

NO. 09-50462

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

PEDRO SANCHEZ-ZARATE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of California
Honorable Jeffrey T. Miller, District Judge Presiding

DEFENDANT-APPELLANT'S OPENING BRIEF

JAMES FIFE
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101-5008
Telephone: (619) 234-8467

Attorneys for Defendant-Appellant

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IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,)	U.S.C.A. No. 09-50462
)	U.S.D.C. No. 08CR4204-JM
Plaintiff-Appellee,)	
)	
v.)	
)	
PEDRO SANCHEZ-ZARATE,)	
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF JURISDICTION

Pedro Sanchez-Zarate appeals his sentence following a guilty plea to a violation of 8 U.S.C. § 1326. The district court had original subject matter jurisdiction over the criminal offense under 18 U.S.C. § 3231.

The district court entered a final judgment on September 15, 2009. ER 6-9; CR 33.¹ Mr. Sanchez filed a timely notice of appeal the next day. ER 10; CR 34. *See* Fed. R. App. P. 4(b)(1)(A)(i). This Court has jurisdiction over the appeal under 28 U.S.C. §§ 1291 & 1294(1); 18 U.S.C. § 3742.

¹“ER” refers to Appellant's Excerpts of Record; “CR” refers to the Clerk's Record in this case with the district court docket entry number.

ISSUE PRESENTED FOR REVIEW

Whether the district court erred in calculating an enhanced sentence range under U.S.S.G § 2L1.2, where the prior conviction under Cal. Health & Safety Code § 11351 was not categorically a “drug trafficking” offense, due to the overbreadth of the state drug schedules, and the stage-two *Taylor* showing was inadequate.

STATEMENT OF THE CASE

A. Nature of the Case

Mr. Sanchez appeals his sentence following a guilty plea to a violation of 8 U.S.C. § 1326 (illegal re-entry following deportation).

B. Bail Status

Mr. Sanchez is currently serving a 60-month, custodial sentence at USP Atlanta. His projected release date is April 10, 2014.

C. Proceedings in District Court

On December 3, 2008, a one-count indictment charged Mr. Sanchez with being found in the United States following deportation, in violation of 8 U.S.C. § 1326. ER 128-29; CR 4.

Mr. Sanchez brought a pretrial motion to dismiss the indictment due to an invalid deportation. ER 111-27; CR 11. The Government opposed it. ER 79-110; CR 12, 13. Following a hearing, the district court denied the motion. ER 75-77; MRT 9-

11.²

Subsequently, Mr. Sanchez conditionally pled guilty to the indictment before a magistrate, reserving the right to appeal the denial of the deport motion and to appeal any sentence greater than the Guideline range for offense level 10 in the determined Criminal History Category. ER 50-66; PRT 13-15;³ CR 21. The magistrate recommended the plea be accepted, and the district court accepted the recommendation. ER 46-49; CR 22, 25.

The defense filed objections to the pre-sentence report (PSR)⁴ and a sentencing memorandum, arguing that Mr. Sanchez's prior conviction did not qualify for enhancement as a “drug trafficking offense” under U.S.S.G. § 2L1.2. ER 31-33, 39-45; CR 27, 31. The Government filed an opposition and sentencing chart with exhibits arguing for the enhancement. ER 34-38; CR 28, 30.

A sentencing hearing was held on September 11, 2009, where the district court overruled the defense objection to the prior conviction enhancement. ER 2-3 [23-24];

² “MRT” refers to excerpts of the reporter's transcript of the motion hearing on February 2, 2009—ER 67-78.

³ “PRT” refers to excerpts of the reporter’s transcript of the change of plea hearing on June 22, 2009, ER 63-66.

⁴ Four copies of the PSR have been filed with this Court under seal pursuant to 9th Cir. R. 30-1.10.

SRT 13-14.⁵ The district court then imposed a custodial sentence of 60 months. ER 5 [27], 7; CR 33; SRT 17.

Mr. Sanchez filed a timely notice of appeal. ER 10; CR 34.

STATEMENT OF FACTS

A. Circumstances of the Offense Admitted at the Plea Colloquy

At the change of plea hearing, Mr. Sanchez admitted under oath through an interpreter that he was deported on or about October 4, 2008, but that he knowingly returned to the United States and was arrested here on November 23, 2008. ER 65; PRT 14. He also admitted he had been convicted of a felony possession for sale offense in 1992. ER 65-66; PRT 14-15. The prosecution stated it was satisfied with the factual basis. ER 66; PRT 15.

B. The Motion to Dismiss the Indictment

Mr. Sanchez filed a pretrial motion under 8 U.S.C. § 1326(d) to dismiss the indictment, arguing his deportation for an aggravated felony was invalid. ER 111-27; CR 11. He argued that his prior conviction under Cal. Health & Safety Code § 11351 was broader than the trafficking offense definition in 8 U.S.C. § 1101(a)(43)(B), since

⁵ “SRT” refers to the reporter's transcript of the sentencing hearing on September 11, 2009, given in full at ER 11-30, with excerpts of the rulings at ER 1-5, per 9th Cir. R. 30-1.6(a). Citations to duplicated pages are enclosed in square brackets (“[]”).

the California schedule of controlled substances includes drugs not subject to prosecution under the federal Controlled Substances Act. ER 113. (citing *Lopez v. Gonzales*, 549 U.S. 47 (2006), and *Ruiz-Vidal v. Gonzales*, 473 F.3d 1072 (9th Cir. 2007)). Moreover, because the conviction here was the result of a no-contest plea under California law, and no conviction documents established the precise controlled substance involved, the modified categorical approach did not qualify the 1992 conviction as an aggravated felony. ER 114.

The Government argued that Mr. Sanchez was barred from challenging his 1993 deportation, because he had agreed in subsequent plea bargains not to collaterally attack his removal. CR 12. It also argued that the California offense has been found to qualify as a drug trafficking crime, citing *United States v. Morales-Perez*, 467 F.3d 1219 (9th Cir. 2006), a case decided before both *Lopez* and *Ruiz-Vidal*. ER . The Government claimed that this Court's discussion in *United States v. Vidal*, 504 F.3d 1072 (9th Cir. 2007) (en banc), on the law of California pleas made pursuant to *People v. West*, 477 P.2d 409 (Cal. 1970), was impertinent to this case. ER 80-85.

At the hearing on the motion, Mr. Sanchez argued the state prior was overbroad under *Ruiz-Vidal* and, because it was a plea pursuant to *West*, any modified categorical analysis does not alter that conclusion. ER 69-73; MRT 3-7.

The Government insisted that the prior plea agreements waived collateral challenge to the 1993 deportation. ER 73-74; MRT 7-8. It did not address further the merits of the defense argument.

The district court stated it agreed with the Government's waiver argument. ER 75; MRT 9. Even if it did not, it held that § 11351 was an aggravated felony under *Morales-Perez*, and the complaint in the record here showed an allegation of possession of cocaine for sale. *Id.* As regards the effect of a *West* plea, the district court stated only:

And I appreciate your argument that this somehow is undermined by the nature of the plea here being a *People v. West* plea; I think under the circumstances and on this record we have an aggravated felony that properly serves as a predicate for the removal.

ER 77; MRT 11. It therefore denied the motion. ER 76; MRT 10.

Subsequently, Mr. Sanchez entered an agreement to plead guilty conditionally. ER 27, 50-62; CR 21; SRT 17.

C. Sentencing Proceedings

The defense filed objections to the PSR, arguing as he had in the pretrial motion to dismiss that Mr. Sanchez's prior conviction was not a categorical drug crime, and he was not subject to a 16-level enhancement under U.S.S.G. § 2L1.2. ER 39-45; CR 27. Nor did the record establish the prior conviction qualified under the modified categorical analysis, due to the effect of the *West* plea, citing *Vidal* and subsequent

cases. ER 41-43.

The Government opposed this argument, citing its previous authorities. ER 38; CR 28.

At the sentencing hearing, the district court again rejected the defense argument and again relied on *Morales-Perez* for authority that § 11351 was a categorical drug trafficking offense, even though that case dealt with Cal. Health & Safety Code § 11351.5, which expressly applies only to possession of cocaine base, whereas § 11351 applies to any California controlled substance. ER 2-3 [23-24]; MRT 13-14.

The district court therefore calculated the advisory Guideline range by applying a 16-level enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(i), tripling the offense level to 24. ER 2 [23]; SRT 13. It found Mr. Sanchez fell into Criminal History Category VI. *Id.* The resulting range was 77 to 96 months. *Id.* After conducting an analysis under 18 U.S.C. § 3553(a), the district court varied from the Guidelines range to impose a prison sentence of 60 months, followed by three years of supervised release, and a \$100 special assessment. ER 4-5 [26-27], 6-9; CR 33; SRT 16-17.

Mr. Sanchez filed a notice of appeal the day after the judgment was entered. ER 10; CR 34.

SUMMARY OF ARGUMENT

Under Ninth Circuit law, differences in the California drug schedules result in

some of the state’s controlled substance offenses being categorically overbroad under *Taylor v. United States*. Thus, in *S-Yong v. Holder*, 578 F.3d 1169 (9th Cir. 2009), the Court held that Cal. Health & Safety Code § 11379 was categorically overbroad for purposes of constituting a deportable “controlled substance offense” under 8 U.S.C. § 1227(a)(2)(B); in *Mielewczyk v. Holder*, 575 F.3d 992 (9th Cir. 2009), the Court held likewise as to Cal. Health & Safety Code § 11352(a); and in *Ruiz-Vidal*, the same conclusion was reached as to Cal. Health & Safety Code § 11377(a). As a person could be convicted of these California offenses for trafficking in a substance not falling within the federal definition, they do not categorically qualify as deportable offenses, including as an aggravated felony. *See S-Yong*, 578 F.3d at 1176.

The identical overbreadth appears in the definition of “drug trafficking offense” in Application Note 1(B)(iv) to U.S.S.G. § 2L1.2, which imposes a 16-level enhancement for conviction of offenses involving trafficking of “a controlled substance (or a counterfeit substance)” or possession with intent to traffic in the same. Although the Guidelines do not expressly define the scope of the term “controlled substance,” where case law has had occasion to address a related issue, the courts have applied as a seeming implicit assumption the federal definitions contained in the Controlled Substances Act (CSA). *See* 21 U.S.C. § 802.

This makes sense in light of the overriding concern of the *Taylor* analysis to

achieve national uniformity, not a shifting definition tied to the vicissitudes of individual state or local laws. The alternative—a cumulative definition based on whatever substances any state or local authority sees fit to list—would vitiate the uniformity rationale recognized by *Taylor* and this Court as driving the categorical analysis.

Moreover, the language and structure of the Guideline and CSA logically entail reference to the federal statutory definition for “controlled substance,” since otherwise the scope of “counterfeit substance,” an equal part of the same Guideline definition, would far exceed the reach Congress set for that phrase. Finally, utilizing the federal definition in the CSA is consistent with how the Sentencing Commission treats the nearly identical definition in U.S.S.G. § 4B1.2, where the commentary expressly cross-references offenses under the CSA, and with the history of § 2L1.2 itself.

Nor does the modified categorical analysis yield any different results. The district court erred in failing to respond to Mr. Sanchez’s argument that the Government cannot prove the actual substance that was the basis of his plea, because he pled guilty pursuant to *People v. West*. As this Court recognized in *Vidal* and subsequent cases, a *West* plea is categorically ambiguous, since it is, under California law, a plea to any reasonably related offense, not necessarily the one charged in the accusatory pleading. Consequently, the appearance of the word “cocaine” in the

complaint does not show that the *West* plea here admitted that was indeed the trafficked substance. Moreover, the record is also inadequate under *Vidal*, because no record document indicates that the conviction or any admissions were for the offense “as charged in” the complaint. Without that express link between charging and conviction documents, *Vidal* held the record basis is inadequate to support narrowing under the modified categorical approach.

The district court erred in finding that Mr. Sanchez’s prior conviction sufficed as a generic “drug trafficking offense” in § 2L1.2. The sentence must be vacated.

ARGUMENT

I

THE DISTRICT COURT MATERIALLY ERRED IN FINDING THE PRIOR CONVICTION QUALIFIED AS A “DRUG TRAFFICKING OFFENSE,” BECAUSE THE CALIFORNIA SCHEDULE OF CONTROLLED SUBSTANCES IS BROADER THAN THE FEDERAL SCHEDULE

A. Standard of Review

“The district court’s conclusion that a prior conviction qualifies for a sentencing enhancement is reviewed *de novo*.” *United States v. Strickland* 556 F.3d 1069, 1072 (9th Cir. 2009).

If a sentencing court makes a material error in calculating the advisory Guidelines, the sentence must be vacated, without consideration of overall

reasonableness. *See United States v. Cantrell*, 433 F.3d 1269, 1280 (9th Cir. 2006); *see also Gall v. United States*, 128 S. Ct. 586, 597 (2007) ("It [reviewing court] must first ensure that the district court committed no significant procedural error, such as failing to calculate (or improperly calculating) the Guidelines range"); *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008) (en banc) (miscalculation of Guidelines range is procedural error).

B. The California Trafficking Offense Is Categorically Overbroad, Because It Applies to a Wider Array of Substances Than the Federal Offense

Several recent precedents of this Court have recognized that the California schedules of “controlled substances” are broader than the corresponding federal schedules in the CSA, because the former include substances not found in the latter.

In *Ruiz-Vidal*, the authority cited to the district court below, this Court considered the argument that “because Cal. Health & Safety Code § 11377(a) punishes the unauthorized possession of numerous substances not controlled under federal law, DHS was required to establish that the particular drug underlying the 2003 conviction is one that is controlled under federal law” to serve as a valid basis for deportation. 473 F.3d at 1076. The Court agreed that “in order to prove removability, the government must show that Ruiz-Vidal's criminal conviction was for possession of a substance that is not only listed under California law, but also

contained in the federal schedules of the CSA.” *Id.* at 1077-78. *Ruiz-Vidal*, however, found that the California schedules encompassed more controlled substances than did the corresponding CSA schedules, making it possible to be convicted under the state law without having violated a federal trafficking provision.

We note that California law regulates the possession and sale of numerous substances that are not similarly regulated by the CSA. For instance, the possession of apomorphine is specifically excluded from Schedule II of the CSA, *see* 21 C.F.R. § 1308.12(b)(1), but California's Schedule II specifically includes it. *See* Cal. Health & Safety § 11055(b)(1)(G). Cal. Health & Safety Code § 11033 punishes the possession of optical and geometrical isomers; the CSA, in contrast, generally punishes the possession of optical isomers alone. 21 C.F.R. § 1300.01(b)(21). We must, therefore, conclude that the IJ was in error in stating that "any substance listed in 11377 are [sic] included within the federal ambit of Section 102 of the Controlled Substances Act[;]" the simple fact of a conviction under Cal. Health & Safety Code § 11377 is insufficient.

Id. at 1078 (footnote omitted).⁶ The Government was unable to produce acceptable documentation narrowing *Ruiz-Vidal*'s actual conviction to a substance listed in the CSA, because, although the charging document alleged the substance was methamphetamine, the conviction document did not so specify, and the statute of

⁶ In the omitted footnote, *Ruiz-Vidal* notes eight additional substances that are “punishable only under California law.” *Id.* at 1078 n.6. However, these additional substances are not included within the ambit of § 11351, which targets only narcotic substances included in California Schedule III. However, in addition to those substances cited in *Ruiz-Vidal*, California criminalizes acetylfentanyl and the thiophene analog of acetylfentanyl, Cal. Health & Safety Code § 11054(b)(45) & (46), but no federal schedule includes them.

conviction differed from that charged. *See id.* at 1079. As one could only “speculate” whether the substance which Ruiz-Vidal was convicted of possessing fell within the CSA definition, the Government had failed to establish a prior, deportable offense. *Id.*

In *Mielewczyk*, the petitioner likewise argued that the overbreadth of the California schedules rendered his conviction under Cal. Health & Safety Code § 11352(a) for transporting heroin categorically overbroad. Citing *Ruiz-Vidal*, the Court held that the state statute was overbroad, because it applied to substances not falling under the definition in 21 U.S.C. § 802(6): “Because the statutory definition of the crime in section 11352(a) embraces activity related to drugs both listed in the CSA and not listed in the CSA, an alien convicted under this statute is not categorically removable under 8 U.S.C. § 1227(a)(2)(B)(i).” 575 F.3d at 995. However, unlike *Ruiz-Vidal*, the record established that Mielewczyk indeed pled guilty to offering to transport heroin, which appears on both the state and federal schedules. *See id.* at 995-96.

Most recently, in *S-Yong*, the Court again followed *Ruiz-Vidal* to hold that Cal. Health & Safety Code § 11379 was categorically overbroad, due to its including non-CSA substances in its scope.

We have previously found that California law regulates the possession and sale of many substances that are not regulated by the CSA,

Ruiz-Vidal, 473 F.3d at 1078, and therefore that Section 11379 is "categorically broader" than Section 1227(a)(2)(B)(i) of the INA. *See Sandoval-Lua v. Gonzales*, 499 F.3d 1121, 1124 (9th Cir.2007). This means that a conviction under Section 11379 does not necessarily entail a "controlled substance offense" under Section 1227(a)(2)(B)(i) of the immigration statute, and we must look further to determine whether Yong's conviction renders him removable.

578 F.3d at 1174. Also like *Ruiz-Vidal*, the Court found that the Government's showing on the modified categorical analysis fell short, as no record documents whatever established the identity of the substance underlying the California conviction. *See id.* at 1175. Yong's judicial admissions to the immigration judge did not fill that gap in the record. *See id.* at 1175-76. The removal order was therefore vacated.

This line of cases establishes that the drugs referenced in the broader, California schedules do not qualify as "controlled substances" as defined in the CSA. Thus, where the federal drug schedules are the touchstone for *Taylor* purposes, California offenses not tied specifically to substances covered by 21 U.S.C. § 802(6) will render those crimes categorically overbroad.

C. The Definition of "Controlled Substance" in § 2L1.2 Looks to the Federal Drug Schedules

The above cases dealt with federal statutes that expressly cross-referenced the CSA. *See* 8 U.S.C. §§ 1101(a)(43)(B) & 1227(a)(2)(B)(i). The Guideline applied at Mr. Sanchez's sentencing, however, does not expressly reference *any* definition for

“controlled substance” as applied to “drug trafficking” priors in § 2L1.2(b)(1)(A)(i) & (B). The definition of “drug trafficking offense” is found in Application Note 1(B)(iv) and reads:

“Drug trafficking offense” means an offense under federal, state, or local law that prohibits the manufacture, import, export, distribution, or dispensing of, or offer to sell a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with intent to manufacture, import, export, distribute, or dispense.

Nowhere in this Guideline or its commentary is a definition given for “controlled substance,” nor do standard treatises on the Guidelines provide any discussion or case citations on the question. *See, e.g.*, T. Hutchison et al., *Federal Sentencing Law and Practice* § 2L1.2 cmt. 7(b)(ii) (2009); R. Haines et al., *Federal Sentencing Guidelines Handbook* § 2L1.2 cmt. 5 (2007). Nor does Mr. Sanchez’s research disclose any precedent squarely addressing the definition of “controlled substance” in Application Note 1(B)(iv). It appears to be a matter of first impression.⁷

⁷ The only published case that even comes close to addressing the scope of “controlled substance” in § 2L1.2 is *United States v. Arizaga-Acosta*, 436 F.3d 506 (5th Cir. 2006) (per curiam), holding that because the Commission added possession of listed chemical precursors to the commentary of § 4B1.2, but not to § 2L1.2, the latter Guideline does not permit enhancement for possessing a listed chemical with intent to manufacture a controlled substance. Thus, without defining either term, the court decided that a “listed chemical” is not a “controlled substance” for purposes of § 2L1.2. The unpublished disposition in *United States v. Gutierrez-Cruz*, 265 Fed. App’x 561 (9th Cir. 2008), is discussed below in Argument I.C.6.

To determine whether a conviction qualifies as a predicate offense for enhancement under § 2L1.2, the courts apply the categorical analysis in *Taylor v. United States*, 495 U.S. 575 (1990). See *United States v. Gomez-Leon*, 545 F.3d 777, 783 (9th Cir. 2008) (applying *Taylor* to “drug trafficking offenses” in § 2L1.2). The first step is to determine the elements of the generic, federal offense. See *Estrada-Espinoza v. Mukasey*, 546 F.3d 1147, 1152 (9th Cir. 2008) (en banc). If the federal offense is a traditional, common-law crime, it is defined by its generic, contemporary meaning. See *United States v. Bolanos-Hernandez*, 492 F.3d 1140, 1143 (9th Cir. 2007). If it is a non-traditional offense, like drug trafficking or controlled substance offenses, the court looks to the “ordinary, contemporary, and common meaning of the term.” *Estrada-Espinoza*, 546 F.3d at 1152-53. However, the generic definition may be determined by the fact that Congress has expressly defined the crime by statute. See *id.* at 1152 (equating the generic definition of “sexual abuse of a minor” with the federal statutory definition in 18 U.S.C. § 2243).

“Once we have determined the elements of the generic offense, the next step in the *Taylor* analysis is to compare those elements to the relevant state statute.” *Id.* at 1158. To qualify as a predicate offense, “the full range of conduct covered by the criminal statute” must fall within the scope of the generic offense. *United States v. Vidal*, 504 F.3d 1072, 1076 (9th Cir. 2007) (en banc). Thus, a statute is overbroad if

“conduct falling at the least egregious end of [the statute's] range of conduct” is broader than the generic offense. *United States v. Lopez-Solis*, 447 F.3d 1201, 1206 (9th Cir. 2006). If the state offense is broader than the generic definition, then it is unsuitable for enhancement use, because there is no assurance it relates to conduct that Congress intended to punish by enhanced sentences. *See Taylor*, 495 U.S. at 599-602.

Drug trafficking and controlled substances offenses are examples of non-traditional, statutory crimes. *See* 28 C.J.S. *Drugs and Narcotics* § 263 (noting criminal liability for controlled substances is statutory in nature). However, there is no appropriate “common” or “ordinary” meaning for the term “controlled substance,” since whether a substance is one subjecting the possessor/distributor/manufacture to criminal liability is beyond lay knowledge or experience. Because of variations in the chemistry of related substances, and even linguistic variation in the common names for substances, it would not be part of everyday experience to distinguish, for example, poppy seeds (which are legal) from the similar chemical compound found in various morphine-based drugs (which are controlled substances). Certainly, typical lay understanding would not reliably determine for *Taylor* purposes whether acetylfentanyl is a “controlled substance” in ordinary and common parlance.⁸

⁸ Copies of the relevant statutes and Guidelines are included in the Addendum per 9th Cir. R. 28-2.7

The consistent, contemporary, legislative means to define the scope of “controlled substances” is to use classified lists of specific chemicals and their variants (drug schedules). Accordingly, Congress enacted the CSA with the specific substances subject to control listed in five schedules, as amended by regulations. *See* 21 U.S.C. § 812; 21 C.F.R. §§ 1308.11-1308.15. Similarly, the Uniform Controlled Substances Act (UCSA) consists of five schedules, which parallel the federal schedules, but do not duplicate them. *See* Uniform Controlled Substances Act §§ 204, 206, 208, 210, 212 (1994). The UCSA has been substantially adopted by every state except New Hampshire and Vermont, as well as the District of Columbia, Puerto Rico, and the Virgin Islands. *See* 9 Uniform Laws Annotated, Master Edition, Part V, UCSA (1994), Table of Jurisdictions. Even those two states that do not adopt the UCSA also resort to schedules (N.H. Rev. Stat. Ann. § 318-B:1-a) or a less comprehensive listing of prohibited drugs (Vt. Stat. Ann. tit. 18, § 4201).

Given the universal resort to listing as the means of defining which materials can underlie criminal liability as a “controlled substance,” the question becomes *which list* is consulted for purposes of setting the generic definition of “controlled substance” under *Taylor*? Several considerations point to the CSA schedules as the correct choice.

1. The Taylor Rationale of National Uniformity in Federal Sentencing Is Best Served by Use of the CSA Schedules

In *Taylor*, the Supreme Court rejected what could be called a cumulative approach to the definition of prior conviction enhancements in federal criminal law.

First, we are led to reject the view of the Court of Appeals in this case. It seems to us to be implausible that Congress intended the meaning of “burglary” for purposes of § 924(e) to depend on the definition adopted by the State of conviction. That would mean that a person convicted of unlawful possession of a firearm would, or would not, receive a sentence enhancement based on exactly the same conduct, depending on whether the State of his prior conviction happened to call that conduct “burglary.”

497 U.S. at 590-91. This Court has recognized the uniformity rationale as the “underlying theory” of the *Taylor* approach, and that the Supreme Court rejected the alternative view of equating the federal definition with the union of all the state definitions.

The underlying theory of *Taylor* is that a national definition of the elements of a crime is required so as to permit uniform application of federal law in determining the federal effect of prior convictions. A *Taylor* analysis requires a comparison between the prior conviction and the nationally-established generic elements of the offense at issue. Without defined elements, a comparison of the state statute with the federally-defined generic offense is not possible. In apparent recognition of the problem of deferring to a guideline that contemplates case-by-case variance, the government suggests that the *Rodriguez-Rodriguez* guide was meant to embrace all the varying state statutes that could conceivably encompass the concept of “sexual abuse of a minor.” However, it was just this approach that the Supreme Court rejected in *Taylor*.

Estrada-Espinoza, 546 F.3d at 1157-58 (citations and footnotes omitted). As the Fifth

Circuit observed in finding a state offense pegged to mere quantity of drugs was not a “drug trafficking offense” for purposes of § 2L1.2,

Sentencing enhancements are defined by federal, not state, law. *See Taylor*, 495 U.S. at 590-91 (condemning the unfair results that would occur if each state could create its own standard). While a bulk theory of intent may suit a state's purposes, “ ‘it does not comport with the requirement that, for purposes of federal sentencing law, criminal intent to distribute must be proven and not merely implied.’ ”

United States v. Lopez-Salas, 513 F.3d 174, 180 (5th Cir. 2008) (citation omitted).⁹

Thus, the “underlying theory” of the *Taylor* categorical approach eschews mere aggregation of the state definitions and favors a unitary, generic definition for national purposes. Reference to the CSA schedules—which apply nationwide—to define the generic meaning of “controlled substance” is more consonant with *Taylor*’s rationale than reference to the various manifestations of the UCSA found in all the state and local authorities regulating “controlled substances.” *See infra* Argument I.D.

While Congress intended the CSA schedules and amendments to apply to the entire country on the federal level, it denied any intent to pre-empt the development of state law regulating or criminalizing conduct involving controlled substances,

⁹ *See also United States v. Mayer*, 560 F.3d 948, 952 (9th Cir. 2009) (Kozinski, C.J. dissenting from denial of review en banc) (“A great virtue of the categorical approach has been its consistency across doctrinal areas. . . . The interoperability of the doctrine means that precedents can be mixed and matched, regardless of which statute was at issue in which case. One approach; one body of law. Complex, to be sure, but at least uniform in application.”).

except in the case of a direct conflict between the two. *See* 21 U.S.C. § 903; *see also* 25 Am. Jur. 2d *Drugs and Controlled Substances* § 30. As Congress anticipated that the states will continue to regulate controlled substances on their own, it cannot have intended, consistent with *Taylor*, for those potentially diverging treatments to provide the generic definition for a federal sentence enhancement. *See Taylor*, 495 U.S. at 590-91. The Supreme Court has repeatedly emphasized that the federal drug control statutes were intended to be comprehensive. *See Gonzales v. Oregon*, 546 U.S. 243, 269 (2006) (“[t]he CSA ‘repealed most of the earlier antidrug laws in favor of a comprehensive regime to combat the international and interstate traffic in illicit drugs.’ ”) (quoting *Gonzales v. Raich*, 545 U.S. 1, 12 (2005) (CSA’s criminalizing traffic in marijuana cannot be pre-empted by state law)). In fact, the drafters of the UCSA looked to the CSA as a model and sought to “maintain uniformity between the laws of the several states and those of the federal government.” 25 Am. Jur. 2d *Drugs and Controlled Substances* § 26 (citing the Prefatory Note to the UCSA). The fact that the Uniform Law itself seeks to harmonize with the CSA shows that the latter is the more fundamental scheme in securing uniformity across state and federal systems.

Because the CSA was designed to provide comprehensive treatment of national drug abuse policy, while recognizing that states were not prohibited from independent legislation consistent with the national scheme, it makes sense to turn to the CSA drug

schedules for *Taylor* purposes, not the cumulative approach of reviewing all state and local schedules to define “controlled substance” for federal sentencing purposes. The CSA schedules are most consistent with the rationale of the categorical analysis and with congressional intent regarding drug crimes.

2. In Similar Legislative Circumstances, This Court in Estrada-Espinoza Turned to the Federal Statutory Definition for the Generic Offense

This Court has recognized that in implementing the *Taylor* analysis, the first step can be fulfilled by turning to the pertinent federal statute.

We begin by determining the generic elements of the crime “sexual abuse of a minor.” In the absence of specific congressional guidance as to the elements of a crime, courts have been left to determine the “generic sense in which the term is now used in the criminal codes of most States.” [*Taylor*, 495 U.S.] at 598. Fortunately, we are not faced with that circumstance here because Congress has enumerated the elements of the offense of “sexual abuse of a minor” at 18 U.S.C. § 2243.

Estrada-Espinoza, 546 F.3d at 1152.¹⁰

Estrada-Espinoza’s approach comports with that taken in *Taylor*, where the Supreme Court first analyzed the legislative history of the career offender enhancement, since previous versions had themselves defined “burglary.” *See Taylor*,

¹⁰ The Seventh Circuit has also applied the statutory approach used in *Estrada-Espinoza*, comparing it to the Supreme Court’s methodology in *Begay v. United States*, 553 U.S. 137 (2008). *See United States v. Osborne*, 551 F.3d 718, 720-21 (7th Cir. 2009).

495 U.S. at 581 (noting that burglary was explicitly defined in the Armed Career Criminal Act of 1984, citing 18 U.S.C. § 1202(c)(9), repealed in 1986 by Pub. L. 99-308, § 104(b), 100 Stat. 459). Finding nothing in the statute's intervening legislative history to suggest that Congress somehow intended to alter this definition, the Supreme Court concluded that Congress must have intended this “generic” definition of burglary to continue to apply. *Id.* at 598-99.

Although, like *Estrada-Espinoza*, *Taylor* went on to conduct a cross-state inquiry into the definition of “burglary,” ultimately, the generic definition adopted differed little in substance from the former federal definition. *Compare* 495 U.S. at 581 (“any felony consisting of entering or remaining surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense”) *with id.* at 599 (“We conclude that a person has been convicted of burglary for purposes of a § 924(e) enhancement if he is convicted of any crime, regardless of its exact definition or label, having the basic elements of unlawful or unprivileged entry into, or remaining in, a building or structure, with intent to commit a crime.”). *Taylor* acknowledged its generic definition was “practically identical” to Congress’s original definition and “no plausible alternative” presented itself. 495 U.S. at 598.

Congress intended to deal with drug abuse nationally in a comprehensive and

coherent manner in the CSA. Referring to the federal drug schedules for generic definitions in the Guidelines is analogous to using the federal abuse statute in *Estrada-Espinoza*, “because Congress has enumerated the elements of the offense” of drug trafficking in the CSA. 546 F.3d at 1152; *see also id.* at 1157 n.7 (*Chevron* deference inappropriate, because Congress “unambiguously expressed intent” to define the offense by federal statute). *Taylor* and *Estrada-Espinoza* counsel that the CSA drug schedules provide the best reflection of what Congress intended to serve as the basis of *federal* sentence enhancements on a national basis. *See* U.S.S.G. ch. 1, part A1(3) (identifying Congress’s three purposes in Sentencing Reform Act as achieving determinacy, uniformity, and proportionality in federal sentences).

3. Second Circuit Case Law Has Referenced the CSA to Supply Definitions for Section 2L1.2

Although, as indicated above, no case appears to have held directly that the definition of “controlled substance” as used in Application Note 1(B)(iv) derives from the CSA, two Second Circuit decisions have cited the CSA schedules to find a substance is indeed a “controlled substance” for purposes of § 2L1.2.

In *United States v. Stultz*, 356 F.3d 261 (2d Cir. 2004), the court of appeals decided whether the type of controlled substance involved in the prior offense affected the level of enhancement under § 2L1.2(b). The Second Circuit held it did not, as the enhancement was concerned only with whether the prior involved trafficking in a

“controlled substance” and the length of the resulting sentence. *See id.* at 267. The fact that Stultz’s prior involved marijuana did not warrant a departure, since “[d]rug trafficking offenses include the sale of ‘*a controlled substance*’ (emphasis added). Marijuana is a controlled substance, *see* 21 U.S.C. §§ 802(6), 812(c), Sched.I(c)(10) (2000), and is punishable under the Controlled Substances Act, *see* 21 U.S.C. § 841(a)(1).” *Id.* Because the Commission did not include gradations based on the type of controlled substance involved, any deviation based on the actual drug was contrary to “the clear language of the Guidelines.” *Id.* at 268.

The Second Circuit considered a similar argument in a subsequent appeal, and held, relying on *Stultz*, that the enhancement under § 2L1.2 was justified, because the defendant’s conviction involved a “controlled substance” under the Guideline, as his “conviction was for the sale of marijuana, a controlled substance under 21 U.S.C. §§ 802(6), 812(c), Sched.I (c)(10) (2000).” *United States v. Leiva-Deras*, 359 F.3d 183, 189 (2d Cir. 2004).

That the Second Circuit reflexively turned to the CSA to determine whether some material qualified as a “controlled substance” under § 2L1.2 supports Mr. Sanchez’s analysis.

4. The Structure of the Guideline And CSA Indicate That “Controlled Substance” Is Defined by the Federal Schedules

Application Note 1(B)(iv) defines “drug trafficking offense” as trafficking not

only a “controlled substance,” but also a “counterfeit substance.” The latter term is equally undefined in the Guideline or case law. However, it is defined in both the CSA and in substantially identical form in the UCSA. *See* 21 U.S.C. § 802(7)¹¹; UCSA § 404.¹² Thus, the definitional lacuna in Application Note 1(B)(iv) is not confined to the one term “controlled substance,” but also to the conjoined term “counterfeit substance.”

It is evident that the meaning of “counterfeit substance” in the CSA and UCSA is particular, referring to mislabeled and misrepresented prescription and proprietary drugs. This definition is to be distinguished from another possible construal of the term synonymous with “imitation controlled substance,” that is, an uncontrolled substance trafficked as a real controlled substance. *See* UCSA § 405 (trafficking in imitation drugs). Indeed, while the UCSA criminalizes distributing “imitation

¹¹ “[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 or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.”

¹² “[A] controlled substance that, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or a likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who manufactured, distributed, or dispensed the substance.”

substances” in § 405, the CSA does not; federal law only criminalizes trafficking in “counterfeit substances” as defined in § 802(7). *See also United States v. Midwest Pharmaceuticals, Inc.*, 601 F. Supp. 392, 395-97 (D. Neb. 1984) (distinguishing “counterfeit” and “imitation” substances under the Food and Drug Act).

Because the term “counterfeit substance” has a specific, narrow definition in federal law, it is evident that the term appearing in Application Note 1(B)(iv) must look to the CSA for its definition. And if the definition in § 802(7) is the logical basis for delimiting “counterfeit substance” in Application Note 1(B)(iv), there can be little doubt that the conjoined term “controlled substance” in that same note is logically defined by the subsection of the CSA directly before § 802(7). In short, claiming that neither “controlled substances” nor “counterfeit substances” finds its definition in § 802 illogically unmoors those terms from specific formulations Congress intended to have national force, sweeping in conduct Congress declined to criminalize nationally. A generic, federal definition should not include conduct which: (1) a comprehensive, national scheme declined to include, and (2) is expressly distinguished in the uniform statutory scheme adopted in nearly all states. The simpler and more logical approach is to treat the Guideline terms “controlled substance” and “counterfeit substance” as defined by the same, particular terms of art appearing in the CSA.

5. The Structure and History of the Guidelines Support Reference to the Federal Criminal Statutes

As noted above, the Guidelines as currently formulated contain no express definition or cross-reference for “controlled substance,” whether appearing in Chapter 2 or 4. Not only is the term undefined for use in the illegal re-entry Guideline, but also for the career offender Guideline in § 4B1.2(b). Even the Guidelines for offenses under the CSA in Part D of Chapter 2 do not define the term.¹³

Despite the Commission’s universal silence on defining “controlled substances,” there is little reason to assume that the term is intended to have different definitions in different parts of the Guidelines. The usual canon of construction is that identical wording used in different sections of a common legislative act are intended to have the same meaning. *See* 3 N. Singer & J. Singer, *Sutherland Statutes and Statutory Construction*, § 59:8 (6th ed. 2002). The definitions in § 2L1.2 cmt. n.1(B)(iv) for “drug trafficking offense” and § 4B1.2 for “controlled substance offense” are virtually identical, in particular the same undefined references to “controlled substance” and “counterfeit substance.” In that light it is significant that the commentary to § 4B1.2 includes several cross-references to the CSA for examples of other offenses that come within the scope of a “controlled substance offense,” such

¹³ Although, tellingly, they do cross-reference 21 U.S.C. § 802 for the definition of “counterfeit substance.” *See* U.S.S.G. § 2D1.1 cmt. n.2.

as unlawful possession of equipment used to manufacture a controlled substance under 21 U.S.C. § 843(a)(6). Naturally, the reference to these specific federal crimes imports into the Guideline the definition of “controlled substance” required for those offenses. By logical implication, then, the structural parallel of the § 4B1.2 definition of “controlled substance offense” and the § 2L1.2 definition of “drug trafficking offense” argues that the latter also contemplates “controlled substance” is defined as in the CSA.

Moreover, the history of § 2L1.2 argues the Commission looked to the CSA when it used the term “controlled substance.” Between 1991 and 2001, the 16-level enhancement for drug offenses in § 2L1.2 specifically referenced the definition of “controlled substance” in 21 U.S.C. § 802, either directly or via the definition of “aggravated felony” in 8 U.S.C. § 1101(a)(43)(B). *See* U.S.S.G. § 2L1.2 app. C amend. 375 (Nov. 1991); amend. 562 (Nov. 1997). When the Commission first added a 16-level enhancement in 1991 in Amendment 375, it was restricted to defendants with a prior aggravated felony conviction. Application Note 7 defined “aggravated felony” as including “any illicit trafficking in any controlled substance (as defined in 21 U.S.C. § 802), including any drug trafficking crime as defined in 18 U.S.C. § 924(c)(2)” with a sentence of five years or more. In 1997, the Commission amended the Guideline to simplify the definition of “aggravated felony” to a bare cross-

reference to 8 U.S.C. § 1101(a)(43), where subparagraph (B) in turn cross-references the definition of “controlled substance” in 21 U.S.C. § 802. *See* U.S.S.G. § 2L1.2 app. C amend. 562 (Nov. 1997). However, Amendment 562 also added a four-level increase for two prior misdemeanor convictions for “controlled substance offenses,” without defining what a “controlled substance offense” comprised. Thus, the Commission first used the undefined term “controlled substance” in the context of changes to § 2L1.2 sublimating other express reference to the CSA, but retaining an indirect cross-reference via the aggravated felony definition.

The indirect cross-reference to the CSA disappeared only when the Commission revamped the entire Guideline to create graduated enhancements. *See* U.S.S.G. § 2L1.2 app. C amend. 632 (Nov. 2001). In the new system, the Commission retained only some aggravated felonies in the plus-16 category. These included a “drug trafficking offense” with a sentence over 13 months; the same conviction with a lesser sentence was now assigned a 12-level enhancement under § 2L1.2(b)(1)(B). Application Note 1(B)(iv) in its current form was added.

Thus, for a decade, the Commission expressly linked the term “controlled substance” to the schedules in the CSA, but in 1997 inserted that term without any explicit cross-reference. It is unreasonable and far-fetched to claim that this omission was a *sub silentio* effort by the Commission to define “controlled substance” only for

misdemeanor convictions differently from the definition used for felonies in the immediately proceeding subparagraph. If the omission of cross-references in 2001 is significant, then the same logic must apply to the 1997 omission, where such reasoning does not stand up to scrutiny.

To the extent the Government seeks to argue that the omission of cross-references in 2001 signaled the Commission's intent to take the definition of "controlled substance" in a radically new direction from the previous decade, it is entirely inexplicable why the Commission would not have bothered to say so. But nothing in the Reason for Amendment to Amendment 632 indicates any intent to adjust the definitions for a drug trafficking offense; it merely cites the need to graduate the applicable level of enhancement. Surely, if the Commission sought to abandon its settled practice in defining "controlled substance," it would not only say so, but would either (1) provide the new, substitute definition, or (2) insert a cross-reference or guidance on where that new definition could be found. Arguing the mere omission of statutory cross-references for terms defined consistently by statute for a decade effected an implicit sea-change in the definition attributes to the Commission an astounding obtuseness one would not suspect possible. The more rational view is that the Commission viewed "controlled substance" as so well equated with the CSA schedules as to require no elaboration, particularly when the omission first occurred

in a provision conjoined with another making reference to the CSA schedules.

6. Gutierrez-Cruz, Though Wrongly Describing the Effect of a “Controlled Substance Analogue,” Correctly Identifies the CSA As the Source of Definitions in Section 2L1.2

Mr. Sanchez anticipates the Government will rely in response on the unpublished disposition in *Gutierrez-Cruz* for the proposition that the California drug schedules are not overbroad. In that case, the panel held that Cal. Health & Safety Code § 11351 was not categorically overbroad under *Morales-Perez*, and the argument that the state drug schedules were overinclusive was “misplaced.” 265 Fed. App’x at 562. The reason given is that every substance found on the California drug schedules omitted from the CSA schedules nonetheless “fall[s] within the definition of ‘controlled substance analogues’ and therefore treated as schedule I controlled substances.” *Id.* (citing 21 U.S.C. § 813).

Gutierrez-Cruz’s shotgun assertion is simply wrong. Not every substance on the California schedules qualifies as an analogue of a federal controlled substance under the definition in 21 U.S.C. §802(32)(A). The definition of an “analogue” requires three showings: (1) the substance has a “substantially similar” chemical structure to a schedule I or II controlled substance; (2) it has a comparable stimulant, depressant, or hallucinogenic effect; (3) it is intended to have that effect. Although the provision is worded disjunctively, legislative history and practicality argue that the

first prong must be read conjunctively with either prong two or three. *See United States v. Hodge*, 321 F.3d 429, 437-38 (3d Cir. 2003); *accord United States v. Turcotte*, 405 F.3d 515, 522-23 (7th Cir. 2005) (citing cases).

Moreover, “controlled substance analogues” are treated as schedule I controlled substances under 21 U.S.C. § 813 *only* when they are intended for human consumption. To avoid a constitutional void-for-vagueness challenge to the federal analogue provisions, the Fourth Circuit held that arbitrary enforcement is precluded, because the law could be violated only if the trafficker intended the substance be consumed by humans, per § 813. *See United States v. Klecker*, 348 F.3d 69, 71 (4th Cir. 2003). The California drug schedules have no such requirements and trafficking in the listed substances is criminal, regardless whether they are intended for human use. Thus, *Gutierrez-Cruz* was incorrect to say that § 813 automatically treats analogues as “controlled substances.” In fact, 21 U.S.C. § 802(32)(C) specifically *excludes* controlled substances from being controlled substance analogues, so analogues are not in themselves “controlled substances,” absent the additional proviso of § 813.

Thus, even if all the additional California substances met the definition in § 802(32)(a), they would still not suffice as a federal controlled substance unless an additional element not required by the California statutes were shown. We are faced

with the classic missing element scenario, where the generic (federal) offense has an essential element not required of the state conviction. *See Navarro-Lopez v. Gonzales*, 503 F.3d 1063, 1073 (9th Cir. 2007) (en banc). Because “the crime of conviction is missing an element of the generic crime altogether, we can never find that ‘a jury was actually required to find all the elements of’ the generic crime.” *Id.* (citation omitted). This rule applies equally to convictions resulting from pleas. *See id.* at 1073 n.10. As no California jury will ever be required to find that a purported analogue was intended for human consumption nor would a proper plea require such a factual finding, those additional substances not listed in the CSA cannot be treated as federal “controlled substance analogues” under § 813.

Although *Gutierrez-Cruz*’s reasoning as to analogues is legally off-point, what is significant for this case is that the Court, without explanation, turned to the definitions of “controlled substances” in the CSA to determine the range of § 2L1.2 drug offenses. Like the Second Circuit cases and the Sentencing Commission’s implicit reliance on the statutory schedules, *Gutierrez-Cruz* naturally turned to the CSA schedules to clarify the Guideline. This supports Mr. Sanchez’s argument that the CSA provides the most reasonable and suitable basis for determining the generic scope of “controlled substance” for *Taylor* purposes in analyzing a prior conviction

enhancement for § 2L1.2.¹⁴

D. Even If the UCSA Were Taken As the Generic Definition, It, Too, Omits Substances Found in the California Schedules

If the drug schedules intended by Congress to be provide a comprehensive, national treatment of controlled substances, the only reasonable alternative source of the generic definition under the *Taylor* approach is the UCSA, the provision adopted in some form by all but two states.

However, the UCSA may not be adopted intact by an enacting state or may be subject to further amendment by state legislatures, causing it to lose its original uniformity. In fact, the UCSA provided procedures for future expansion of the drug schedules by providing criteria for each of the original schedules. *See* UCSA §§ 203, 205, 207, 209, & 211. As noted above, Congress anticipated that state controlled substance law would continue to diverge despite the enactment of a comprehensive, national scheme. *See* 21 U.S.C. § 903. As a result, state schedules can be broader than the UCSA in the same fashion as argued above regarding the CSA.

¹⁴ The district court's and *Gutierrez-Cruz*'s argument that *Morales-Perez* controls the categorical status of a conviction under Cal. Health & Safety Code § 11351 can be summarily rejected. ER 2-3 [23-24]; SRT 13-14. *Morales-Perez* dealt solely with § 11351.5, a statute that expressly applies only to trafficking in cocaine base. *See* 467 F.3d at 1220. Cocaine base is indisputably a substance regulated in the CSA. *See* 21 U.S.C. § 812(c) Sched. II(a)(4). Mr. Sanchez's statute of conviction applies to *any* California controlled substance. *Morales-Perez*'s pre-*Ruiz-Vidal* discussion of a crucially different statute holds no lessons for this case.

Thus, as noted in *Ruiz-Vidal*, the California schedules include apomorphine as a Schedule II controlled substance, while the federal schedules do not list that chemical. The UCSA not only also fails to include apomorphine, it expressly excludes it. *See* UCSA § 206(1)(i).¹⁵ Likewise, the same section of the UCSA excludes butorphanol as a controlled substance, but the California drug schedules expressly includes it. *See* Cal. Health & Safety Code § 11057(c)(3).

Accordingly, neither of the two reasonable candidates for a generic definition of “controlled substance” includes all the substances controlled under California law. The California offenses are categorically overbroad regardless of which likely candidate is consulted.

E. Conclusion

This Court has found in the immigration context that the California drug schedules are categorically overbroad. Despite the lack of an overt definition of

¹⁵ An example of why the UCSA schedules or the aggregate state manifestations of them are too variable to be suitable for categorical analysis purposes is Louisiana’s version of the UCSA. Like California, it diverges from the UCSA, as it appears to include apomorphine expressly in its Schedule II, but then also excludes all “isoquinoline alkaloids of opium,” which apomorphine is. *See State v. Lambert*, 514 So.2d 550, 551-52 (La. Ct. App. 1987) (citing L.S.A.-R.S. 40:967). This contradiction led the state court to find the statute void for vagueness as hopelessly ambiguous whether apomorphine was a controlled substance. *See id.* at 552-53. Subjecting the generic definition to such vagaries of state law is the antithesis of the *Taylor* rationale.

“controlled substance” in the Guidelines, logic, case law, structure, and history support the use of the CSA schedules as constituting the generic, national definitions. Consequently, as found in *Ruiz-Vidal* and subsequent precedents, the California offenses apply to a broader array of crimes than the generic offense. Under *Taylor*, Mr. Sanchez’s conviction was categorically overbroad to warrant the 16-level enhancement.

II

UNDER VIDAL, THE RECORD IS INADEQUATE TO SATISFY THE MODIFIED CATEGORICAL APPROACH TO NARROW THE PRIOR CONVICTION

A. Introduction

The overinclusion of the California drug schedules renders Mr. Sanchez’s conviction categorically overbroad under Application Note 1(B)(iv). It can qualify for enhancement only if the Government adduces judicially noticeable documents indicating that the conviction was for trafficking in a federally listed substance. Here, the Government failed to do so, for two reasons.

First, Mr. Sanchez’s guilty plea in state court was entered pursuant to *People v. West*, a fact which this Court sitting en banc described as “not admit[ing] the specific details about his conduct on the ... counts [to which] he pled guilty.” *Vidal*, 504 F.3d at 1089 (citation omitted; second brackets by *Vidal*). As a result, “unless the

record of the plea proceeding reflects that the defendant admitted to facts, a *West* plea, without more, does not establish the requisite factual predicate to support a sentence enhancement.” *Id.*

Second, unless the documents or plea colloquy show that the conviction was for the offense “as charged” in the accusatory pleading, any more specific allegation in the complaint does not satisfy the modified categorical inquiry. *See id.* at 1087. Without that “critical phrase” making the link between accusation and conviction, the overbroad state statute is not narrowed. *Id.* Here, the conviction document proffered by the Government—an abstract of judgment—fails to show the necessary link: the crucial “as charged” language. Thus, the conviction could not be used to enhance Mr. Sanchez’s Guideline sentence.

B. Because the Plea Was Entered Pursuant to *People v. West*, the Record Cannot Establish the Conviction Was for Trafficking a Qualifying Substance

In *Vidal*, this Court had to determine whether a conviction for joyriding under Cal. Veh. Code § 10851(a) avoided categorical overbreadth by showing the defendant was charged as a principal, not an accessory. *See* 504 F.3d at 1086. On examining the documents acceptable for modified categorical analysis under *Shepard v. United States*, 544 U.S. 13 (2005), the Court found that the complaint and change of plea forms did not satisfy the required showing. Although the complaint contained

language indicating that Vidal was a principal, nothing in the change of plea form showed he admitted that allegation under oath. *See id.* at 1086-87.

The prime deficiency noted in *Vidal* was that the defendant's plea had been made under *People v. West*.

The only other judicially noticeable document in the record before us that might provide this confirmation is the written plea and waiver of rights form, which reflects that Vidal entered a plea of guilty pursuant to *People v. West*. In *West* the California Supreme Court affirmed the constitutionality of plea bargaining, specifically addressing the practice of pleading guilty to a lesser offense “without specification of punishment.” 91 Cal.Rptr. 385, 477 P.2d at 416. . . . [¶] The California Supreme Court subsequently characterized a *People v. West* plea as a plea of nolo contendere that does not establish factual guilt. *See In re Alvernaz*, 2 Cal.4th 924, 8 Cal.Rptr.2d 713, 830 P.2d 747, 752 (1992) (describing a *People v. West* plea as a “plea of nolo contendere, not admitting a factual basis for the plea”); *see also United States v. Nguyen*, 465 F.3d 1128, 1130 (9th Cir.2006) (“[A] plea of nolo contendere ... is, first and foremost, not an admission of factual guilt. It merely allows the defendant so pleading to waive a trial and to authorize the court to treat him as if he were guilty.” (citation omitted)). By entering a *West* plea a defendant “[does] not admit the specific details about his conduct on the ... counts[to which] he pled guilty.” *Carty v. Nelson*, 426 F.3d 1064, 1068 (9th Cir.2005) As a result, unless the record of the plea proceeding reflects that the defendant admitted to facts, a *West* plea, without more, does not establish the requisite factual predicate to support a sentence enhancement.

Id. at 1089 (footnote omitted).

Because a *West* plea does not admit any of the factual allegations of the complaint, or indeed anything more than that the statute of conviction is “reasonably related” to the actual offense, *id.* at 1087, it cannot establish that the conviction

encompassed conduct defining the enhancing offense. *See also Fregozo v. Holder*, 576 F.3d 1030, 1040 (9th Cir. 2009) (following *Vidal* in holding that a *West* plea “does not establish factual guilt” of the narrowing factual allegation).

Mr. Sanchez’s case is the same as *Vidal*. Here, the Government could proffer only three pertinent *Shepard* documents relating to the 1992 conviction for Health & Safety Code § 11351: a felony complaint (alleging trafficking in cocaine), a change of plea form (whose factual basis states only “People v. West plea”), and an abstract of judgment (listing the statute and a shorthand title “Poss of Cont. Sub”). ER 88-110. Just as in *Vidal* and the cases cited therein (including *Ruiz-Vidal*), the complaint alone does not establish the nature of the substance involved in the prosecution. *See Vidal*, 504 F.3d at 1088. The change of plea form lists no facts being admitted and states that the plea is made pursuant to *West*, again as in *Vidal*. The one additional document here is an abstract of judgment, which alone is insufficient to support a modified categorical finding. *See United States v. Navidad-Marcos*, 367 F.3d 903, 908-09 (9th Cir. 2004) (holding California abstract of judgment alone was insufficient to show conviction for drug trafficking to enhance under § 2L1.2). Also, as will be shown next, the abstract does not provide the crucial link to the accusation to effect a narrowing. Thus, as in *Vidal*, “we lack a transcript of [Mr. Sanchez]’s change of plea hearing or any recordation of the terms of his plea bargain. Although [Mr. Sanchez]

signed the written plea and waiver of rights form, he wrote only ‘*People v. West* [plea]’ in the section requesting a description of ‘fact[ual basis]’ to which he was pleading guilty. The form, like the Complaint, therefore fails to establish the factual predicate for [Mr. Sanchez]’s plea.” *Vidal*, 504 F.3d at 1089.

The *West* plea in Mr. Sanchez’s case did not admit any of the factual allegations in the complaint, including that the substance involved was cocaine. No *Shepard* documents establish the nature of the controlled substance involved in the conviction at issue, and so the Government failed to meet its burden of narrowing under the second stage of *Taylor*.

C. The Complaint Alone Is Insufficient to Prove a Qualifying Substance, Because the Record Does Not Show the Conviction Was for the Offense “As Charged” in the Accusatory Pleading

As in *Vidal*, the record here is adlso deficient, because nothing showed that the plea was to “the offense as charged.”

In order to identify a conviction as the generic offense through the modified categorical approach, when the record of conviction comprises only the indictment and the judgment, the judgment must contain “the critical phrase ‘as charged in the Information.’ ” *Li* [*v. Ashcroft*,] 389 F.3d [892, 898 (9th Cir. 2004)]; *cf.* [*United States v.*] *Bonat*, 106 F.3d [1472, 1477-78 (9th Cir. 1997)] (“Even if we agreed with Bonat that the district court only relied on the charging document, we would affirm because the Judgment on Plea of Guilty shows that Bonat *did in fact plead guilty to second degree burglary as charged in the Information*, and the Information included all the elements of generic burglary.” (emphasis added)).

Vidal, 504 F.3d at 1087. It is the “as charged” language which makes the express link between the judgment and the accusations in the charging document. Without that “critical phrase,” “we have no way of knowing what conduct Vidal admitted when he pled guilty to conduct that was not identical to that charged in Count One of the Complaint.” *Id.* at 1088.

Again, the circumstances are identical here. The documents proffered by the Government nowhere contain the “critical phrase” linking the conviction document with the accusation. Nothing in the abstract itself nor in the change of plea form specifies a conviction or admission as to the allegation in the complaint, and there is no transcript of the plea colloquy. ER 117-27. Even without the effects of the *West* plea, the record here is deficient to show the nature of the controlled substance that was the subject of the conviction.

CONCLUSION

The district court erred in holding that Mr. Sanchez's prior conviction qualified as a categorical drug trafficking offense under § 2L1.2. The California drug schedules are categorically overbroad, and no judicially noticeable documents established that the conviction involved a federal controlled substance. Because the erroneously applied enhancement caused a material miscalculation of the Guideline range, the sentence must be vacated and the case remanded for sentencing. *See Cantrell*, 433 F.3d at 1280.

Respectfully submitted,

DATED: December 15, 2009

s/ James Fife

JAMES FIFE

Federal Defenders of San Diego, Inc.

225 Broadway, Suite 900

San Diego, CA 92101-5097

(619) 234-8467

Attorneys for Defendant-Appellant

CERTIFICATE OF RELATED CASES

Per 9th Cir. R. 28-2.6, counsel is unaware of any related appeals pending before this Court.

Respectfully submitted,

DATED: December 15, 2009

s/ James Fife

JAMES FIFE

Federal Defenders of San Diego, Inc.

225 Broadway , Suite 900

San Diego, CA 92101-5097

(619) 234-8467

Attorneys for Defendant-Appellant

**CERTIFICATE OF COMPLIANCE PURSUANT TO FED. R. APP. 32(A)(7)(C) AND
CIRCUIT RULE 32-1 FOR CASE NUMBER 09-50462**

I certify that: (check appropriate options(s))

X 1. Pursuant to Fed. R. App. P. 32(a)(7)(c) and Ninth Circuit Rule 32-1, the
attached opening/~~answering~~/~~reply~~/cross appeal brief is

× Proportionately spaced, has a typeface of 14 points or more and contains
9,997 words (opening, answering, and the second and third briefs filed
in cross-appeals must NOT exceed 14,000 words; reply briefs must NOT
exceed 7,000 words),

or is

☐ Monospaced, have 10.5 or fewer characters per inch and contain _____
words or _____ lines of text (opening, answering, and second and third
briefs filed in cross-appeals must NOT exceed 14,000 words, or 1,300
lines of text; reply briefs must NOT exceed 7,000 words or 650 lines of
text).

December 15, 2009

Date

s/ James Fife

JAMES FIFE

Attorney for Appellant

Certificate of Service When All Case Participants Are CM/ECF Participants

I hereby certify that on December 15, 2009, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ James Fife

ADDENDUM

U.S. Sentencing Guidelines

§ 2L1.2. Unlawfully Entering or Remaining in the United States

(a) Base Offense Level: 8

(b) Specific Offense Characteristic

(1) Apply the Greatest:

If the defendant previously was deported, or unlawfully remained in the United States, after--

(A) a conviction for a felony that is (i) a drug trafficking offense for which the sentence imposed exceeded 13 months; (ii) a crime of violence; (iii) a firearms offense; (iv) a child pornography offense; (v) a national security or terrorism offense; (vi) a human trafficking offense; or (vii) an alien smuggling offense, increase by 16 levels;

(B) a conviction for a felony drug trafficking offense for which the sentence imposed was 13 months or less, increase by 12 levels;

(C) a conviction for an aggravated felony, increase by 8 levels;

(D) a conviction for any other felony, increase by 4 levels; or

(E) three or more convictions for misdemeanors that are crimes of violence or drug trafficking offenses, increase by 4 levels.

COMMENTARY

<Statutory Provisions:8 U.S.C. 1325(a) (second or subsequent offense only), 8 U.S.C. 1326. For additional statutory provision(s), see Appendix A (Statutory Index).>

<Application Notes>

<1. Application of Subsection (b)(1).-->

* * *

<(B) Definitions.--For purposes of subsection (b)(1):>

* * *

<(iv) "Drug trafficking offense" means an offense under federal, state, or local law that prohibits the manufacture, import, export, distribution, or dispensing of, or offer to sell a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with intent to manufacture, import, export, distribute, or dispense.>

§ 4B1.2. Definitions of Terms Used in Section 4B1.1

* * *

(b) The term “controlled substance offense” means an offense under federal or state law, punishable by imprisonment for a term exceeding one year, that prohibits the manufacture, import, export, distribution, or dispensing of a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with intent to manufacture, import, export, distribute, or dispense.

<Application Notes:>

<1. For purposes of this guideline--“Crime of violence” and “controlled substance offense” include the offenses of aiding and abetting, conspiring, and attempting to commit such offenses.>

<“Crime of violence” includes murder, manslaughter, kidnapping, aggravated assault, forcible sex offenses, robbery, arson, extortion, extortionate extension of credit, and burglary of a dwelling. Other offenses are included as “crimes of violence” if (A) that offense has as an element the use, attempted use, or threatened use of physical force against the person of another, or (B) the conduct set forth (i.e., expressly charged) in the count of which the defendant was convicted involved use of explosives (including any explosive material or destructive device) or, by its nature, presented a serious potential risk of physical injury to another.>

<“Crime of violence” does not include the offense of unlawful possession of a firearm by a felon, unless the possession was of a firearm described in 26 U.S.C. § 5845(a). Where the instant offense is the unlawful possession of a firearm by a felon, § 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition) provides an increase in offense level if the defendant had one or more prior felony convictions for a crime of violence or controlled substance offense; and, if the defendant is sentenced under the provisions of 18 U.S.C. § 924(e), § 4B1.4 (Armed Career Criminal) will apply.>

<Unlawfully possessing a listed chemical with intent to manufacture a controlled substance (21 U.S.C. § 841(c)(1)) is a “controlled substance offense.”>

<Unlawfully possessing a firearm described in 26 U.S.C. § 5845(a) (e.g., a sawed-off shotgun or sawed-off rifle, silencer, bomb, or machine gun) is a “crime of violence.”>

<Unlawfully possessing a prohibited flask or equipment with intent to manufacture a controlled substance (21 U.S.C. § 843(a)(6)) is a “controlled substance offense.”>

<Maintaining any place for the purpose of facilitating a drug offense (21 U.S.C. § 856) is a “controlled substance offense” if the offense of conviction established that the underlying offense (the offense facilitated) was a “controlled substance offense.”>

<Using a communications facility in committing, causing, or facilitating a drug offense (21 U.S.C. § 843(b)) is a “controlled substance offense” if the offense of conviction established that the underlying offense (the offense committed, caused, or facilitated) was a “controlled substance offense.”>

<A violation of 18 U.S.C. 924(c) or 929(a) is a “crime of violence” or a “controlled substance offense” if the offense of conviction established that the underlying offense was a “crime of violence” or a “controlled substance offense”. (Note that in the case of a prior 18 U.S.C. 924(c) or 929(a) conviction, if the defendant also was convicted of the underlying offense, the sentences for the two prior convictions will be counted as a single sentence under § 4A1.2 (Definitions and Instructions for Computing Criminal History).)>

* * *

Controlled Substances Act

§ 802. Definitions

As used in this subchapter:

* * *

(6) The term "controlled substance" means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

(7) The term "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 or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

* * *

(32)(A) Except as provided in subparagraph (C), the term "controlled substance analogue" means a substance--

(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

(ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) of this paragraph that the chemical is a controlled substance analogue.

(C) Such term does not include--

(i) a controlled substance;

(ii) any substance for which there is an approved new drug application;

(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 355 of this title to the extent conduct with respect to such substance is pursuant to such exemption; or

(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

* * *

§ 812. Schedules of controlled substances

(a) Establishment

There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.

(b) Placement on schedules; findings required

Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on October 27, 1970, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) Schedule I.--

- (A)** The drug or other substance has a high potential for abuse.
- (B)** The drug or other substance has no currently accepted medical use in treatment in the United States.
- (C)** There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) Schedule II.--

- (A)** The drug or other substance has a high potential for abuse.
- (B)** The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.
- (C)** Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) Schedule III.--

- (A)** The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.
- (B)** The drug or other substance has a currently accepted medical use in treatment in the United States.
- (C)** Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) Schedule IV.--

- (A)** The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.
- (B)** The drug or other substance has a currently accepted medical use in treatment in the United States.
- (C)** Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) Schedule V.--

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

(c) Initial schedules of controlled substances

Schedules I, II, III, IV, and V shall, unless and until amended [FN1] pursuant to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

Schedule I

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.

(2) Allylprodine.

(3) Alphacetylmethadol. [FN2]

(4) Alphameprodine.

(5) Alphamethadol.

(6) Benzethidine.

(7) Betacetylmethadol.

(8) Betameprodine.

(9) Betamethadol.

(10) Betaproline.

(11) Clonitazene.

(12) Dextromoramide.

(13) Dextrorphan.

(14) Diampromide.

(15) Diethylthiambutene.

- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxidine.
- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.
- (27) Levomoramide.
- (28) Levophenacymorphan.
- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Proheptazine.
- (40) Properidine.
- (41) Racemoramide.

(42) Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.

(2) Acetyldihydrocodeine.

(3) Benzylmorphine.

(4) Codeine methylbromide.

(5) Codeine-N-Oxide.

(6) Cyprenorphine.

(7) Desomorphine.

(8) Dihydromorphine.

(9) Etorphine.

(10) Heroin.

(11) Hydromorphenol.

(12) Methyldesorphine.

(13) Methylhydromorphine.

(14) Morphine methylbromide.

(15) Morphine methylsulfonate.

(16) Morphine-N-Oxide.

(17) Myrophine.

(18) Nicocodeine.

(19) Nicomorphine.

(20) Normorphine.

(21) Pholcodine.

(22) Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

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

Schedule II

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.

(4) coca [FN3] leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

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

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

Schedule III

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Phenmetrazine and its salts.

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

(4) Methylphenidate.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.

(2) Choralhydratol.

(3) Glutethimide.

(4) Lysergic acid.

(5) Lysergic acid amide.

(6) Methyprylon.

(7) Phencyclidine.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(c) Nalorphine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

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

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

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

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

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

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

(e) Anabolic steroids.

Schedule IV

(1) Barbital.

(2) Chloral betaine.

(3) Chloral hydrate.

(4) Ethchlorvynol.

(5) Ethinamate.

(6) Methohexital.

(7) Meprobamate.

(8) Methylphenobarbital.

(9) Paraldehyde.

(10) Petrichloral.

(11) Phenobarbital.

Schedule V

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

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
- (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
- (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

§ 813. Treatment of controlled substance analogues

A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any Federal law as a controlled substance in schedule I.

Code of Federal Regulations

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Code of Federal Regulations Currentness

Title 21. Food and Drugs

Chapter II. Drug Enforcement Administration, Department of Justice

Part 1308. Schedules of Controlled Substances (Refs & Annos)

Schedules

→ § 1308.11 Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in

(1)	Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)	9815
(2)	Acetylmethadol	9601
(3)	Allylprodine	9602
(4)	Alphacetylmethadol (except levo-alpha-cetylmethadol also known as levo-alpha-acetylmethadol, levo-methadyl acetate, or LAAM)	9603
(5)	Alphameprodine	9604
(6)	Alphamethadol	9605
(7)	Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)	9814
(8)	Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)	9832
(9)	Benzethidine	9606
(10)	Betacetylmethadol	9607
(11)	Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)	9830
(12)	Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide)	9831
(13)	Betameprodine	9608
(14)	Betamethadol	9609
(15)	Betaprodine	9611
(16)	Clonitazene	9612
(17)	Dextromoramide	9613
(18)	Diampromide	9615
(19)	Diethylthiambutene	9616
(20)	Difenoxin	9168
(21)	Dimenoxadol	9617
(22)	Dimepheptanol	9618
(23)	Dimethylthiambutene	9619
(24)	Dioxaphetyl butyrate	9621
(25)	Dipipanone	9622
(26)	Ethylmethylthiambutene	9623
(27)	Etonitazene	9624
(28)	Etoxeridine	9625
(29)	Furethidine	9626
(30)	Hydroxypethidine	9627
(31)	Ketobemidone	9628

this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of paragraph (b)(34) only, the term isomer includes the optical and geometric isomers):

(32)	Levomoramide	9629
(33)	Levophenacymorphan	9631
(34)	3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide)	9813
(35)	3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide)	9833
(36)	Morpheridine	9632
(37)	MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661
(38)	Noracymethadol	9633
(39)	Norlevorphanol	9634
(40)	Normethadone	9635
(41)	Norpipanone	9636
(42)	Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl] propanamide	9812
(43)	PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine	9663
(44)	Phenadoxone	9637
(45)	Phenampromide	9638
(46)	Phenomorphan	9647
(47)	Phenoperidine	9641
(48)	Piritramide	9642
(49)	Proheptazine	9643
(50)	Properidine	9644
(51)	Propiram	9649
(52)	Racemoramide	9645
(53)	Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide	9835
(54)	Tilidine	9750
(55)	Trimeperidine	9646

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of

isomers is possible within the specific chemical designation:

(1)	Acetorphine	9319
(2)	Acetyldihydrocodeine	9051
(3)	Benzylmorphine	9052
(4)	Codeine methylbromide	9070
(5)	Codeine-N-Oxide	9053
(6)	Cyprenorphine	9054
(7)	Desomorphine	9055
(8)	Dihydromorphine	9145
(9)	Drotebanol	9335
(10)	Etorphine (except hydrochloride salt)	9056
(11)	Heroin	9200
(12)	Hydromorphanol	9301
(13)	Methyldesorphine	9302

(14)	Methyldihydromorphine	9304
(15)	Morphine methylbromide	9305
(16)	Morphine methylsulfonate	9306
(17)	Morphine-N-Oxide	9307
(18)	Myrophine	9308
(19)	Nicocodeine	9309
(20)	Nicomorphine	9312
(21)	Normorphine	9313
(22)	Pholcodine	9314
(23)	Thebacon	9315

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and

salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1)	Alpha-ethyltryptamine	7249
Some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET.		
(2)	4-bromo-2,5-dimethoxy-amphetamine	7391
Some trade or other names: 4-bromo-2,5-dimethoxy- alpha-methylphenethylamine; 4-bromo-2,5-DMA		
(3)	4-Bromo-2,5-dimethoxyphenethylamine	7392
Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.		
(4)	2,5-dimethoxyamphetamine	7396
Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA		
(5)	2,5-dimethoxy-4-ethylamphet-amine	7399
Some trade or other names: DOET		
(6)	2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7)	7348
(7)	4-methoxyamphetamine	7411
Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA		
(8)	5-methoxy-3,4-methylenedioxy-amphetamine	7401
(9)	4-methyl-2,5-dimethoxy-amphetamine	7395
Some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP"		
(10)	3,4-methylenedioxy amphetamine	7400
(11)	3,4-methylenedioxymethamphetamine (MDMA)	7405
(12)	3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA	7404
(13)	N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA	7402
(14)	3,4,5-trimethoxy amphetamine	7390

(15)	Alpha-methyltryptamine (other name: AMT)	7432
(16)	Bufotenine	7433
	Some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine	
(17)	Diethyltryptamine	7434
	Some trade and other names: N,N-Diethyltryptamine; DET	
(18)	Dimethyltryptamine	7435
	Some trade or other names: DMT	
(19)	5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT)	7439
(20)	Ibogaine	7260
	Some trade and other names: 7-Ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2': 1,2] azepino [5,4-b] indole; Tabernanthe iboga	
(21)	Lysergic acid diethylamide	7315
(22)	Marihuana	7360
(23)	Mescaline	7381
(24)	Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl	
(25)	Peyote	7415
	Meaning all parts of the plant presently classified botanically as <i>Lophophora williamsii</i> Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule 1(c) (12))	
(26)	N-ethyl-3-piperidyl benzilate	7482
(27)	N-methyl-3-piperidyl benzilate	7484
(28)	Psilocybin	7437
(29)	Psilocyn	7438
(30)	Tetrahydrocannabinols	7370
	Meaning tetrahydrocannabinols naturally contained in a plant of the genus <i>Cannabis</i> (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractions of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:	
	1 cis or trans tetrahydrocannabinol, and their optical isomers	
	6 cis or trans tetrahydrocannabinol, and their optical isomers	
	3, 4 cis or trans tetrahydrocannabinol, and its optical isomers	
	(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)	
(31)	Ethylamine analog of phencyclidine	7455
	Some trade or other names: N-ethyl-1-phenylcyclo-hexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE	
(32)	Pyrrolidine analog of phencyclidine	7458
	Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP	
(33)	Thiophene analog of phencyclidine	7470

Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TCP, TCP

(34)	1-[1-(2-thienyl)cyclohexyl]pyrrolidine	7473
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Some other names: TCPy

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and

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

(1)	gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate)	2010
(2)	Mecloqualone	2572
(3)	Methaqualone	2565

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the cen-

tral nervous system, including its salts, isomers, and salts of isomers:

(1)	Aminorex (Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine)	
(2)	N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine)	7493
(3)	Cathinone	1235
	Some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone	
(4)	Fenethylamine	1503
(5)	Methcathinone (Some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinine; AL-464; AL-422; AL-463 and UR1432), its salts, optical isomers and salts of optical isomers	1237
(6)	(±)cis-4-methylaminorex ((±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)	1590
(7)	N-ethylamphetamine	1475
(8)	N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine),	1480

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following sub-

stances:

(1)	N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers	9818
(2)	N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers	9834

§ 1308.12 Schedule II.

(a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in

this section. Each drug or substance has been assigned the Controlled Substances Code Number set forth opposite it.

(b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another

schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

derivative, or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(1) Opium and opiate, and any salt, compound, de-

(i) Codeine	9050
(ii) Dihydroetorphine	9334
(iii) Ethylmorphine	9190
(iv) Etorphine hydrochloride	9059
(v) Granulated opium	9640
(vi) Hydrocodone	9193
(vii) Hydromorphone	9150
(viii) Metopon	9260
(ix) Morphine	9300
(x) Opium extracts	9610
(xi) Opium fluid	9620
(xii) Oripavine	9330
(xiii) Oxycodone	9143
(xiv) Oxymorphone	9652
(xv) Powdered opium	9639
(xvi) Raw opium	9600
(xvii) Thebaine	9333
(xviii) Tincture of opium	9630

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, except that these substances shall not include the isoquinoline alkaloids of opium.

contain cocaine or ecgonine.

(3) Opium poppy and poppy straw.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy), 9670.

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves (including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not

(c) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil	9737
(2) Alphaprodine	9010
(3) Anileridine	9020

(4)	Bezitramide	9800
(5)	Bulk dextropropoxyphene (non-dosage forms)	9273
(6)	Carfentanil	9743
(7)	Dihydrocodeine	9120
(8)	Diphenoxylate	9170
(9)	Fentanyl	9801
(10)	Isomethadone	9226
(11)	Levo-alpha-acetylmethadol	9648
(Some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM)		
(12)	Levomethorphan	9210
(13)	Levorphanol	9220
(14)	Metazocine	9240
(15)	Methadone	9250
(16)	Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane	9254
(17)	Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid	9802
(18)	Pethidine (meperidine)	9230
(19)	Pethidine-Intermediate-A, 4-cyano-1-methyl-4- phenylpiperidine	9232
(20)	Pethidine-Intermediate-B, ethyl-4-phenylpiperidine- 4-carboxylate	9233
(21)	Pethidine-Intermediate-C, 1-methyl-4- phenylpiperidine- 4-carboxylic acid	9234
(22)	Phenazocine	9715
(23)	Piminodine	9730
(24)	Racemethorphan	9732
(25)	Racemorphan	9733
(26)	Remifentanyl	9739
(27)	Sufentanil	9740
(28)	Tapentadol	9780

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the cen-

tral nervous system:

(1)	Amphetamine, its salts, optical isomers, and salts of its optical isomers	1100
(2)	Methamphetamine, its salts, isomers, and salts of its isomers	1105
(3)	Phenmetrazine and its salts	1631
(4)	Methylphenidate	1724
(5)	Lisdexamfetamine, its salts, isomers, and salts of its isomers--	1205

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and

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

(1)	Amobarbital	2125
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(2)	Glutethimide	2550
(3)	Pentobarbital	2270
(4)	Phencyclidine	7471
(5)	Secobarbital	2315

(f) Hallucinogenic substances.

(1)	Nabilone	7379
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[Another name for nabilone: (±)-trans-3- (1,1-dimethylheptyl)- 6,6a,7,8,10,10a-hexahydro- 1-hydroxy-6,6-dimethyl- 9H-dibenzo[b,d]pyran-9-one]

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(i)	Phenylacetone	8501
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Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(2) Immediate precursors to phencyclidine (PCP):

(i)	1-phenylcyclohexylamine	7460
(ii)	1-piperidinocyclohexanecarbonitrile (PCC)	8603

Code of Federal Regulations Currentness

Title 21. Food and Drugs

Chapter II. Drug Enforcement Administration, Department of Justice

Part 1308. Schedules of Controlled Substances (Refs & Annos)

Schedules

→ § 1308.13 Schedule III.

DEA Controlled Substances Code Number set forth opposite it.

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

(a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the

(1)	Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under § 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.	1405
(2)	Benzphetamine	1228
(3)	Chlorphentermine	1645
(4)	Clortermine	1647
(5)	Phendimetrazine	1615

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the

central nervous system:

(1)	Any compound, mixture or preparation containing:	
(i)	Amobarbital	2126
(ii)	Secobarbital	2316
(iii)	Pentobarbital	2271
	or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.	
(2)	Any suppository dosage form containing:	
(i)	Amobarbital	2126
(ii)	Secobarbital	2316
(iii)	Pentobarbital	2271
	or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.	
(3)	Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof	2100
(4)	Chlorhexadol	2510
(5)	Embutramide	2020
(6)	Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act	2012

(7)	Ketamine, its salts, isomers, and salts of isomers [Some other names for ketamine: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone]	7285
(8)	Lysergic acid	7300
(9)	Lysergic acid amide	7310
(10)	Methypylon	2575
(11)	Sulfondiethylmethane	2600
(12)	Sulfonethylmethane	2605
(13)	Sulfonmethane	2610
(14)	Tiletamine and zolazepam or any salt thereof Some trade or other names for a tiletamine-zolazepam combination product: Telazol Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrzapon	7295

(d) Nalorphine 9400.

listed in another schedule:

(e) Narcotic drugs. Unless specifically excepted or unless

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:		
(i) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium		9803
(ii) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts		9804
(iii) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium		9805
(iv) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts		9806
(v) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts		9807
(vi) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts		9808
(vii) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts		9809
(viii) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts		9810

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(i) Buprenorphine	9064
(ii) [Reserved]	

(f) Anabolic Steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, esters and ethers:

(1) Anabolic steroids (see § 1300.01 of this chapter)--
4000

(2) [Reserved]

(g) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product--7369.

[Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol] or (-)-delta-9-(trans)-tetrahydrocannabinol]

(2) [Reserved]

Code of Federal Regulations Currentness

Title 21. Food and Drugs

Chapter II. Drug Enforcement Administration, Department of Justice

Part 1308. Schedules of Controlled Substances

(Refs & Annos)

Schedules

→ § 1308.14 Schedule IV.

name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual

(1)	Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit	9167
(2)	Dextropoxyphene (alpha-(+)-4- dimethylamino-1,2- diphenyl-3-methyl-2- propionoxybutane)	9278

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts,

isomers, and salts of isomers is possible within the specific chemical designation:

(1)	Alprazolam	2882
(2)	Barbital	2145
(3)	Bromazepam	2748
(4)	Camazepam	2749
(5)	Chloral betaine	2460
(6)	Chloral hydrate	2465
(7)	Chlordiazepoxide	2744
(8)	Clobazam	2751
(9)	Clonazepam	2737
(10)	Clorazepate	2768
(11)	Clotiazepam	2752
(12)	Cloxazolam	2753
(13)	Delorazepam	2754
(14)	Diazepam	2765
(15)	Dichloralphenazone	2467
(16)	Estazolam	2756
(17)	Ethchlorvynol	2540
(18)	Ethinamate	2545
(19)	Ethyl loflazepate	2758
(20)	Fludiazepam	2759
(21)	Flunitrazepam	2763
(22)	Flurazepam	2767
(23)	Fospropofol	2138
(24)	Halazepam	2762

(25)	Haloxazolam	2771
(26)	Ketazolam	2772
(27)	Loprazolam	2773
(28)	Lorazepam	2885
(29)	Lormetazepam	2774
(30)	Mebutamate	2800
(31)	Medazepam	2836
(32)	Meprobamate	2820
(33)	Methohexital	2264
(34)	Methylphenobarbital (mephobarbital)	2250
(35)	Midazolam	2884
(36)	Nimetazepam	2837
(37)	Nitrazepam	2834
(38)	Nordiazepam	2838
(39)	Oxazepam	2835
(40)	Oxazolam	2839
(41)	Paraldehyde	2585
(42)	Petrichloral	2591
(43)	Phenobarbital	2285
(44)	Pinazepam	2883
(45)	Prazepam	2764
(46)	Quazepam	2881
(47)	Temazepam	2925
(48)	Tetrazepam	2886
(49)	Triazolam	2887
(50)	Zaleplon	2781
(51)	Zolpidem	2783
(52)	Zopiclone	2784

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, when-

ever the existence of such salts, isomers, and salts of isomers is possible:

(1)	Fenfluramine	1670
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(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the cen-

tral nervous system, including its salts, isomers and salts of isomers:

(1)	Cathine ((+)-norpseudoephedrine)	1230
(2)	Diethylpropion	1610
(3)	Fencamfamin	1760
(4)	Fenproporex	1575

(5)	Mazindol	1605
(6)	Mefenorex	1580
(7)	Modafinil	1680
(8)	Pemoline (including organometallic complexes and chelates thereof)	1530
(9)	Phentermine	1640
(10)	Pipradrol	1750
(11)	Sibutramine	1675
(12)	SPA ((-)-1-dimethylamino- 1,2-diphenylethane)	1635

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the

following substances, including its salts:

(1)	Pentazocine	9709
(2)	Butorphanol (including its optical isomers)	9720

Code of Federal Regulations Currentness

Title 21. Food and Drugs

Chapter II. Drug Enforcement Administration,
Department of JusticePart 1308. Schedules of Controlled Sub-
stances (Refs & Annos)

Schedules

→ § 1308.15 Schedule V.

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(1) [Reserved]

(c) Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

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

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

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

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

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Pyrovalerone_____1485.

(2) [Reserved]

(e) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide]--2746

(2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]--2782

[

Cal. Health & Safety Code



West's Ann.Cal.Health & Safety Code § 11033

Page 1

C**Effective:[See Text Amendments]**

West's Annotated California Codes Currentness

Health and Safety Code (Refs & Annos)

Division 10. Uniform Controlled Substances Act (Refs & Annos)

Chapter 1. General Provisions and Definitions (Refs & Annos)

→ § 11033. Isomer

As used in this division, except as otherwise defined, the term "isomer" includes optical and geometrical (diastereomeric) isomers.

CREDIT(S)

(Added by Stats.1985, c. 21, § 2, eff. April 2, 1985.)

Current with all laws through c. 652 of the 2009 portion of the 2009-2010 Reg.Sess., the end of the 2009-2010 1st, 2nd and 4th Ex.Sess., urgency legislation through c. 31 of the 2009-2010 3rd Ex.Sess., and c. 5 of the 7th Ex.Sess., Gov.'s Reorg. Plan No. 1 of 2009, Prop. 1F, approved at the 5/19/2009 election, and propositions on the 6/8/2010 ballot received as of 12/1/2009

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Effective: January 1, 2003

West's Annotated California Codes Currentness

Health and Safety Code (Refs & Annos)

Division 10. Uniform Controlled Substances Act (Refs & Annos)

↳ Chapter 2. Standards and Schedules (Refs & Annos)

→ § 11054. Schedule I; substances included

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

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.

(2) Allylprodine.

(3) Alphacetylmethadol (except levoalphacetylmethadol, also known as levo-alpha- acetylmethadol, levo-methadyl acetate, or LAAM).

(4) Alphameprodine.

(5) Alphamethadol.

(6) Benzethidine.

(7) Betacetylmethadol.

(8) Betameprodine.

(9) Betamethadol.

(10) Betaprodine.

- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Diampromide.
- (14) Diethylthiambutene.
- (15) Difenoxin.
- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxadine.
- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.
- (27) Levomoramide.
- (28) Levophenacymorphan.

- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Proheptazine.
- (40) Properidine.
- (41) Propiram.
- (42) Racemoramide.
- (43) Tilidine.
- (44) Trimeperidine.
- (45) Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidiny] acetanilide) or a derivative thereof.
- (46) Any substance which contains any quantity of the thiophene analog of acetylfentanyl

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(N-[1-[2-(2-thienyl)ethyl]-4-piperidiny] acetanilide) or a derivative thereof.

(47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).

(48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.

(2) Acetyldihydrocodeine.

(3) Benzylmorphine.

(4) Codeine methylbromide.

(5) Codeine-N-Oxide.

(6) Cyprenorphine.

(7) Desomorphine.

(8) Dihydromorphine.

(9) Drotebanol.

(10) Etorphine (except hydrochloride salt).

(11) Heroin.

(12) Hydromorphanol.

(13) Methyl-desorphine.

(14) Methyldihydromorphine.

(15) Morphine methylbromide.

(16) Morphine methylsulfonate.

(17) Morphine-N-Oxide.

(18) Myrophine.

(19) Nicocodeine.

(20) Nicomorphine.

(21) Normorphine.

(22) Pholcodine.

(23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5-dimethoxy-amphetamine--Some trade or other names:
4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

(2) 2,5-dimethoxyamphetamine--Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine;
2,5-DMA.

(3) 4-methoxyamphetamine--Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.

(5) 4-methyl-2,5-dimethoxy-amphetamine--Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP."

(6) 3,4-methylenedioxy amphetamine.

(7) 3,4,5-trimethoxy amphetamine.

(8) Bufotenine--Some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserotonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.

(9) Diethyltryptamine--Some trade or other names: N,N-Diethyltryptamine; DET.

(10) Dimethyltryptamine--Some trade or other names: DMT.

(11) Ibogaine--Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga.

(12) Lysergic acid diethylamide.

(13) Marijuana.

(14) Mescaline.

(15) Peyote--Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.

(17) N-methyl-3-piperidyl benzilate.

(18) Psilocybin.

(19) Psilocyn.

(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extracts of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(21) Ethylamine analog of phencyclidine--Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(22) Pyrrolidine analog of phencyclidine--Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

(23) Thiophene analog of phencyclidine--Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

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

(1) Mecloqualone.

(2) Methaqualone.

(3) Gamma hydroxybutyric acid (also known by other names such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate), including its immediate precursors, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, including, but not limited to, gamma-butyrolactone, for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:

(1) Cocaine base.

(2) Fenethylline, including its salts.

(3) N-Ethylamphetamine, including its salts.

CREDIT(S)

(Added by Stats.1984, c. 1635, § 44.5. Amended by Stats.1985, c. 290, § 1; Stats.1985, c. 1098, § 1.2, eff. Sept. 27, 1985; Stats.1986, c. 1044, § 1; Stats.1987, c. 1174, § 1.5, eff. Sept. 26, 1987; Stats.1995, c. 455 (A.B.1113), § 3, eff. Sept. 5, 1995; Stats.2001, c. 841 (A.B.258), § 1; Stats.2002, c. 664 (A.B.3034), § 130.)

Current with all laws through c. 652 of the 2009 portion of the 2009-2010 Reg.Sess., the end of the 2009-2010 1st, 2nd and 4th Ex.Sess., urgency legislation through c. 31 of the 2009-2010 3rd Ex.Sess., and c. 5 of the 7th Ex.Sess., Gov.'s Reorg. Plan No. 1 of 2009, Prop. 1F, approved at the 5/19/2009 election, and propositions on the 6/8/2010 ballot received as of 12/1/2009

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West's Annotated California Codes Currentness
Health and Safety Code (Refs & Annos)
Division 10. Uniform Controlled Substances Act (Refs & Annos)
 Chapter 2. Standards and Schedules (Refs & Annos)
 → § 11055. Schedule II; substances included

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

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

(1) Opium, opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(A) Raw opium.

(B) Opium extracts.

(C) Opium fluid extracts.

(D) Powdered opium.

(E) Granulated opium.

(F) Tincture of opium.

(G) Apomorphine.

(H) Codeine.

(I) Ethylmorphine.

(J) Hydrocodone.

(K) Hydromorphone.

(L) Metopon.

(M) Morphine.

(N) Oxycodone.

(O) Oxymorphone.

(P) Thebaine.

(2) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(6) Cocaine, except as specified in Section 11054.

(7) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

(1) Alfentanyl.

(2) Alphaprodine.

- (3) Anileridine.
- (4) Bezitramide.
- (5) Bulk dextropropoxyphene (nondosage forms).
- (6) Dihydrocodeine.
- (7) Diphenoxylate.
- (8) Fentanyl.
- (9) Isomethadone.
- (10) Levoalphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM. This substance is authorized for the treatment of narcotic addicts under federal law (see Part 291 (commencing with Section 291.501) and Part 1308 (commencing with Section 1308.01) of Title 21 of the Code of Federal Regulations).
- (11) Levomethorphan.
- (12) Levorphanol.
- (13) Metazocine.
- (14) Methadone.
- (15) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
- (16) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
- (17) Pethidine (meperidine).
- (18) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
- (19) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.

(20) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

(21) Phenazocine.

(22) Piminodine.

(23) Racemethorphan.

(24) Racemorphan.

(25) Sufentanyl.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Methamphetamine, its salts, isomers, and salts of its isomers.

(3) Dimethylamphetamine (N,N-dimethylamphetamine), its salts, isomers, and salts of its isomers.

(4) N-Ethylmethamphetamine (N-ethyl, N-methylamphetamine), its salts, isomers, and salts of its isomers.

(5) Phenmetrazine and its salts.

(6) Methylphenidate.

(7) Khat, which includes all parts of the plant classified botanically as *Catha Edulis*, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts.

(8) Cathinone (also known as alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone).

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts,

isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital.
- (2) Pentobarbital.
- (3) Phencyclidines, including the following:
 - (A) 1-(1-phenylcyclohexyl) piperidine (PCP).
 - (B) 1-(1-phenylcyclohexyl) morpholine (PCM).
 - (C) Any analog of phencyclidine which is added by the Attorney General by regulation pursuant to this paragraph.

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

- (4) Secobarbital.
- (5) Glutethimide.
- (f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:
 - (1) Immediate precursor to amphetamine and methamphetamine:
 - (A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.
 - (2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexane carbonitrile (PCC).

CREDIT(S)

(Added by Stats.1984, c. 1635, § 45.5. Amended by Stats.1985, c. 3, § 1, eff. Jan. 29, 1985; Stats.1985, c. 21, § 3, eff. April 2, 1985; Stats.1985, c. 1098, § 1.4, eff. Sept. 27, 1985; Stats.1986, c. 384, § 2, eff. July 17, 1986; Stats.1986, c. 1042, § 3, eff. Sept. 23, 1986; Stats.1986, c. 1044, § 2.5; Stats.1987, c. 1174, § 2, eff. Sept. 26, 1987; Stats.1988, c. 712, § 1, eff. Aug. 29, 1988; Stats.1995, c. 455 (A.B.1113), § 4, eff. Sept. 5, 1995; Stats.1997, c. 560 (A.B.6), § 1, eff. Sept. 29, 1997; Stats.1997, c. 714 (S.B.3), § 1, eff. Oct. 6, 1997; Stats.1999, c. 975 (A.B.924), § 1; Stats.2000, c. 8 (S.B.550), § 1, eff. March 29, 2000; Stats.2001, c. 841 (A.B.258), § 2; Stats.2008, c. 292 (A.B.1141), § 1.)

Current with all laws through c. 652 of the 2009 portion of the 2009-2010 Reg.Sess., the end of the 2009-2010 1st, 2nd and 4th Ex.Sess., urgency legislation through c. 31 of the 2009-2010 3rd Ex.Sess., and c. 5 of the 7th Ex.Sess., Gov.'s Reorg. Plan No. 1 of 2009, Prop. 1F, approved at the 5/19/2009 election, and propositions on the 6/8/2010 ballot received as of 12/1/2009

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**C****Effective: January 1, 2002**

West's Annotated California Codes Currentness

Health and Safety Code (Refs & Annos)

Division 10. Uniform Controlled Substances Act (Refs & Annos)

Chapter 2. Standards and Schedules (Refs & Annos)

→ § 11056. Schedule III; substances included

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

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine.

(3) Chlorphentermine.

(4) Clortermine.

(5) Mazindol.

(6) Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

(4) Chlorhexadol.

(5) Lysergic acid.

(6) Lysergic acid amide.

(7) Methypylon.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(11) Gamma hydroxybutyric acid, and its salts, isomers and salts of isomers, contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

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

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts. Additionally, oral liquid preparations of dihydrocodeinone containing the above specified amounts may not contain as its non-narcotic ingredients two or more antihistamines in combination with each other.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

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

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

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

(f) Anabolic steroids and chorionic gonadotropin. Any material, compound, mixture, or preparation containing chorionic gonadotropin or an anabolic steroid (excluding anabolic steroid products listed in the "Table of Exempt Anabolic Steroid Products" (Section 1308.34 of Title 21 of the Code of Federal Regulations), as exempt from the federal Controlled Substances Act (Section 801 and following of Title 21 of the United States Code)), including, but not limited to, the following:

(1) Androisoxazole.

- (2) Androstenediol.
- (3) Bolandiol.
- (4) Bolasterone.
- (5) Boldenone.
- (6) Chlormethandienone.
- (7) Clostebol.
- (8) Dihydromesterone.
- (9) Ethylestrenol.
- (10) Fluoxymesterone.
- (11) Formyldienolone.
- (12) 4-Hydroxy-19-nortestosterone.
- (13) Mesterolone.
- (14) Methandriol.
- (15) Methandrostenolone.
- (16) Methenolone.
- (17) 17-Methyltestosterone.
- (18) Methyltrienolone.
- (19) Nandrolone.

(20) Norbolethone.

(21) Norethandrolone.

(22) Normethandrolone.

(23) Oxandrolone.

(24) Oxymestron.

(25) Oxymetholone.

(26) Quinbolone.

(27) Stanolone.

(28) Stanozolol.

(29) Stenbolone.

(30) Testosterone.

(31) Trenbolone.

(32) Chorionic Gonadotropin (HGC).

(g) Ketamine. Any material, compound, mixture, or preparation containing ketamine.

(h) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration.

CREDIT(S)

(Added by Stats.1984, c. 1635, § 46.5. Amended by Stats.1986, c. 384, § 3, eff. July 17, 1986; Stats.1986, c. 534, § 1, eff. Aug. 20, 1986; Stats.1986, c. 1033, § 1; Stats.1989, c. 567, § 1; Stats.1991, c. 294 (A.B.444), § 1; Stats.1995, c. 59 (S.B.491), § 1; Stats.2000, c. 8 (S.B.550), § 2, eff. March 29, 2000; Stats.2001, c. 841

**C**

Effective: January 1, 2009

West's Annotated California Codes Currentness

Health and Safety Code (Refs & Annos)

Division 10. Uniform Controlled Substances Act (Refs & Annos)

Chapter 2. Standards and Schedules (Refs & Annos)

→ § 11057. Schedule IV; substances included

- (a) The controlled substances listed in this section are included in Schedule IV.
- (b) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- (c) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
 - (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).
 - (3) Butorphanol.
- (d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (1) Alprazolam.
 - (2) Barbitol.
 - (3) Chloral betaine.
 - (4) Chloral hydrate.

- (5) Chlordiazepoxide.
- (6) Clobazam.
- (7) Clonazepam.
- (8) Clorazepate.
- (9) Diazepam.
- (10) Estazolam.
- (11) Ethchlorvynol.
- (12) Ethinamate.
- (13) Flunitrazepam.
- (14) Flurazepam.
- (15) Halazepam.
- (16) Lorazepam.
- (17) Mebutamate.
- (18) Meprobamate.
- (19) Methohexital.
- (20) Methylphenobarbital (Mephobarbital).
- (21) Midazolam.
- (22) Nitrazepam.

(23) Oxazepam.

(24) Paraldehyde.

(25) Petrichoral.

(26) Phenobarbital.

(27) Prazepam.

(28) Quazepam.

(29) Temazepam.

(30) Triazolam.

(31) Zaleplon.

(32) Zolpidem.

(e) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers, whenever the existence of those salts, isomers, and salts of isomers is possible:

(1) Fenfluramine.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers is possible within the specific chemical designation:

(1) Diethylpropion.

(2) Mazindol.

(3) Modafinil.

(4) Phentermine.

(5) Pemoline (including organometallic complexes and chelates thereof).

(6) Pipradrol.

(7) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(8) Cathine ((+)-norpseudoephedrine).

(g) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of pentazocine, including its salts.

CREDIT(S)

(Added by Stats.1984, c. 1635, § 47.5. Amended by Stats.1985, c. 290, § 2; Stats.1992, c. 616 (S.B.2013), § 1; Stats.1996, c. 109 (S.B.1426), § 1, eff. July 1, 1996; Stats.1996, c. 846 (S.B.2164), § 2; Stats.2002, c. 1013 (S.B.2026), § 86; Stats.2008, c. 292 (A.B.1141), § 2.)

Current with all laws through c. 652 of the 2009 portion of the 2009-2010 Reg.Sess., the end of the 2009-2010 1st, 2nd and 4th Ex.Sess., urgency legislation through c. 31 of the 2009-2010 3rd Ex.Sess., and c. 5 of the 7th Ex.Sess., Gov.'s Reorg. Plan No. 1 of 2009, Prop. 1F, approved at the 5/19/2009 election, and propositions on the 6/8/2010 ballot received as of 12/1/2009

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Effective:[See Text Amendments]

West's Annotated California Codes Currentness

Health and Safety Code (Refs & Annos)

Division 10. Uniform Controlled Substances Act (Refs & Annos)

Chapter 2. Standards and Schedules (Refs & Annos)

→ § 11058. Schedule V; substances included

- (a) The controlled substances listed in this section are included in Schedule V.
- (b) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- (c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:
- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
 - (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
 - (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
 - (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - (6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- (d) Buprenorphine.



Effective: March 29, 2000

West's Annotated California Codes Currentness

Health and Safety Code (Refs & Annos)

Division 10. Uniform Controlled Substances Act (Refs & Annos)

▣ Chapter 6. Offenses and Penalties (Refs & Annos)

▣ Article 1. Offenses Involving Controlled Substances Formerly Classified as Narcotics (Refs & Annos)

→ **§ 11351. Possession or purchase for sale of designated controlled substances; punishment**

Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, shall be punished by imprisonment in the state prison for two, three, or four years.

CREDIT(S)

(Added by Stats.1972, c. 1407, p. 3012, § 3. Amended by Stats.1973, c. 1078, p. 2172, § 3, eff. Oct. 1, 1973; Stats.1975, c. 1087, p. 2648, § 2; Stats.1976, c. 1139, p. 5079, § 66, operative July 1, 1977; Stats.1983, c. 790, § 4; Stats.1984, c. 1635, § 51; Stats.1985, c. 1398, § 1.5; Stats.1987, c. 970, § 2; Stats.2000, c. 8 (S.B.550), § 4, eff. March 29, 2000.)

Current with all laws through c. 652 of the 2009 portion of the 2009-2010 Reg.Sess., the end of the 2009-2010 1st, 2nd and 4th Ex.Sess., urgency legislation through c. 31 of the 2009-2010 3rd Ex.Sess., and c. 5 of the 7th Ex.Sess., Gov.'s Reorg. Plan No. 1 of 2009, Prop. 1F, approved at the 5/19/2009 election, and propositions on the 6/8/2010 ballot received as of 12/1/2009

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West's Ann.Cal.Health & Safety Code § 11351.5

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C**Effective:[See Text Amendments]**

West's Annotated California Codes Currentness

Health and Safety Code (Refs & Annos)

Division 10. Uniform Controlled Substances Act (Refs & Annos)

⌘ Chapter 6. Offenses and Penalties (Refs & Annos)

⌘ Article 1. Offenses Involving Controlled Substances Formerly Classified as Narcotics (Refs & Annos)

→ **§ 11351.5. Possession of cocaine base for sale; punishment**

Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale cocaine base which is specified in paragraph (1) of subdivision (f) of Section 11054, shall be punished by imprisonment in the state prison for a period of three, four, or five years.

CREDIT(S)

(Added by Stats.1986, c. 1044, § 4. Amended by Stats.1987, c. 1174, § 3, eff. Sept. 26, 1987.)

Current with all laws through c. 652 of the 2009 portion of the 2009-2010 Reg.Sess., the end of the 2009-2010 1st, 2nd and 4th Ex.Sess., urgency legislation through c. 31 of the 2009-2010 3rd Ex.Sess., and c. 5 of the 7th Ex.Sess., Gov.'s Reorg. Plan No. 1 of 2009, Prop. 1F, approved at the 5/19/2009 election, and propositions on the 6/8/2010 ballot received as of 12/1/2009

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Uniform Controlled Substances Act (1994)

Uniform Controlled Substances Act (1994) (Refs & Annos)

■ [Article] 1 Definitions (Refs & Annos)

→ § 101. Definitions

As used in this [Act]:

(1) "Administer," unless the context otherwise requires, means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

- (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
- (ii) the patient or research subject at the direction and in the presence of the practitioner.

(2) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V of [Article] 2.

(3) (i) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to Schedule I or II and:

(A) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(B) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; but

(ii) the term does not include:

(A) a controlled substance;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is permitted by the exemption; or

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

* * *

TABLE OF JURISDICTIONS WHEREIN EITHER THE 1970, 1990, OR 1994 VERSIONS OF THE ACT OR A COMBINATION THEREOF HAS BEEN ADOPTED

Alabama-Ala. Code 1975, §§ 20-2-1 to 20-2-190.

Alaska-Alaska Stat. §§ 11.71.010 to 11.71.900, 17.30.010 to 17.30.900.

Arizona-A.R.S. §§ 36-2501 to 36-2553.

Arkansas-A.C.A. §§ 5-64-101 to 5-64-608.

California-West's Ann.Cal.Health & Safety Code, §§ 11000 to 11657.

Colorado-West's C.R.S.A. §§ 18-18-101 to 18-18-605.

Connecticut-C.G.S.A. §§ 21a-240 to 21a-283.

Delaware-16 Del.C. §§ 4701 to 4796.

District of Columbia-D.C. Code §§ 48-901.01 to 48-931.02.

Florida-West's F.S.A. §§ 893.01 to 893.165.

Georgia-O.C.G.A. §§ 16-13-20 to 16-13-56.

Hawaii-HRS §§ 329-1 to 329-128.

Idaho-Idaho Code § 37-2701 to 37-2751.

Illinois-720 ILCS 570/100 to 570/603.

Indiana-West's A.I.C. 35-48-1-1 to 35-48-7-15.

Iowa-Iowa Code Ann. §§ 124.101 to 124.602.

Kansas-K.S.A. §§ 65-4101 to 65-4166.

Kentucky-KRS 218A.010 to 218A.993.

Louisiana-LSA-R.S. 40:961 to 40:995.

Maine-17-A M.R.S.A. §§ 1101 to 1118.

Maine-22 M.R.S.A. §§ 2383, 2383-A, 2383-B.

Maryland-Maryland Code, Criminal Law, §§ 5-101 to 5-1101.

Massachusetts-M.G.L.A. c. 94C, §§ 1 to 48.

Michigan-M.C.L.A. §§ 333.7101 to 333.7545.

Minnesota-Minn. Stat. Ann. §§ 152.01 to 152.20.

Mississippi-Mississippi Code 1972, §§ 41-29-101 to 41-29-185.

Missouri-V.A.M.S. §§ 195.010 to 195.320.

Montana-Mont. Code Ann. §§ 50-32-101 to 50-32-405.

Nebraska-Neb. Rev. Stat. §§ 28-401 to 28-457.

Nevada-N.R.S. 453.011 et seq.

New Jersey-N.J.S.A. §§ 2C:35-1 to 2C:35-23, 2C:36-1 to 2C:36-10, 24:21-1 to 24:21-53.

New Mexico-NMSA 1978 §§ 30-31-1 to 30-31-41.

New York-McKinney's Public Health Law §§ 3300 to 3396.

North Carolina-G.S. §§ 90-86 to 90-113.8.

North Dakota-NDCC 19-03.1-01 to 19-03.1-46.

Ohio-Ohio R.C. §§ 3719.01 to 3719.99.

Oklahoma-63 Okl.St. Ann. §§ 2-101 to 2-610.

Oregon-Or. Rev. Stat. §§ 475.005 to 475.285, 475.295, 475.940 to 475.999.

Pennsylvania-35 Pa. Stat. Ann. §§ 780-101 to 780-144.

Puerto Rico-24 L.P.R.A. §§ 2101 to 2607.

Rhode Island-Rhode Island Gen.Laws 1956, §§ 21-28-1.01 to 21-28-6.02.

South Carolina-South Carolina Code 1976, §§ 44-53-110 to 44-53-590.

South Dakota-SDCL §§ 34-20B-1 to 34-20B-114.

Tennessee-T.C.A. §§ 39-17-401 to 39-17-434, 53-11-301 to 53-11-452.

Texas-V.T.C.A. Health & Safety Code, §§ 481.001 to 482.005.

Utah-Utah Code Ann. 58-37-1 to 58-37-21.

Virgin Islands-19 V.I.C. §§ 591 to 630a.

Virginia-Virginia Code 1950, § 54.1-3400 et seq.

Washington-West's RCWA 69.50.101 to 69.50.609.

West Virginia-W. Va. Code, 60A-1-101 to 60A-6-605.

Wisconsin-W.S.A. 961.001 to 961.62.

Wyoming Wyo.Stat. Ann. §§ 35-7-1001 to 35-7-1060.

**C**

Uniform Laws Annotated Currentness

Uniform Controlled Substances Act (1994) (Refs & Annos)

▢ [Article] 2 Standards and Schedules (Refs & Annos)

→ § 204. Schedule I

Unless specifically excepted by state or federal law or state or federal regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(1) any of the following synthetic opiates, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of them that are theoretically possible within the specific chemical designation:

(i) acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide);

(ii) acetylmethadol;

(iii) allylprodine;

(iv) alphacetylmethadol;

(v) alphameprodine;

(vi) alphamethadol;

(vii) alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide;
1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(viii) alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);

(ix) benzethidine;

(x) betacetylmethadol;

(xi) beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-phenylpropanamide);

(xii) beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);

(xiii) betameprodine;

(xiv) betamethadol;

(xv) betaprodine;

(xvi) clonitazene;

(xvii) dextromoramide;

(xviii) diampromide;

(xix) diethylthiambutene;

(xx) difenoxin;

(xxi) dimenoxadol;

(xxii) dimepheptanol;

(xxiii) dimethylthiambutene;

(xxiv) dioxaphetyl butyrate;

(xxv) dipipanone;

(xxvi) ethylmethylthiambutene;

(xxvii) etonitazene;

(xxviii) etoxeridine;

(xxix) furethidine;

(xxx) hydroxypethidine;

(xxxi) ketobemidone;

(xxxii) levomoramide;

(xxxiii) levophenacymorphan;

(xxxiv) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(xxxv) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(xxxvi) morpheridine;

(xxxvii) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(xxxviii) noracymethadol;

(xxxix) norlevorphanol;

(xl) normethadone;

(xli) norpipanone;

(xlii) para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]-propanamide);

(xliii) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(xliv) phenadoxone;

(xlv) phenampromide;

(xlvi) phenomorphan;

(xlvii) phenoperidine;

(xlviii) piritramide;

(xlix) proheptazine;

(l) properidine;

(li) propiram;

(lii) racemoramide;

(liii) thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

(liv) tilidine; and

(lv) trimeperidine.

(2) any of the following opium derivatives, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(i) acetorphine;

(ii) acetyldihydrocodeine;

(iii) benzylmorphine;

(iv) codeine methylbromide;

(v) codeine-N-Oxide;

(vi) cyprenorphine;

(vii) desomorphine;

(viii) dihydromorphine;

(ix) drotebanol;

(x) etorphine, except hydrochloride salt;

(xi) heroin;

(xii) hydromorphenol;

(xiii) methyldesorphine;

(xiv) methyldihydromorphine;

(xv) morphine methylbromide;

(xvi) morphine methylsulfonate;

(xvii) morphine-N-oxide;

(xviii) myrophine;

(xix) nicocodeine;

(xx) nicomorphine;

(xxi) normorphine;

(xxii) pholcodine; and

(xxiii) thebacon.

(3) material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(i) 4-bromo-2,5-dimethoxy-amphetamine (other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);

(ii) 2,5-dimethoxyamphetamine (other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);

- (iii) 4-methoxyamphetamine (other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA);
- (iv) 5-methoxy-3,4-methylenedioxy amphetamine;
- (v) 4-methyl-2,5-dimethoxy-amphetamine (other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM; and STP);
- (vi) 3,4-methylenedioxy amphetamine;
- (vii) 3,4-methylenedioxymethamphetamine (MDMA);
- (viii) methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);
- (ix) N-hydroxy-3,4-methylenedioxy amphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA);
- (x) 3,4,5-trimethoxy amphetamine;
- (xi) bufotenine (other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine);
- (xii) diethyltryptamine (other names: N,N-Diethyltryptamine; DET);
- (xiii) dimethyltryptamine (other names: DMT);
- (xiv) ibogaine (other names: (7-Ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; tabernanthe iboga);
- (xv) lysergic acid diethylamide;
- (xvi) marijuana;
- (xvii) mescaline;
- (xviii) parahexyl (other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran;

synhexyl);

(xix) peyote (all parts of the plant classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, its seeds, any extract from any part of the plant, and every compound, salts, derivative, mixture, or preparation of the plant, or its seeds or extracts);

(xx) N-ethyl-3-piperidyl benzilate;

(xxi) N-methyl-3-piperidyl benzilate;

(xxii) psilocybin;

(xxiii) psilocyn;

(xxiv) tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(A) Δ^1 --cis or trans tetrahydrocannabinol, and their isomers;

(B) Δ^6 --cis or trans tetrahydrocannabinol, and their isomers; and

(C) $\Delta^3,4$ --cis or trans tetrahydrocannabinol, and its isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical desynatime of atomic positions covered);

(xxv) ethylamine analog of phencyclidine (other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE);

(xxvi) pyrrolidine analog of phencyclidine (other names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; PHP);

(xxvii) thiophene analog of phencyclidine (other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP; TCP); and

(xxviii) TCPy.

(4) material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that

are theoretically possible within the specific chemical designation:

(i) mecloqualone; and

(ii) methaqualone.

(5) material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(i) fenethylline;

(ii) N-ethylamphetamine;

(iii) () Cis-4-methylaminorex (() cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazoline); and

(iv) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N-N-alpha-trimethylphenethylamine).

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**C**

Uniform Laws Annotated Currentness

Uniform Controlled Substances Act (1994) (Refs & Annos)

↗ [Article] 2 Standards and Schedules (Refs & Annos)

→ § 206. Schedule II

Unless specifically excepted by state or federal law or state or federal regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule II:

(1) any of the following substances, however manufactured:

(i) Opium and opium derivative, and any salt, compound, derivative, or preparation of opium or opium derivative, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, butorphanol, nalmefene, naloxone, and naltrexone, but including:

(A) raw opium;

(B) opium extracts;

(C) opium fluid;

(D) powdered opium;

(E) granulated opium;

(F) tincture of opium;

(G) codeine;

(H) ethylmorphine;

(I) etorphine hydrochloride;

(J) hydrocodone;

(K) hydromorphone;

(L) metopon;

(M) morphine;

(N) oxycodone;

(O) oxymorphone; and

(P) thebaine;

(ii) A salt, compound, derivative, or preparation that is chemically equivalent or identical with any of the substances listed in subparagraph (i), but not isoquinoline alkaloids of opium;

(iii) Opium poppy and poppy straw;

(iv) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation that is chemically equivalent or identical with any of the substances listed in this subparagraph, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine; and

(v) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) any of the following synthetic opiates, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of them that are theoretically possible within the specific chemical designation, dextiorphan and levopropoxyphene excepted:

(i) alfentanil;

(ii) alphaprodine;

(iii) anileridine;

(iv) bezitramide;

- (v) carfentanyl;
- (vi) bulk dextropropoxyphene (non-dosage forms);
- (vii) dihydrocodeine;
- (viii) diphenoxylate;
- (ix) fentanyl;
- (x) isomethadone;
- (xi) levomethorphan;
- (xii) levorphanol;
- (xiii) metazocine;
- (xiv) methadone;
- (xv) methadone--Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (xvi) moramide--Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- (xvii) pethidine (meperidine);
- (xviii) pethidine--Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (xix) pethidine--Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (xx) pethidine--Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (xxi) phenazocine;
- (xxii) piminodine;

(xxiii) racemethorphan;

(xxiv) racemorphan; and

(xxv) sufentanil;

(3) material, compound, mixture, or preparation containing any quantity of the following substances, their salts, isomers, or salts of isomers, having a stimulant effect on the central nervous system:

(i) amphetamine;

(ii) methamphetamine;

(iii) phenmetrazine; and

(iv) methylphenidate;

(4) material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(i) amobarbital;

(ii) glutethimide;

(iii) pentobarbital;

(iv) phencyclidine; and

(v) secobarbital;

(5) (i) dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a federal Food and Drug Administration approved drug product ((other names for dronabinol:

(6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol;

(-)-delta-9-(trans)-tetrahydrocannabinol));

(ii) nabilone ((another name for nabilone:

()-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9Hdibenzo[b,d]pyran-9-one)); and

(6) material, compound, mixture, or preparation containing any quantity of the following substances:

(i) Immediate precursor to amphetamine and methamphetamine: phenylacetone (other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone);

(ii) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine; and

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

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Uniform Laws Annotated Currentness

Uniform Controlled Substances Act (1994) (Refs & Annos)

↳ [Article] 2 Standards and Schedules (Refs & Annos)

→ § 208. Schedule III.

(a) Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule III:

(1) a material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(i) a compound, mixture, or preparation in dosage unit form containing any stimulant substance included in Schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal Controlled Substances Act, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

(ii) benzphetamine;

(iii) chlorphentermine;

(iv) clortermine; and

(v) phendimetrazine;

(2) a material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system:

(i) a compound, mixture, or preparation containing any of the following drugs or their salts and one or more other active medicinal ingredients not included in any schedule:

(A) amobarbital;

(B) secobarbital; and

(C) pentobarbital;

(ii) any of the following drugs, or their salts, in suppository dosage form, approved by the federal Food and Drug Administration for marketing only as a suppository:

(A) amobarbital;

(B) secobarbital; and

(C) pentobarbital;

(iii) a substance containing any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid;

(iv) chlorhexadol;

(v) glutethimide;

(vi) lysergic acid;

(vii) lysergic acid amide;

(viii) methyprylon;

(ix) sulfondiethylmethane;

(x) sulfonethylmethane;

(xi) sulfonmethane; and

(xii) tiletamine and zolazepam or any of their salts (other names for a tiletamine-zolazepam combination product: Telazol; other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepi n-7(1H)-one; flupyrzapon);

(3) nalorphine; and

(4) a material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(i) not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(ii) not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

(iv) not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(v) not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vi) not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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

(viii) not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(ix) anabolic steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(A) anabolic steroids.

(b) The [appropriate person or agency] may exempt by rule a compound, mixture, or preparation containing a stimulant or depressant substance listed in subsections (a)(1) and (2) from the application of all or part of this [Act], if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depress-

ant effect on the central nervous system.

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Uniform Laws Annotated Currentness

Uniform Controlled Substances Act (1994) (Refs & Annos)

▣ [Article] 2 Standards and Schedules (Refs & Annos)

→ § 210. Schedule IV.

(a) Unless specifically excepted by state or federal law or state or federal regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule IV:

(1) a material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(i) not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(ii) dextropropoxyphene (dosage forms); and

(iii) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane);

(2) a material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation:

(i) alprazolam;

(ii) barbital;

(iii) bromazepam;

(iv) camazepam;

(v) chloral betaine;

(vi) chloral hydrate;

(vii) chlordiazepoxide;

(viii) clobazam;

(ix) clonazepam;

(x) clorazepate;

(xi) clotiazepam;

(xii) cloxazolam;

(xiii) delorazepam;

(xiv) diazepam;

(xv) estazolam;

(xvi) ethchlorvynol;

(xvii) ethinamate;

(xviii) ethyl loflazepate;

(xix) fludiazepam;

(xx) flunitrazepam;

(xxi) flurazepam;

(xxii) halazepam;

(xxiii) haloxazolam;

(xxiv) ketazolam;

- (xxv) lorazepam;
- (xxvi) lorazepam;
- (xxvii) lorazepam;
- (xxviii) mebutamate;
- (xxix) medazepam;
- (xxx) meprobamate;
- (xxxi) methohexital;
- (xxxii) methylphenobarbital (mephobarbital);
- (xxxiii) midazolam;
- (xxxiv) nimetazepam;
- (xxxv) nitrazepam;
- (xxxvi) nordiazepam;
- (xxxvii) oxazepam;
- (xxxviii) oxazolam;
- (xxxix) paraldehyde;
- (xl) petrichloral;
- (xli) phenobarbital;
- (xlii) pinazepam;

(xliii) prazepam;

(xliv) quazepam;

(xlv) temazepam;

(xlvi) tetrazepam; and

(xlvii) triazolam;

(3) a material, compound, mixture, or preparation containing any quantity of the following substance, including any salts, isomers, and salts of isomers of it that are theoretically possible: fenfluramine;

(4) a material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(i) cathine ((+)-norseudoephedrine);

(ii) diethylpropion;

(iii) fencamfamin;

(iv) fenproporex;

(v) mazindol;

(vi) mefenorex;

(vii) pemoline (including organometallic complexes and chelates thereof);

(viii) phentermine;

(ix) pipradrol; and

(x) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(5) a material, compound, mixture, or preparation containing any quantity of the following substance, including its salts: pentazocine.

(b) The [appropriate person or agency] may exempt by rule any compound, mixture, or preparation containing a depressant substance listed in subsection (a)(2) from the application of all or part of this [Act], if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system and the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a depressant effect on the central nervous system.

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Uniform Laws Annotated Currentness

Uniform Controlled Substances Act (1994) (Refs & Annos)

▣ [Article] 2 Standards and Schedules (Refs & Annos)

→ § 212. Schedule V

Unless specifically excepted by state or federal law or state or federal regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule V:

(1) a material, compound, mixture, or preparation containing any of the following narcotic drug and its salts: buprenorphine;

(2) a compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

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

(v) not more than 100 milligrams of opium per 100 milliliters or per 100 grams; and

(vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(3) a material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(i) pyrovalerone.

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Uniform Laws Annotated Currentness

Uniform Controlled Substances Act (1994) (Refs & Annos)

▣ [Article] 4 Offenses and Penalties (Refs & Annos)

→ § 404. Counterfeit Substances Prohibited; Penalty.

(a) A person may not knowingly or intentionally manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance that, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or a likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who manufactured, distributed, or dispensed the substance.

(b) A person may not knowingly or intentionally make or distribute or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or a likeness of any of the foregoing upon any drug or container or labeling of it without authorization.

(c) A person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than [], fined not more than [], or both.

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Uniform Laws Annotated Currentness

Uniform Controlled Substances Act (1994) (Refs & Annos)

▣ [Article] 4 Offenses and Penalties (Refs & Annos)

→ § 405. Imitation Controlled Substances Prohibited; Penalty.

- (a) A person may not knowingly or intentionally deliver, or possess with intent to deliver, a noncontrolled substance representing it to be a controlled substance.
- (b) A person may not knowingly or intentionally deliver or possess with intent to deliver, a noncontrolled substance intending it to be used or distributed as a controlled substance or under circumstances in which the person has reasonable cause to believe that the noncontrolled substance will be used or distributed for use as a controlled substance.
- (c) It is not a defense that the accused believed the noncontrolled substance to be a controlled substance.
- (d) A person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than [], fined not more than [], or both.

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