:

(a) as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice; or

(b) as an incident to lawful research, teaching or chemical analysis and not for sale.

(z-1) (Blank).

(aa) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

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

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

(3) opium poppy and poppy straw;

(4) coca leaves and any salts, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine or ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers).

(bb) "Nurse" means a registered nurse licensed under the Nurse Practice Act.

(cc) (Blank).

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

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

(ff) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

(gg) "Person" means any individual, corporation, mail-order pharmacy, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

(hh) "Pharmacist" means any person who holds a license or certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act.

(ii) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act.

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

(kk) "Practitioner" means a physician licensed to practice medicine in all its branches, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ll) "Pre-printed prescription" means a written prescription upon which the designated drug has been indicated

prior to the time of issuance and does not mean a written prescription which is machine or computer generated individually in the prescriber's office.

(mm) "Prescriber" means a physician licensed to practice medicine in all its branches, dentist, optometrist, podiatrist or veterinarian who issues a prescription, a physician assistant who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act and in accordance with Section 303.05 and a written collaborative agreement under Section 65-35 of the Nurse Practice Act.

(nn) "Prescription" means a lawful written, facsimile, or verbal order of a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian for any controlled substance, of an optometrist for a Schedule III, IV, or V controlled substance in accordance with Section 15.1 of the Illinois Optometric Practice Act of 1987, of a physician assistant for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act who issues a prescription for a Schedule III, IV, or V

controlled substance in accordance with Section 303.05 and a written collaborative agreement under Section 65-35 of the Nurse Practice Act.

(oo) "Production" or "produce" means manufacture, planting, cultivating, growing, or harvesting of a controlled substance other than methamphetamine.

(pp) "Registrant" means every person who is required to register under Section 302 of this Act.

(qq) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(rr) "Secretary" means the Secretary of the Department Financial and Professional Regulation or the Department of Human Services or his or her designated agents.

(ss) ~~(rr)~~ "State" includes the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

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

(Source: P.A. 94-556, eff. 9-11-05; 95-242, eff. 1-1-08; 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; 95-876, eff. 8-21-08.)

(720 ILCS 570/201) (from Ch. 56 1/2, par. 1201)

Sec. 201. (a) The Department shall carry out the provisions of this Article. The Department or its successor agency may add substances to a drug schedule which is higher than the federal schedule by administrative rule ~~or delete or reschedule all controlled substances in the Schedules of Sections 204, 206, 208, 210 and 212 of this Act~~. In making a determination regarding the elevating ~~addition, deletion, or rescheduling~~ of a substance, the Department shall consider the following:

(1) the actual or relative potential for abuse;

(2) the scientific evidence of its pharmacological effect, if known;

(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of abuse;

(5) the scope, duration, and significance of abuse;

(6) the risk to the public health;

(7) the potential of the substance to produce psychological or physiological dependence;

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

(9) the immediate harmful effect in terms of potentially fatal dosage; and

(10) the long-range effects in terms of permanent health impairment.

(b) (Blank).

(c) (Blank).

(d) If any substance is scheduled, rescheduled, or deleted as a controlled substance under Federal law and notice thereof is given to the Department, the Department shall similarly control the substance under this Act after the expiration of 30 days from publication in the Federal Register of a final order scheduling a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30 day period the Department initiates action to elevate the schedule for a specific controlled substance ~~objects, or a party adversely affected files with the Department substantial written objections objecting to inclusion, rescheduling, or deletion~~. In that case, the Department shall publish the reasons for that action ~~objection or the substantial written objections~~ and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Department shall publish its decision, by means of a rule, which shall be final unless altered by statute. Upon publication of objections by the Department, similar control under this Act whether by inclusion, rescheduling or deletion is stayed until the Department publishes its ruling.

(e) (Blank). ~~The Department shall by rule exclude any non-narcotic substances from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.~~

(f) (Blank).

(g) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in the Liquor Control Act and the Tobacco Products Tax Act.

(h) Persons registered with the Drug Enforcement Administration to manufacture or distribute controlled substances shall maintain adequate security and provide effective controls and procedures to guard against theft and diversion, but shall not otherwise be required to meet the physical security control requirements (such as cage or vault) for Schedule V controlled substances containing pseudoephedrine or Schedule II controlled substances containing dextromethorphan.

(Source: P.A. 94-800, eff. 1-1-07; 94-1087, eff. 1-19-07; 95-331, eff. 8-21-07.)

(720 ILCS 570/202) (from Ch. 56 1/2, par. 1202)

Sec. 202.

(a) The scheduled controlled substances shall be those listed by the authorized federal agency. Any federally scheduled substance may be scheduled higher by administrative rule ~~or to be listed in the schedules in sections 204, 206, 208, 210 and 212 are included by whatever official, common, usual, chemical, or trade name designated~~.

(b) The Prescription Drug User Committee shall be formed in

order to:

(1) provide a uniform approach to review the Illinois Controlled Substances Act in order to determine if changes should be recommended to the General Assembly.

(2) review current drug schedules in order to manage changes to the Administrative Rules pertaining to the utilization of this Act.

(c) The User Committee will consist of:

(1) A representative from the Illinois Department of Human Services, Bureau of Pharmacy and Clinical Support Services or its successor.

(2) A representative from the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse or its successor.

(3) A representative from the Illinois Department of Financial and Professional Regulations or its successor.

(4) A representative from the Illinois Department of Public Health.

(d) The Secretary of the Department of Human Services shall designate the chair person of the User Committee.

(e) The User Committee shall meet on the first Monday on or after April 1st and October 1st. Reasonable travel expenses shall be paid from the Prescription Monitoring Program budget line.

(Source: P.A. 77-757.)

(720 ILCS 570/205) (from Ch. 56 1/2, par. 1205)

Sec. 205. The Department shall issue a rule scheduling a substance in Schedule II if it finds that:

(1) the substance has high potential for abuse;

(2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; ~~and~~

(3) the abuse of the substance may lead to severe psychological or physiological dependence; and ~~.~~

(4) the federal scheduling agency should have assigned a specific drug with a more restricted schedule.

(Source: P.A. 83-969.)

(720 ILCS 570/207) (from Ch. 56 1/2, par. 1207)

Sec. 207. The Department shall issue a rule scheduling a substance in Schedule III if it finds that:

(1) the substance has a potential for abuse less than the substances listed in Schedule I and II;

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

(3) abuse of the substance may lead to moderate or low physiological dependence or high psychological dependence; and ~~.~~

(4) the federal scheduling agency should have assigned a specific drug with a more restricted schedule.

(Source: P.A. 83-969.)

(720 ILCS 570/209) (from Ch. 56 1/2, par. 1209)

Sec. 209. The Department shall issue a rule scheduling a substance in Schedule IV if it finds that:

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

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

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

(4) the federal scheduling agency should have assigned a specific drug with a more restricted schedule.

(Source: P.A. 83-969.)

(720 ILCS 570/211) (from Ch. 56 1/2, par. 1211)

Sec. 211. The Department shall issue a rule scheduling a substance in Schedule V if it finds that:

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

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

(3) abuse of the substance may lead to limited physiological dependence or psychological dependence relative to the substances in Schedule IV, or the substance is a targeted methamphetamine precursor as defined in the

Methamphetamine Precursor Control Act; and ~~.~~

(4) the federal scheduling agency should have assigned a specific drug with a more restricted schedule.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 570/214) (from Ch. 56 1/2, par. 1214)

Sec. 214. Excluded Substances.

(a) Products containing an anabolic steroid, that are expressly intended for administration through implants to cattle or other nonhuman species and that have been approved by the U.S. Secretary of Health and Human Services for that administration, and that are excluded from all schedules under Section 102(41)(B)(1) of the federal Controlled Substances Act (21 U.S.C. 802(41)(B)(1)) are also excluded from Sections 207 and 208 of this Act.

(b) The non-narcotic substances excluded from all schedules of the Federal Controlled Substances Act (21 U.S.C. 801 et seq.) pursuant to Section 1308.22 of the Code of Federal Regulations (21 C.F.R. 1308.22), are excluded from all schedules of this Act.

(Source: P.A. 91-714, eff. 6-2-00.)

(720 ILCS 570/301) (from Ch. 56 1/2, par. 1301)

Sec. 301. The Department of Financial and Professional Regulation shall promulgate rules and charge reasonable fees and fines relating to the registration and control of the

manufacture, distribution, and dispensing of controlled substances within this State. All moneys received by the Department of Financial and Professional Regulation under this Act shall be deposited into the respective professional dedicated funds in like manner as the primary professional licenses.

A pharmacy, manufacturer of controlled substances, or wholesale distributor of controlled substances that is regulated under this Act and owned and operated by the State is exempt from fees required under this Act. Pharmacists and pharmacy technicians working in facilities owned and operated by the State are not exempt from the payment of fees required by this Act and any rules adopted under this Act. Nothing in this Section shall be construed to prohibit the Department from imposing any fine or other penalty allowed under this Act.

(Source: P.A. 95-689, eff. 10-29-07.)

(720 ILCS 570/302) (from Ch. 56 1/2, par. 1302)

Sec. 302. (a) Every person who manufactures, distributes, or dispenses any controlled substances, or engages in chemical analysis, and instructional activities which utilize controlled substances, or who purchases, stores, or administers euthanasia drugs, within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, or to engage in chemical analysis, and instructional activities which utilize controlled

substances, or to engage in purchasing, storing, or administering euthanasia drugs, within this State, must obtain a registration issued by the Department of Financial and Professional Regulation in accordance with its rules. The rules shall include, but not be limited to, setting the expiration date and renewal period for each registration under this Act. The Department, and any facility or service licensed by the Department, shall be exempt from the regulation requirements of this Section.

(b) Persons registered by the Department of Financial and Professional Regulation under this Act to manufacture, distribute, or dispense controlled substances, or purchase, store, or administer euthanasia drugs, may possess, manufacture, distribute, or dispense those substances, or purchase, store, or administer euthanasia drugs, to the extent authorized by their registration and in conformity with the other provisions of this Article.

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

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

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

business or employment;

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

(4) officers and employees of this State or of the United States while acting in the lawful course of their official duties which requires possession of controlled substances;

(5) a registered pharmacist who is employed in, or the owner of, a pharmacy licensed under this Act and the Federal Controlled Substances Act, at the licensed location, or if he or she is acting in the usual course of his or her lawful profession, business, or employment.

(d) A separate registration is required at each place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances, or purchases, stores, or administers euthanasia drugs. Persons are required to obtain a separate registration for each place of business or professional practice where controlled substances are located or stored. A separate registration is not required for every location at which a controlled substance may be prescribed.

(e) The Department of Financial and Professional Regulation or the Department of State Police may inspect the controlled premises, as defined in Section 502 of this Act, of

a registrant or applicant for registration in accordance with this Act and the rules promulgated hereunder and with regard to persons licensed by the Department, in accordance with subsection (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and Dependency Act and the rules and regulations promulgated thereunder.

(Source: P.A. 93-626, eff. 12-23-03.)

(720 ILCS 570/303) (from Ch. 56 1/2, par. 1303)

Sec. 303. (a) The Department of Financial and Professional Regulation shall license an applicant to manufacture, distribute or dispense controlled substances included in Section 202 ~~Sections 204, 206, 208, 210 and 212~~ of this Act or purchase, store, or administer euthanasia drugs unless it determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the Department of Financial and Professional Regulation shall consider the following:

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

(2) compliance with applicable Federal, State and local law;

(3) any convictions of the applicant under any law of the United States or of any State relating to any controlled substance;

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

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

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

(7) whether the applicant is suitably equipped with the facilities appropriate to carry on the operation described in his or her application;

(8) whether the applicant is of good moral character or, if the applicant is a partnership, association, corporation or other organization, whether the partners, directors, governing committee and managing officers are of good moral character;

(9) any other factors relevant to and consistent with the public health and safety; and

(10) evidence from court, medical disciplinary and pharmacy board records and those of State and Federal investigatory bodies that the applicant has not or does not prescribe controlled substances within the provisions of this Act.

(b) No license shall be granted to or renewed for any

person who has within 5 years been convicted of a wilful violation of any law of the United States or any law of any State relating to controlled substances, or who is found to be deficient in any of the matters enumerated in subsections (a)(1) through (a)(8).

(c) Licensure under subsection (a) does not entitle a registrant to manufacture, distribute or dispense controlled substances in Schedules I or II other than those specified in the registration.

(d) Practitioners who are licensed to dispense any controlled substances in Schedules II through V are authorized to conduct instructional activities with controlled substances in Schedules II through V under the law of this State.

(e) If an applicant for registration is registered under the Federal law to manufacture, distribute or dispense controlled substances, or purchase, store, or administer euthanasia drugs, upon filing a completed application for licensure in this State and payment of all fees due hereunder, he or she shall be licensed in this State to the same extent as his or her Federal registration, unless, within 30 days after completing his or her application in this State, the Department of Financial and Professional Regulation notifies the applicant that his or her application has not been granted. A practitioner who is in compliance with the Federal law with respect to registration to dispense controlled substances in Schedules II through V need only send a current copy of that

Federal registration to the Department of Financial and Professional Regulation and he or she shall be deemed in compliance with the registration provisions of this State.

(e-5) Beginning July 1, 2003, all of the fees and fines collected under this Section 303 shall be deposited into the Illinois State Pharmacy Disciplinary Fund.

(f) The fee for registration as a manufacturer or wholesale distributor of controlled substances shall be $50.00 per year, except that the fee for registration as a manufacturer or wholesale distributor of controlled substances that may be dispensed without a prescription under this Act shall be $15.00 per year. The expiration date and renewal period for each controlled substance license issued under this Act shall be set by rule.

(Source: P.A. 93-32, eff. 7-1-03; 93-626, eff. 12-23-03.)

(720 ILCS 570/303.05)

Sec. 303.05. Mid-level practitioner registration.

(a) The Department of Financial and Professional Regulation shall register licensed physician assistants and licensed advanced practice nurses to prescribe and dispense Schedule III, IV, or V controlled substances under Section 303 and euthanasia agencies to purchase, store, or administer euthanasia drugs under the following circumstances:

(1) with respect to physician assistants or advanced practice nurses,

(A) the physician assistant or advanced practice nurse has been delegated prescriptive authority by a physician licensed to practice medicine in all its branches in accordance with Section 7.5 of the Physician Assistant Practice Act of 1987 or Section 65-40 of the Nurse Practice Act; and

(B) the physician assistant or advanced practice nurse has completed the appropriate application forms and has paid the required fees as set by rule; or

(2) with respect to euthanasia agencies, the euthanasia agency has obtained a license from the Department of Professional Regulation and obtained a registration number from the Department.

(b) The mid-level practitioner shall only be licensed to prescribe those schedules of controlled substances for which a licensed physician has delegated prescriptive authority, except that a euthanasia agency does not have any prescriptive authority.

(c) Upon completion of all registration requirements, physician assistants, advanced practice nurses, and euthanasia agencies shall be issued a mid-level practitioner controlled substances license for Illinois.

(Source: P.A. 95-639, eff. 10-5-07.)

(720 ILCS 570/303.1) (from Ch. 56 1/2, par. 1303.1)

Sec. 303.1. Any person who delivers a check or other

payment to the Department of Financial and Professional Regulation that is returned to the Department of Financial and Professional Regulation unpaid by the financial institution upon which it is drawn shall pay to the Department of Financial and Professional Regulation, in addition to the amount already owed to the Department of Financial and Professional Regulation, a fine of $50. If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fine due, an additional fine of $100 shall be imposed. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department of Financial and Professional Regulation shall notify the person that payment of fees and fines shall be paid to the Department of Financial and Professional Regulation by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department of Financial and Professional Regulation shall automatically terminate the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department of Financial and Professional Regulation for restoration or issuance of the license or certificate and pay all fees and fines due to the Department of

Financial and Professional Regulation. The Department of Financial and Professional Regulation may establish a fee for the processing of an application for restoration of a license or certificate to pay all expenses of processing this application. The Secretary of Financial and Professional Regulation ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary of Financial and Professional Regulation ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 89-507, eff. 7-1-97.)

(720 ILCS 570/304) (from Ch. 56 1/2, par. 1304)

Sec. 304. (a) A registration under Section 303 to manufacture, distribute, or dispense a controlled substance or purchase, store, or administer euthanasia drugs may be suspended or revoked by the Department of Financial and Professional Regulation upon a finding that the registrant:

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

(2) has been convicted of a felony under any law of the United States or any State relating to any controlled substance; or

(3) has had suspended or revoked his or her Federal registration to manufacture, distribute, or dispense controlled substances or purchase, store, or administer euthanasia drugs; or

(4) has been convicted of bribery, perjury, or other infamous crime under the laws of the United States or of any State; or

(5) has violated any provision of this Act or any rules promulgated hereunder, or any provision of the Methamphetamine Precursor Control Act or rules promulgated thereunder, whether or not he or she has been convicted of such violation; or

(6) has failed to provide effective controls against the diversion of controlled substances in other than legitimate medical, scientific or industrial channels.

(b) The Department of Financial and Professional Regulation may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) The Department of Financial and Professional Regulation shall promptly notify the Administration, the Department of Human Services and the Department of State Police or their successor agencies, of all orders denying, suspending or revoking registration, all forfeitures of controlled substances, and all final court dispositions, if any, of such denials, suspensions, revocations or forfeitures.

(d) If Federal registration of any registrant is suspended, revoked, refused renewal or refused issuance, then the Department of Financial and Professional Regulation shall issue a notice and conduct a hearing in accordance with Section

305 of this Act.

(Source: P.A. 93-626, eff. 12-23-03; 94-694, eff. 1-15-06.)

(720 ILCS 570/305) (from Ch. 56 1/2, par. 1305)

Sec. 305. (a) Before denying, refusing renewal of, suspending or revoking a registration, the Department of Financial and Professional Regulation shall serve upon the applicant or registrant, by registered mail at the address in the application or registration or by any other means authorized under the Civil Practice Law or Rules of the Illinois Supreme Court for the service of summons or subpoenas, a notice of hearing to determine why registration should not be denied, refused renewal, suspended or revoked. The notice shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the Department of Financial and Professional Regulation at a reasonable time and place. These proceedings shall be conducted in accordance with Sections 2105-5, 2105-15, 2105-100, 2105-105, 2105-110, 2105-115, 2105-120, 2105-125, 2105-175, and 2105-325 of the Department of Financial and Professional Regulation Law (20 ILCS 2105/2105-5, 2105/2105-15, 2105/2105-100, 2105/2105-105, 2105/2105-110, 2105/2105-115, 2105/2105-120, 2105/2105-125, 2105/2105-175, and 2105/2105-325), without regard to any criminal prosecution or other proceeding. Except as authorized in subsection (c), proceedings to refuse renewal or suspend or revoke registration shall not abate the existing registration,

which shall remain in effect until the Department of Financial and Professional Regulation has held the hearing called for in the notice and found, with input from the appropriate licensure or disciplinary board, that the registration shall no longer remain in effect.

(b) The Secretary of Financial and Professional Regulation ~~Director~~ may appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action to deny, refuse to renew, suspend, or revoke, or take any other disciplinary action with regard to a registration. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the appropriate licensure or disciplinary board within 30 days after receiving the record. The Disciplinary Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary of Financial and Professional Regulation ~~Director~~.

(c) If the Department of Financial and Professional Regulation finds that there is an imminent danger to the public health or safety by the continued manufacture, distribution or dispensing of controlled substances by the registrant, the Department of Financial and Professional Regulation may, upon the issuance of a written ruling stating the reasons for such finding and without notice or hearing, suspend such registrant.

The suspension shall continue in effect for not more than 14 days during which time the registrant shall be given a hearing on the issues involved in the suspension. If after the hearing, and after input from the appropriate licensure or disciplinary board, the Department of Financial and Professional Regulation finds that the public health or safety requires the suspension to remain in effect it shall so remain until the ruling is terminated by its own terms or subsequent ruling or is dissolved by a circuit court upon determination that the suspension was wholly without basis in fact and law.

(d) If, after a hearing as provided in subsection (a), the Department of Financial and Professional Regulation finds that a registration should be refused renewal, suspended or revoked, a written ruling to that effect shall be entered. The Department of Financial and Professional Regulation's ruling shall remain in effect until the ruling is terminated by its own terms or subsequent ruling or is dissolved by a circuit court upon a determination that the refusal to renew suspension or revocation was wholly without basis in fact and law.

(Source: P.A. 91-239, eff. 1-1-00.)

(720 ILCS 570/306) (from Ch. 56 1/2, par. 1306)

Sec. 306. Every practitioner and person who is required under this Act to be registered to manufacture, distribute or dispense controlled substances or purchase, store, or administer euthanasia drugs under this Act shall keep records

and maintain inventories in conformance with the recordkeeping and inventory requirements of the laws of the United States and with any additional rules and forms issued by the Department of Financial and Professional Regulation.

(Source: P.A. 93-626, eff. 12-23-03.)

(720 ILCS 570/309) (from Ch. 56 1/2, par. 1309)

Sec. 309. On or after April 1, 2000, no person shall issue a prescription for a Schedule II controlled substance, which is a narcotic drug listed in Section 202 ~~206~~ of this Act~~; or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers; phenmetrazine and its salts; gluthethimide; and pentazocine~~, other than on a written prescription; provided that in the case of an emergency, epidemic or a sudden or unforeseen accident or calamity, the prescriber may issue a lawful oral prescription where failure to issue such a prescription might result in loss of life or intense suffering, but such oral prescription shall include a statement by the prescriber concerning the accident or calamity, or circumstances constituting the emergency, the cause for which an oral prescription was used. Within 7 days after issuing an emergency prescription, the prescriber shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. The prescription shall have written on its face "Authorization for Emergency Dispensing", and the date of the emergency

prescription. The written prescription may be delivered to the pharmacist in person, or by mail, but if delivered by mail it must be postmarked within the 7-day period. Upon receipt, the dispensing pharmacist shall attach this prescription to the emergency oral prescription earlier received and reduced to writing. The dispensing pharmacist shall notify the Department of Financial and Professional Regulation ~~Human Services~~ if the prescriber fails to deliver the authorization for emergency dispensing on the prescription to him or her. Failure of the dispensing pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescriber. All prescriptions issued for Schedule II controlled substances shall include both a written and numerical notation of quantity on the face of the prescription. No prescription for a Schedule II controlled substance may be refilled. The Department shall provide, at no cost, audit reviews and necessary information to the Department of Financial and Professional Regulation in conjunction with ongoing investigations being conducted in whole or part by the Department of Financial and Professional Regulation.

(Source: P.A. 95-689, eff. 10-29-07.)

(720 ILCS 570/312) (from Ch. 56 1/2, par. 1312)

Sec. 312. Requirements for dispensing controlled substances.

(a) A practitioner, in good faith, may dispense a Schedule

II controlled substance, which is a narcotic drug listed in Section 202 ~~206~~ of this Act, ~~; or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers; phenmetrazine and its salts; or pentazocine; and Schedule III, IV, or V controlled substances~~ to any person upon a written prescription of any prescriber, dated and signed by the person prescribing on the day when issued and bearing the name and address of the patient for whom, or the owner of the animal for which the controlled substance is dispensed, and the full name, address and registry number under the laws of the United States relating to controlled substances of the prescriber, if he or she is required by those laws to be registered. If the prescription is for an animal it shall state the species of animal for which it is ordered. The practitioner filling the prescription shall, unless otherwise allowed, write the date of filling and his or her own signature on the face of the written prescription. The written prescription shall be retained on file by the practitioner who filled it or pharmacy in which the prescription was filled for a period of 2 years, so as to be readily accessible for inspection or removal by any officer or employee engaged in the enforcement of this Act. Whenever the practitioner's or pharmacy's copy of any prescription is removed by an officer or employee engaged in the enforcement of this Act, for the purpose of investigation or as evidence, such officer or employee shall give to the practitioner or pharmacy

a receipt in lieu thereof. A prescription for a Schedule II controlled substance shall not be filled more than 7 days after the date of issuance. If the specific prescription is machine or computer generated at the prescriber's office, the date does not need to be handwritten. A written prescription for Schedule III, IV or V controlled substances shall not be filled or refilled more than 6 months after the date thereof or refilled more than 5 times unless renewed, in writing, by the prescriber.

(b) In lieu of a written prescription required by this Section, a pharmacist, in good faith, may dispense Schedule III, IV, or V substances to any person either upon receiving a facsimile of a written, signed prescription transmitted by the prescriber or the prescriber's agent or upon a lawful oral prescription of a prescriber which oral prescription shall be reduced promptly to writing by the pharmacist and such written memorandum thereof shall be dated on the day when such oral prescription is received by the pharmacist and shall bear the full name and address of the ultimate user for whom, or of the owner of the animal for which the controlled substance is dispensed, and the full name, address, and registry number under the law of the United States relating to controlled substances of the prescriber prescribing if he or she is required by those laws to be so registered, and the pharmacist filling such oral prescription shall write the date of filling and his or her own signature on the face of such written

memorandum thereof. The facsimile copy of the prescription or written memorandum of the oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of not less than two years, so as to be readily accessible for inspection by any officer or employee engaged in the enforcement of this Act in the same manner as a written prescription. The facsimile copy of the prescription or oral prescription and the written memorandum thereof shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed, in writing, by the prescriber.

(c) Except for any non-prescription targeted methamphetamine precursor regulated by the Methamphetamine Precursor Control Act, a controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose and not for the purpose of evading this Act, and then:

(1) only personally by a person registered to dispense a Schedule V controlled substance and then only to his or her patients, or

(2) only personally by a pharmacist, and then only to a person over 21 years of age who has identified himself or herself to the pharmacist by means of 2 positive documents of identification.

(3) the dispenser shall record the name and address of the purchaser, the name and quantity of the product, the

date and time of the sale, and the dispenser's signature.

(4) no person shall purchase or be dispensed more than 120 milliliters or more than 120 grams of any Schedule V substance which contains codeine, dihydrocodeine, or any salts thereof, or ethylmorphine, or any salts thereof, in any 96 hour period. The purchaser shall sign a form, approved by the Department of Financial and Professional Regulation, attesting that he or she has not purchased any Schedule V controlled substances within the immediately preceding 96 hours.

(5) (Blank). ~~a copy of the records of sale, including all information required by paragraph (3), shall be forwarded to the Department of Professional Regulation at its principal office by the 15th day of the following month.~~

(6) all records of purchases and sales shall be maintained for not less than 2 years.

(7) no person shall obtain or attempt to obtain within any consecutive 96 hour period any Schedule V substances of more than 120 milliliters or more than 120 grams containing codeine, dihydrocodeine or any of its salts, or ethylmorphine or any of its salts. Any person obtaining any such preparations or combination of preparations in excess of this limitation shall be in unlawful possession of such controlled substance.

(8) a person qualified to dispense controlled

substances under this Act and registered thereunder shall at no time maintain or keep in stock a quantity of Schedule V controlled substances ~~defined and listed in Section 212 (b) (1), (2) or (3)~~ in excess of 4.5 liters for each substance; a pharmacy shall at no time maintain or keep in stock a quantity of Schedule V controlled substances as defined in excess of 4.5 liters for each substance, plus the additional quantity of controlled substances necessary to fill the largest number of prescription orders filled by that pharmacy for such controlled substances in any one week in the previous year. These limitations shall not apply to Schedule V controlled substances which Federal law prohibits from being dispensed without a prescription.

(9) no person shall distribute or dispense butyl nitrite for inhalation or other introduction into the human body for euphoric or physical effect.

(d) Every practitioner shall keep a record of controlled substances received by him and a record of all such controlled substances administered, dispensed or professionally used by him or her otherwise than by prescription. It shall, however, be sufficient compliance with this paragraph if any practitioner utilizing controlled substances listed in Schedules III, IV and V shall keep a record of all those substances dispensed and distributed by him or her other than those controlled substances which are administered by the direct application of a controlled substance, whether by

injection, inhalation, ingestion, or any other means to the body of a patient or research subject. A practitioner who dispenses, other than by administering, a controlled substance in Schedule II~~, which is a narcotic drug listed in Section 206 of this Act, or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers, pentazocine, or methaqualone~~ shall do so only upon the issuance of a written prescription blank by a prescriber.

(e) Whenever a manufacturer distributes a controlled substance in a package prepared by him or her, and whenever a wholesale distributor distributes a controlled substance in a package prepared by him or her or the manufacturer, he or she shall securely affix to each package in which that substance is contained a label showing in legible English the name and address of the manufacturer, the distributor and the quantity, kind and form of controlled substance contained therein. No person except a pharmacist and only for the purposes of filling a prescription under this Act, shall alter, deface or remove any label so affixed.

(f) Whenever a practitioner dispenses any controlled substance except a non-prescription targeted methamphetamine precursor regulated by the Methamphetamine Precursor Control Act, he or she shall affix to the container in which such substance is sold or dispensed, a label indicating the date of initial filling, the practitioner's name and address, the name

of the patient, the name of the prescriber, the directions for use and cautionary statements, if any, contained in any prescription or required by law, the proprietary name or names or the established name of the controlled substance, and the dosage and quantity, except as otherwise authorized by regulation by the Department of Financial and Professional Regulation. No person shall alter, deface or remove any label so affixed as long as any of the specific medication remains in the container.

(g) A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner, or other persons authorized under this Act, and the owner of any animal for which such substance has been prescribed or dispensed by a veterinarian, may lawfully possess such substance only in the container in which it was delivered to him or her by the person dispensing such substance.

(h) The responsibility for the proper prescribing or dispensing of controlled substances that are under the prescriber's direct control is upon the prescriber. The ~~and the~~ responsibility for the proper filling of a prescription for controlled substance drugs rests with the pharmacist. An order purporting to be a prescription issued to any individual, which is not in the regular course of professional treatment nor part of an authorized methadone maintenance program, nor in legitimate and authorized research instituted by any accredited hospital, educational institution, charitable

foundation, or federal, state or local governmental agency, and which is intended to provide that individual with controlled substances sufficient to maintain that individual's or any other individual's physical or psychological addiction, habitual or customary use, dependence, or diversion of that controlled substance is not a prescription within the meaning and intent of this Act; and the person issuing it, shall be subject to the penalties provided for violations of the law relating to controlled substances.

(i) A prescriber shall not preprint or cause to be preprinted a prescription for any controlled substance; nor shall any practitioner issue, fill or cause to be issued or filled, a preprinted prescription for any controlled substance. In order to avoid handwriting errors a prescriber may use a machine or computer type device to individually generate a printed prescription or electronically transmit a prescription to a dispenser of the patient's choice; however, the prescriber is still required to affix his or her original or approved, secure electronic signature to the prescription.

(j) No person shall manufacture, dispense, deliver, possess with intent to deliver, prescribe, or administer or cause to be administered under his or her direction any anabolic steroid, for any use in humans other than the treatment of disease in accordance with the order of a physician licensed to practice medicine in all its branches for a valid medical purpose in the course of professional practice.

The use of anabolic steroids for the purpose of hormonal manipulation that is intended to increase muscle mass, strength or weight without a medical necessity to do so, or for the intended purpose of improving physical appearance or performance in any form of exercise, sport, or game, is not a valid medical purpose or in the course of professional practice.

(k) As allowed by the federal electronic signature statute or administrative rule, a prescriber may establish with any dispenser an approved, secure electronic signature, which shall have the effect of an original signature for any prescription.

(l) If an electronic signature authorization is established between a prescriber and a dispenser, the prescriber may electronically transmit a prescription on a secure connection between the prescriber and the dispenser.

(m) An electronically presented prescription may only be used with established patients.

(n) A prescriber's first-time patient may only use a prescription prepared in the prescriber's office.

(o) In the case of a prescription for a Schedule II medication which has an electronic signature of the prescriber, the dispenser must confirm the prescription by means of telephone or facsimile or other one-to-one contact with the prescriber. The dispenser must note the name of the individual contacted and the date and time on the prescription.

(p) Failure to comply with the law regarding the electronic signature or the electronically presented prescription shall be considered a deceptive practice.

(Source: P.A. 94-694, eff. 1-15-06; 94-830, eff. 6-5-06.)

(720 ILCS 570/313) (from Ch. 56 1/2, par. 1313)

Sec. 313. (a) Controlled substances which are lawfully administered in hospitals or institutions licensed under the "Hospital Licensing Act" shall be exempt from the requirements of Sections 312 and 316 except that the prescription for the controlled substance shall be in writing on the patient's record, signed by the prescriber, dated, and shall state the name, and quantity of controlled substances ordered and the quantity actually administered. The records of such prescriptions shall be maintained for two years and shall be available for inspection by officers and employees of the Department of State Police, and the Department of Financial and Professional Regulation.

(b) Controlled substances that can lawfully be administered or dispensed directly to a patient in a long-term care facility licensed by the Department of Public Health as a skilled nursing facility, intermediate care facility, or long-term care facility for residents under 22 years of age, are exempt from the requirements of Section 312 except that a prescription for a Schedule II controlled substance must be either a ~~written~~ prescription signed by the prescriber or a

~~written~~ prescription transmitted by the prescriber or prescriber's agent to the dispensing pharmacy by facsimile. The facsimile serves as the original prescription and must be maintained for 2 years from the date of issue in the same manner as a ~~written~~ prescription signed by the prescriber.

(c) A prescription that is originated ~~written~~ for a Schedule II controlled substance to be compounded for direct administration by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion to a patient in a private residence, long-term care facility, or hospice program may be transmitted by facsimile by the prescriber or the prescriber's agent to the pharmacy providing the home infusion services. The facsimile serves as the original ~~written~~ prescription for purposes of this paragraph (c) and it shall be maintained in the same manner as the original ~~written~~ prescription.

(c-1) A prescription generated ~~written~~ for a Schedule II controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII of the Social Security Act or licensed by the State may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or practitioner's agent must note on the prescription that the patient is a hospice patient. The facsimile serves as the original ~~written~~ prescription for purposes of this paragraph (c-1) and it shall be maintained in the same manner as the original ~~written~~ prescription.

(d) Controlled substances which are lawfully administered and/or dispensed in drug abuse treatment programs licensed by the Department shall be exempt from the requirements of Sections 312 and 316, except that the prescription for such controlled substances shall be issued and authenticated on official prescription logs prepared and supplied by the Department. The official prescription logs issued by the Department shall be printed in triplicate on distinctively marked paper and furnished to programs at reasonable cost. The official prescription logs furnished to the programs shall contain, in preprinted form, such information as the Department may require. The official prescription logs shall be properly endorsed by a physician licensed to practice medicine in all its branches issuing the order, with his or her own signature and the date of ordering, and further endorsed by the practitioner actually administering or dispensing the dosage at the time of such administering or dispensing in accordance with requirements issued by the Department. The duplicate copy shall be retained by the program for a period of not less than three years nor more than seven years; the original and triplicate copy shall be returned to the Department at its principal office in accordance with requirements set forth by the Department.

(Source: P.A. 95-442, eff. 1-1-08.)

(720 ILCS 570/318)

Sec. 318. Confidentiality of information.

(a) Information received by the central repository under Section 316 and 321 is confidential.

(b) The Department must carry out a program to protect the confidentiality of the information described in subsection (a). The Department may disclose the information to another person only under subsection (c), (d), or (f) and may charge a fee not to exceed the actual cost of furnishing the information.

(c) The Department may disclose confidential information described in subsection (a) to any person who is engaged in receiving, processing, or storing the information.

(d) The Department may release confidential information described in subsection (a) to the following persons:

(1) A governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any State or federal law that involves a controlled substance.

(2) An investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General, who is engaged in any of the following activities involving controlled substances:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution of a violation under any State or federal law that involves a controlled substance.

(3) A law enforcement officer who is:

(A) authorized by the Department of State Police or the office of a county sheriff or State's Attorney or municipal police department of Illinois to receive information of the type requested for the purpose of investigations involving controlled substances; or

(B) approved by the Department to receive information of the type requested for the purpose of investigations involving controlled substances; and

(C) engaged in the investigation or prosecution of a violation under any State or federal law that involves a controlled substance.

(e) Before the Department releases confidential information under subsection (d), the applicant must demonstrate in writing to the Department that:

(1) the applicant has reason to believe that a violation under any State or federal law that involves a controlled substance has occurred; and

(2) the requested information is reasonably related to the investigation, adjudication, or prosecution of the violation described in subdivision (1).

(f) The Department may receive and release prescription record information to:

(1) a governing body that licenses practitioners;

(2) an investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General;

(3) any Illinois law enforcement officer who is:

(A) authorized to receive the type of information released; and

(B) approved by the Department to receive the type of information released; or

(4) prescription monitoring entities in other states per the provisions outlined in subsection (g) and (h) below;

confidential prescription record information collected under Sections 316 and 321 that identifies vendors or practitioners, or both, who are prescribing or dispensing large quantities of Schedule II, III, IV, or V controlled substances outside the scope of their practice, pharmacy, or business, as determined by the Advisory Committee created by Section 320.

(g) The information described in subsection (f) may not be released until it has been reviewed by an employee of the Department who is licensed as a prescriber or a dispenser and until that employee has certified that further investigation is warranted. However, failure to comply with this subsection (g) does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (h).

(h) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (f) may disclose the information to a law enforcement officer or an attorney for the office of the Attorney General for use as evidence in the following:

(1) A proceeding under any State or federal law that involves a controlled substance.

(2) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(i) The Department may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies, by name, license or address, any practitioner, dispenser, ultimate user, or other person administering a controlled substance.

(j) Based upon federal, initial and maintenance funding, a prescriber and dispenser inquiry system shall be developed to assist the medical community in its goal of effective clinical practice and to prevent patients from diverting or abusing medications.

(1) An inquirer shall have read-only access to a stand-alone database which shall contain records for the previous 6 months.

(2) Dispensers may, upon positive and secure identification, make an inquiry on a patient or customer solely for a medical purpose as delineated within the federal HIPAA law.

(3) The Department shall provide a one-to-one secure link and encrypted software necessary to establish the link between an inquirer and the Department. Technical assistance shall also be provided.

(4) Written inquiries are acceptable but must include the fee and the requestor's Drug Enforcement Administration license number and submitted upon the requestor's business stationary.

(5) No data shall be stored in the database beyond 24 months.

(6) Tracking analysis shall be established and used per administrative rule.

(7) Nothing in this Act or Illinois law shall be construed to require a prescriber or dispenser to make use of this inquiry system.

(8) If there is an adverse outcome because of a prescriber or dispenser making an inquiry, which is initiated in good faith, the prescriber or dispenser shall be held harmless from any civil liability.

(k) Based upon federal and initial and maintenance funding, unless appropriated or otherwise authorized by the General Assembly, a restricted and secure inquiry system shall be developed to assist the law enforcement community in its goal to enforce federal and State law as well as local ordinances related to prescription medications. Criteria for the inquiry system shall follow the criteria provided in subsection (j)

noted above with the addition that any person making an inquiry must attest that said inquiry is strictly for the purpose of conducting a probable cause investigation only.

(Source: P.A. 95-442, eff. 1-1-08.)

(720 ILCS 570/405) (from Ch. 56 1/2, par. 1405)

Sec. 405. (a) Any person who engages in a calculated criminal drug conspiracy, as defined in subsection (b), is guilty of a Class X felony. The fine for violation of this Section shall not be more than $500,000, and the offender shall be subject to the forfeitures prescribed in subsection (c).

(b) For purposes of this Section ~~section~~, a person engages in a calculated criminal drug conspiracy when:

(1) he or she violates any of the provisions of subsection (a) or (c) of Section 401 or subsection (a) of Section 402; and

(2) such violation is a part of a conspiracy undertaken or carried on with two or more other persons; and

(3) he or she obtains anything of value greater than $500 from, or organizes, directs or finances such violation or conspiracy.

(c) Any person who is convicted under this section of engaging in a calculated criminal drug conspiracy shall forfeit to the State of Illinois:

(1) the receipts obtained by him or her in such conspiracy; and

(2) any of his or her interests in, claims against, receipts from, or property or rights of any kind affording a source of influence over, such conspiracy.

(d) The circuit court may enter such injunctions, restraining orders, directions or prohibitions, or to take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property, claim, receipt, right or other interest subject to forfeiture under this Section, as it deems proper.

(Source: P.A. 91-357, eff. 7-29-99.)

(720 ILCS 570/405.1) (from Ch. 56 1/2, par. 1405.1)

Sec. 405.1. (a) Elements of the offense. A person commits criminal drug conspiracy when, with the intent that an offense set forth in Section 401, Section 402, or Section 407 of this Act be committed, he or she agrees with another to the commission of that offense. No person may be convicted of conspiracy to commit such an offense unless an act in furtherance of such agreement is alleged and proved to have been committed by him or her or by a co-conspirator.

(b) Co-conspirators. It shall not be a defense to conspiracy that the person or persons with whom the accused is alleged to have conspired:

(1) Has not been prosecuted or convicted, or

(2) Has been convicted of a different offense, or

(3) Is not amenable to justice, or

(4) Has been acquitted, or

(5) Lacked the capacity to commit an offense.

(c) Sentence. A person convicted of criminal drug conspiracy may be fined or imprisoned or both, but any term of imprisonment imposed shall be not less than the minimum nor more than the maximum provided for the offense which is the object of the conspiracy.

(Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

(720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

Sec. 410. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for any offense under this Act or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of a controlled or counterfeit substance under subsection (c) of Section 402 or of unauthorized possession of prescription form under Section 406.2, the court, without entering a judgment and with the consent of such person, may sentence him <u>or her</u> to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person:

(1) not violate any criminal statute of any jurisdiction; (2) refrain from possessing a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his <u>or her</u> dependents;

(6-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis

Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(7) and in addition, if a minor:

(i) reside with his or her parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his or her own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him or her.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(h) There may be only one discharge and dismissal under this Section, Section 10 of the Cannabis Control Act, or

Section 70 of the Methamphetamine Control and Community Protection Act with respect to any person.

(i) If a person is convicted of an offense under this Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

(Source: P.A. 94-556, eff. 9-11-05; 95-487, eff. 1-1-08.)

(720 ILCS 570/501) (from Ch. 56 1/2, par. 1501)

Sec. 501. (a) It is hereby made the duty of the Department of Financial and Professional Regulation and the Department of State Police, and their agents, officers, and investigators, to enforce all provisions of this Act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, or of any State, relating to controlled substances. Only an agent, officer, or investigator designated by the Director may: (1) for the purpose of inspecting, copying, and verifying the correctness of records, reports or other documents required to be kept or made under this Act and otherwise facilitating the execution of the functions of the Department of Financial and Professional Regulation or the Department of State Police, be authorized in accordance with this Section to enter controlled premises and

to conduct administrative inspections thereof and of the things specified; or (2) execute and serve administrative inspection notices, warrants, subpoenas, and summonses under the authority of this State. Any inspection or administrative entry of persons licensed by the Department shall be made in accordance with subsection (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and Dependency Act and the rules and regulations promulgated thereunder.

(b) Administrative entries and inspections designated in clause (1) of subsection (a) shall be carried out through agents, officers, investigators and peace officers (hereinafter referred to as "inspectors") designated by the Director. Any inspector, upon stating his or her purpose and presenting to the owner, operator, or agent in charge of the premises (1) appropriate credentials and (2) a written notice of his or her inspection authority (which notice, in the case of an inspection requiring or in fact supported by an administrative inspection warrant, shall consist of that warrant), shall have the right to enter the premises and conduct the inspection at reasonable times.

Inspectors appointed by the Director under this Section 501 are conservators of the peace and as such have all the powers possessed by policemen in cities and by sheriffs, except that they may exercise such powers anywhere in the State.

(c) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right:

(1) to inspect and copy records, reports and other documents required to be kept or made under this Act;

(2) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished drugs and other substances or materials, containers and labeling found therein, and all other things therein (including records, files, papers, processes, controls and facilities) appropriate for verification of the records, reports and documents referred to in item (1) or otherwise bearing on the provisions of this Act; and

(3) to inventory any stock of any controlled substance.

(d) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this Section shall extend to:

(1) financial data;

(2) sales data other than shipment data; or

(3) pricing data.

Any inspection or administrative entry of persons licensed by the Department shall be made in accordance with subsection (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and Dependency Act and the rules and regulations promulgated thereunder.

(e) Any agent, officer, investigator or peace officer designated by the Director may (1) make seizure of property pursuant to the provisions of this Act; and (2) perform such

other law enforcement duties as the Director shall designate. It is hereby made the duty of all State's Attorneys to prosecute violations of this Act and institute legal proceedings as authorized under this Act.

(Source: P.A. 88-670, eff. 12-2-94; 89-202, eff. 10-1-95.)

(720 ILCS 570/501.1) (from Ch. 56 1/2, par. 1501.1)

Sec. 501.1. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein, but shall apply only to the Department of Financial and Professional Regulation, as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of a party.

(Source: P.A. 88-45.)

(720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

Sec. 505. (a) The following are subject to forfeiture:

(1) all substances which have been manufactured, distributed, dispensed, or possessed in violation of this

Act;

(2) all raw materials, products and equipment of any kind which are used, or intended for use in manufacturing, distributing, dispensing, administering or possessing any substance in violation of this Act;

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

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

(ii) no conveyance is subject to forfeiture under this Section by reason of any act or omission which the owner proves to have been committed or omitted without his or her knowledge or consent;

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

(4) all money, things of value, books, records, and research products and materials including formulas,

microfilm, tapes, and data which are used, or intended to be used in violation of this Act;

(5) everything of value furnished, or intended to be furnished, in exchange for a substance in violation of this Act, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to commit or in any manner to facilitate any violation of this Act;

(6) all real property, including any right, title, and interest (including, but not limited to, any leasehold interest or the beneficial interest in a land trust) in the whole of any lot or tract of land and any appurtenances or improvements, which is used or intended to be used, in any manner or part, to commit, or in any manner to facilitate the commission of, any violation or act that constitutes a violation of Section 401 or 405 of this Act or that is the proceeds of any violation or act that constitutes a violation of Section 401 or 405 of this Act.

(b) Property subject to forfeiture under this Act may be seized by the Director or any peace officer upon process or seizure warrant issued by any court having jurisdiction over the property. Seizure by the Director or any peace officer without process may be made:

(1) if the seizure is incident to inspection under an administrative inspection warrant;

(2) if the property subject to seizure has been the

subject of a prior judgment in favor of the State in a criminal proceeding, or in an injunction or forfeiture proceeding based upon this Act or the Drug Asset Forfeiture Procedure Act;

(3) if there is probable cause to believe that the property is directly or indirectly dangerous to health or safety;

(4) if there is probable cause to believe that the property is subject to forfeiture under this Act and the property is seized under circumstances in which a warrantless seizure or arrest would be reasonable; or

(5) in accordance with the Code of Criminal Procedure of 1963.

(c) In the event of seizure pursuant to subsection (b), forfeiture proceedings shall be instituted in accordance with the Drug Asset Forfeiture Procedure Act.

(d) Property taken or detained under this Section shall not be subject to replevin, but is deemed to be in the custody of the Director subject only to the order and judgments of the circuit court having jurisdiction over the forfeiture proceedings and the decisions of the State's Attorney under the Drug Asset Forfeiture Procedure Act. When property is seized under this Act, the seizing agency shall promptly conduct an inventory of the seized property and estimate the property's value, and shall forward a copy of the inventory of seized property and the estimate of the property's value to the

Director. Upon receiving notice of seizure, the Director may:

(1) place the property under seal;

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

(3) keep the property in the possession of the seizing agency;

(4) remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, deposit it in an interest bearing account;

(5) place the property under constructive seizure by posting notice of pending forfeiture on it, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of pending forfeiture in any appropriate public record relating to the property; or

(6) provide for another agency or custodian, including an owner, secured party, or lienholder, to take custody of the property upon the terms and conditions set by the Director.

(e) If the Department of Financial and Professional Regulation suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon

application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation rule becoming final, all substances may be forfeited to the Department of Financial and Professional Regulation.

(f) When property is forfeited under this Act the Director shall sell all such property unless such property is required by law to be destroyed or is harmful to the public, and shall distribute the proceeds of the sale, together with any moneys forfeited or seized, in accordance with subsection (g). However, upon the application of the seizing agency or prosecutor who was responsible for the investigation, arrest or arrests and prosecution which lead to the forfeiture, the Director may return any item of forfeited property to the seizing agency or prosecutor for official use in the enforcement of laws relating to cannabis or controlled substances, if the agency or prosecutor can demonstrate that the item requested would be useful to the agency or prosecutor in their enforcement efforts. When any forfeited conveyance, including an aircraft, vehicle, or vessel, is returned to the seizing agency or prosecutor, the conveyance may be used immediately in the enforcement of the criminal laws of this State. Upon disposal, all proceeds from the sale of the conveyance must be used for drug enforcement purposes. When any real property returned to the seizing agency is sold by the agency or its unit of government, the proceeds of the sale

shall be delivered to the Director and distributed in accordance with subsection (g).

(g) All monies and the sale proceeds of all other property forfeited and seized under this Act shall be distributed as follows:

(1) 65% shall be distributed to the metropolitan enforcement group, local, municipal, county, or state law enforcement agency or agencies which conducted or participated in the investigation resulting in the forfeiture. The distribution shall bear a reasonable relationship to the degree of direct participation of the law enforcement agency in the effort resulting in the forfeiture, taking into account the total value of the property forfeited and the total law enforcement effort with respect to the violation of the law upon which the forfeiture is based. Amounts distributed to the agency or agencies shall be used for the enforcement of laws governing cannabis and controlled substances or for security cameras used for the prevention or detection of violence, except that amounts distributed to the Secretary of State shall be deposited into the Secretary of State Evidence Fund to be used as provided in Section 2-115 of the Illinois Vehicle Code.

(2)(i) 12.5% shall be distributed to the Office of the State's Attorney of the county in which the prosecution resulting in the forfeiture was instituted, deposited in a

special fund in the county treasury and appropriated to the State's Attorney for use in the enforcement of laws governing cannabis and controlled substances. In counties over 3,000,000 population, 25% will be distributed to the Office of the State's Attorney for use in the enforcement of laws governing cannabis and controlled substances. If the prosecution is undertaken solely by the Attorney General, the portion provided hereunder shall be distributed to the Attorney General for use in the enforcement of laws governing cannabis and controlled substances.

(ii) 12.5% shall be distributed to the Office of the State's Attorneys Appellate Prosecutor and deposited in the Narcotics Profit Forfeiture Fund of that office to be used for additional expenses incurred in the investigation, prosecution and appeal of cases arising under laws governing cannabis and controlled substances. The Office of the State's Attorneys Appellate Prosecutor shall not receive distribution from cases brought in counties with over 3,000,000 population.

(3) 10% shall be retained by the Department of State Police for expenses related to the administration and sale of seized and forfeited property.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this Act, or of which the owners or

cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State. The failure, upon demand by the Director or any peace officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce registration, or proof that he or she is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(Source: P.A. 94-1004, eff. 7-3-06.)

(720 ILCS 570/507) (from Ch. 56 1/2, par. 1507)

Sec. 507. All rulings, final determinations, findings, and conclusions of the Department of State Police, the Department of Financial and Professional Regulation, and the Department of Human Services of the State of Illinois under this Act are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision pursuant to the provisions of the Administrative Review Law, as amended and the rules adopted pursuant thereto. Pending final decision on such review, the acts, orders and rulings of the Department shall remain in full force and effect unless modified or suspended by order of court pending final judicial decision. Pending final decision on such review, the acts, orders, sanctions and rulings of the Department of Financial and Professional Regulation regarding any registration shall remain in full force and effect, unless

stayed by order of court. However, no stay of any decision of the administrative agency shall issue unless the person aggrieved by the decision establishes by a preponderance of the evidence that good cause exists therefor. In determining good cause, the court shall find that the aggrieved party has established a substantial likelihood of prevailing on the merits and that granting the stay will not have an injurious effect on the general public. Good cause shall not be established solely on the basis of hardships resulting from an inability to engage in the registered activity pending a final judicial decision.

(Source: P.A. 89-507, eff. 7-1-97.)

(720 ILCS 570/204 rep.)

(720 ILCS 570/206 rep.)

(720 ILCS 570/208 rep.)

(720 ILCS 570/210 rep.)

(720 ILCS 570/212 rep.)

(720 ILCS 570/213 rep.)

(720 ILCS 570/216 rep.)

(720 ILCS 570/217 rep.)

Section 10. The Illinois Controlled Substances Act is amended by repealing Sections 204, 206, 208, 210, 212, 213, 216, and 217.

Section 99. Effective date. This Act takes effect July 1, 2009.

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720 ILCS 570/501	from Ch. 56 1/2, par. 1501
720 ILCS 570/501.1	from Ch. 56 1/2, par. 1501.1
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