

IN THE SENATE

SENATE BILL NO. 1253

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HEMP AND FDA-APPROVED MEDICAL CANNABIS; AMENDING TITLE 39, IDAHO  
2 CODE, BY THE ADDITION OF A NEW CHAPTER 97, TITLE 39, IDAHO CODE, TO PRO-  
3 VIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE A TERM,  
4 AND TO PROVIDE FOR THE RESEARCH AND PRODUCTION OF HEMP; AMENDING SEC-  
5 TION 37-2701, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION;  
6 AMENDING SECTION 37-2705, IDAHO CODE, TO REVISE A DEFINITION; AMENDING  
7 SECTION 37-2732, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND  
8 DECLARING AN EMERGENCY.  
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended  
12 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
13 ter 97, Title 39, Idaho Code, and to read as follows:

14 CHAPTER 97

15 IDAHO CBD OIL AND FDA-APPROVED MEDICAL CANNABIS ACT

16 39-9701. SHORT TITLE. This act shall be known and may be cited as the  
17 "Idaho CBD Oil and FDA-Approved Medical Cannabis Act."

18 39-9702. LEGISLATIVE INTENT. (1) It is the policy of this state to al-  
19 low and encourage the development and research of hemp in Idaho. The leg-  
20 islatre finds that the Cannabis sativa L. plant used for the production of  
21 hemp, and its extract cannabidiol (CBD) oil containing three-tenths of one  
22 percent (0.3%) or less tetrahydrocannabinol (THC), is separate and distinct  
23 from extracts of marijuana. Section 10113 of the federal farm bill of 2018  
24 has removed hemp from schedule I of the federal controlled substances act and  
25 eliminated other barriers at the federal level to hemp research and develop-  
26 ment.

27 (2) Hemp is the source of cannabidiol oil, commonly known as CBD oil.  
28 Many Idahoans want access to legal CBD oil for possible pain relief. A grow-  
29 ing hemp industry in our state has the potential to create jobs in produc-  
30 tion, processing, and research, and Idahoans will benefit from numerous con-  
31 sumer products made from hemp.

32 (3) The legislature also recognizes that there are cannabinoid medica-  
33 tions that are approved by the federal food and drug administration (FDA),  
34 legal in Idaho, available by prescription, and used for treatment across the  
35 United States. These include but are not limited to marinol and nabilone,  
36 which contain higher levels of THC, and epidiolex, which contains high lev-  
37 els of purified CBD oil.

38 39-9703. DEFINITION. As used in this chapter, "hemp" means the plant  
39 Cannabis sativa L. and any part of that plant, including the seeds thereof

1 and all derivatives, extracts, cannabinoids, isomers, acids, salts, and  
2 salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabi-  
3 nol concentration of no more than three-tenths of one percent (0.3%) on a dry  
4 weight basis.

5 39-9704. RESEARCH AND PRODUCTION OF HEMP. Subject to the provisions of  
6 this chapter, any person, including institutions of higher education, may  
7 plant, grow, cultivate, harvest, sample, test, research, process, trans-  
8 port, transfer, take possession of, sell, import, and export hemp in this  
9 state to the greatest extent allowed under federal law.

10 SECTION 2. That Section 37-2701, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 37-2701. DEFINITIONS. As used in this chapter:

13 (a) "Administer" means the direct application of a controlled sub-  
14 stance whether by injection, inhalation, ingestion, or any other means, to  
15 the body of a patient or research subject by:

16 (1) A practitioner or, in his presence, by his authorized agent; or

17 (2) The patient or research subject at the direction and in the presence  
18 of the practitioner.

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

23 (c) "Board" means the state board of pharmacy created in chapter 17, ti-  
24 tle 54, Idaho Code, or its successor agency.

25 (d) "Bureau" means the drug enforcement administration, United States  
26 department of justice, or its successor agency.

27 (e) "Controlled substance" means a drug, substance or immediate pre-  
28 cursor in schedules I through VI of article II of this chapter.

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

34 (g) "Deliver" or "delivery" means the actual, constructive, or at-  
35 tempted transfer from one (1) person to another of a controlled substance,  
36 whether or not there is an agency relationship.

37 (h) "Director" means the director of the Idaho state police.

38 (i) "Dispense" means to deliver a controlled substance to an ultimate  
39 user or research subject by or pursuant to the lawful order of a practi-  
40 tioner, including the packaging, labeling, or compounding necessary to  
41 prepare the substance for that delivery.

42 (j) "Dispenser" means a practitioner who dispenses.

43 (k) "Distribute" means to deliver other than by administering or dis-  
44 pensing a controlled substance.

45 (l) "Distributor" means a person who distributes.

46 (m) "Drug" means (1) substances recognized as drugs in the official  
47 United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
48 United States, or official National Formulary, or any supplement to any of

1 them; (2) substances intended for use in the diagnosis, cure, mitigation,  
2 treatment or prevention of disease in man or animals; (3) substances, other  
3 than food, intended to affect the structure or any function of the body of man  
4 or animals; and (4) substances intended for use as a component of any article  
5 specified in clause (1), (2), or (3) of this subsection. It does not include  
6 devices or their components, parts, or accessories.

7 (n) "Drug paraphernalia" means all equipment, products and materi-  
8 als of any kind which are used, intended for use, or designed for use, in  
9 planting, propagating, cultivating, growing, harvesting, manufactur-  
10 ing, compounding, converting, producing, processing, preparing, testing,  
11 analyzing, packaging, repackaging, storing, containing, concealing, in-  
12 jecting, ingesting, inhaling, or otherwise introducing into the human body  
13 a controlled substance in violation of this chapter. It includes, but is not  
14 limited to:

15 (1) Kits used, intended for use, or designed for use in planting, prop-  
16 agating, cultivating, growing or harvesting of any species of plant  
17 which is a controlled substance or from which a controlled substance can  
18 be derived;

19 (2) Kits used, intended for use, or designed for use in manufacturing,  
20 compounding, converting, producing, processing or preparing con-  
21 trolled substances;

22 (3) Isomerization devices used, intended for use, or designed for use  
23 in increasing the potency of any species of plant which is a controlled  
24 substance;

25 (4) Testing equipment used, intended for use, or designed for use in  
26 identifying, or in analyzing the strength, effectiveness or purity of  
27 controlled substances;

28 (5) Scales and balances used, intended for use, or designed for use in  
29 weighing or measuring controlled substances;

30 (6) Diluents and adulterants, such as quinine hydrochloride, mannitol,  
31 mannite, dextrose and lactose, used, intended for use, or designed for  
32 use in cutting controlled substances;

33 (7) Separation gins and sifters used, intended for use, or designed for  
34 use in removing twigs and seeds from, or in otherwise cleaning or refin-  
35 ing, marijuana;

36 (8) Blenders, bowls, containers, spoons and mixing devices used,  
37 intended for use, or designed for use in compounding controlled sub-  
38 stances;

39 (9) Capsules, balloons, envelopes and other containers used, intended  
40 for use, or designed for use in packaging small quantities of controlled  
41 substances;

42 (10) Containers and other objects used, intended for use, or designed  
43 for use in storing or concealing controlled substances;

44 (11) Hypodermic syringes, needles and other objects used, intended  
45 for use, or designed for use in parenterally injecting controlled sub-  
46 stances into the human body;

47 (12) Objects used, intended for use, or designed for use in ingesting,  
48 inhaling, or otherwise introducing marijuana, cocaine, hashish, or  
49 hashish oil into the human body, such as:

- 1 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
- 2 pipes with or without screens, permanent screens, hashish heads,
- 3 or punctured metal bowls;
- 4 (ii) Water pipes;
- 5 (iii) Carburetion tubes and devices;
- 6 (iv) Smoking and carburetion masks;
- 7 (v) Roach clips: meaning objects used to hold burning material,
- 8 such as a marijuana cigarette, that has become too small or too
- 9 short to be held in the hand;
- 10 (vi) Miniature cocaine spoons, and cocaine vials;
- 11 (vii) Chamber pipes;
- 12 (viii) Carburetor pipes;
- 13 (ix) Electric pipes;
- 14 (x) Air-driven pipes;
- 15 (xi) Chillums;
- 16 (xii) Bongs;
- 17 (xiii) Ice pipes or chillers;

18 In determining whether an object is drug paraphernalia, a court or other  
19 authority should consider, in addition to all other logically relevant fac-  
20 tors, the following:

- 21 1. Statements by an owner or by anyone in control of the object concern-  
22 ing its use;
- 23 2. Prior convictions, if any, of an owner, or of anyone in control of the  
24 object, under any state or federal law relating to any controlled sub-  
25 stance;
- 26 3. The proximity of the object, in time and space, to a direct violation  
27 of this chapter;
- 28 4. The proximity of the object to controlled substances;
- 29 5. The existence of any residue of controlled substances on the object;
- 30 6. Direct or circumstantial evidence of the intent of an owner, or of  
31 anyone in control of the object, to deliver it to persons whom he knows,  
32 or should reasonably know, intend to use the object to facilitate a vi-  
33 olation of this chapter; the innocence of an owner, or of anyone in con-  
34 trol of the object, as to a direct violation of this chapter shall not  
35 prevent a finding that the object is intended for use, or designed for  
36 use as drug paraphernalia;
- 37 7. Instructions, oral or written, provided with the object concerning  
38 its use;
- 39 8. Descriptive materials accompanying the object which explain or de-  
40 pict its use;
- 41 9. National and local advertising concerning its use;
- 42 10. The manner in which the object is displayed for sale;
- 43 11. Whether the owner, or anyone in control of the object, is a legit-  
44 imate supplier of like or related items to the community, such as a li-  
45 censed distributor or dealer of tobacco products;
- 46 12. Direct or circumstantial evidence of the ratio of sales of the ob-  
47 ject(s) to the total sales of the business enterprise;
- 48 13. The existence and scope of legitimate uses for the object in the com-  
49 munity;
- 50 14. Expert testimony concerning its use.

1 (o) "Financial institution" means any bank, trust company, savings and  
2 loan association, savings bank, mutual savings bank, credit union, or loan  
3 company under the jurisdiction of the state or under the jurisdiction of an  
4 agency of the United States.

5 (p) "Hemp" means the plant Cannabis sativa L. and any part of that  
6 plant, including the seeds thereof and all derivatives, extracts, cannabi-  
7 noids, isomers, acids, salts, and salts of isomers, whether growing or  
8 not, with a delta-9 tetrahydrocannabinol concentration of no more than  
9 three-tenths of one percent (0.3%) on a dry weight basis, the research and  
10 development of which, among other activities, are expressly authorized by  
11 this chapter.

12 (q) "Immediate precursor" means a substance which the board has found  
13 to be and by rule designates as being the principal compound commonly used or  
14 produced primarily for use, and which is an immediate chemical intermediary  
15 used or likely to be used in the manufacture of a controlled substance, the  
16 control of which is necessary to prevent, curtail or limit manufacture.

17 (r) "Isomer" means the optical isomer, except as used in section  
18 37-2705(d), Idaho Code.

19 (s) "Law enforcement agency" means a governmental unit of one (1) or  
20 more persons employed full-time or part-time by the state or a political sub-  
21 division of the state for the purpose of preventing and detecting crime and  
22 enforcing state laws or local ordinances, employees of which unit are autho-  
23 rized to make arrests for crimes while acting within the scope of their au-  
24 thority.

25 (t) "Manufacture" means the production, preparation, propagation,  
26 compounding, conversion or processing of a controlled substance, and in-  
27 cludes extraction, directly or indirectly, from substances of natural  
28 origin, or independently by means of chemical synthesis, or by a combina-  
29 tion of extraction and chemical synthesis, and includes any packaging or  
30 repackaging of the substance or labeling or relabeling of its container,  
31 except that this term does not include the preparation or compounding of a  
32 controlled substance:

33 (1) By a practitioner as an incident to his administering, dispensing  
34 or, as authorized by board rule, distributing of a controlled substance  
35 in the course of his professional practice; or

36 (2) By a practitioner, or by his authorized agent under his supervi-  
37 sion, for the purpose of, or as an incident to, research, teaching, or  
38 chemical analysis and not for delivery.

39 (u) "Marijuana" means all parts of the plant of the genus Cannabis,  
40 regardless of species, and whether growing or not; the seeds thereof; the  
41 resin extracted from any part of such plant; and every compound, manufac-  
42 ture, salt, derivative, mixture, or preparation of such plant, its seeds or  
43 resin. It does not include hemp or the mature stalks of the plant unless the  
44 same are intermixed with prohibited parts thereof, fiber produced from the  
45 stalks, oil or cake made from the seeds or the achene of such plant, any other  
46 compound, manufacture, salt, derivative, mixture, or preparation of the ma-  
47 ture stalks, except the resin extracted therefrom or where the same are in-  
48 termixed with prohibited parts of such plant, fiber, oil, or cake, or the  
49 sterilized seed of such plant which is incapable of germination. Evidence  
50 that any plant material or the resin or any derivative thereof, regardless

1 of form, contains more than three-tenths of one percent (0.3%) of any of the  
2 chemical substances classified as tetrahydrocannabinols shall create a pre-  
3 sumption that such material is "marijuana" as defined and prohibited herein.

4 (~~uv~~) "Narcotic drug" means any of the following, whether produced di-  
5 rectly or indirectly by extraction from substances of vegetable origin, or  
6 independently by means of chemical synthesis, or by a combination of extrac-  
7 tion and chemical synthesis:

8 (1) Opium and opiate, and any salt, compound, derivative, or prepara-  
9 tion of opium or opiate.

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

14 (3) Opium poppy and poppy straw.

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

20 (~~w~~) "Opiate" means any substance having an addiction-forming or  
21 addiction-sustaining liability similar to morphine or being capable of  
22 conversion into a drug having addiction-forming or addiction-sustaining  
23 liability. It does not include, unless specifically designated as con-  
24 trolled under section 37-2702, Idaho Code, the dextrorotatory isomer of  
25 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does in-  
26 clude its racemic and levorotatory forms.

27 (~~w~~x) "Opium poppy" means the plant of the species *Papaver somniferum*  
28 L., except its seeds.

29 (~~y~~) "Peace officer" means any duly appointed officer or agent of a law  
30 enforcement agency, as defined herein, including, but not limited to, a duly  
31 appointed investigator or agent of the Idaho state police, an officer or em-  
32 ployee of the board of pharmacy, who is authorized by the board to enforce  
33 this chapter, an officer of the Idaho state police, a sheriff or deputy sher-  
34 iff of a county, or a marshal or policeman of any city.

35 (~~yz~~) "Person" means individual, corporation, government, or govern-  
36 mental subdivision or agency, business trust, estate, trust, partnership or  
37 association, or any other legal entity.

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

40 (~~aabb~~) "Practitioner" means:

41 (1) A physician, dentist, veterinarian, scientific investigator, or  
42 other person licensed, registered or otherwise permitted to distrib-  
43 ute, dispense, conduct research with respect to or to administer a  
44 controlled substance in the course of his professional practice or re-  
45 search in this state;

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

1       (~~bb~~cc) "Prescribe" means a direction or authorization permitting an ul-  
2 timate user to lawfully obtain or be administered controlled substances.

3       (~~ee~~dd) "Prescriber" means an individual currently licensed, reg-  
4 istered or otherwise authorized to prescribe and administer controlled  
5 substances in the course of professional practice.

6       (~~de~~ee) "Production" includes the manufacture, planting, cultivation,  
7 growing, or harvesting of a controlled substance.

8       (~~ee~~ff) "Simulated controlled substance" means a substance that is not a  
9 controlled substance, but which by appearance or representation would lead  
10 a reasonable person to believe that the substance is a controlled substance.  
11 Appearance includes, but is not limited to, color, shape, size, and markings  
12 of the dosage unit. Representation includes, but is not limited to, repre-  
13 sentations or factors of the following nature:

14       (1) Statements made by an owner or by anyone else in control of the sub-  
15 stance concerning the nature of the substance, or its use or effect;

16       (2) Statements made to the recipient that the substance may be resold  
17 for inordinate profit; or

18       (3) Whether the substance is packaged in a manner normally used for il-  
19 licit controlled substances.

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

23       (~~gg~~hh) "Ultimate user" means a person who lawfully possesses a con-  
24 trolled substance for his own use or for the use of a member of his household  
25 or for administering to an animal owned by him or by a member of his house-  
26 hold.

27       (~~hh~~ii) "Utility" means any person, association, partnership or cor-  
28 poration providing telephone and/or communication services, electricity,  
29 natural gas or water to the public.

30       SECTION 3. That Section 37-2705, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32       37-2705. SCHEDULE I. (a) The controlled substances listed in this sec-  
33 tion are included in schedule I.

34       (b) Any of the following opiates, including their isomers, esters,  
35 ethers, salts, and salts of isomers, esters, and ethers, unless specifically  
36 excepted, whenever the existence of these isomers, esters, ethers and salts  
37 is possible within the specific chemical designation:

38       (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-pip-  
39 eridiny]l)-N-phenylacetamide);

40       (2) Acetylmethadol;

41       (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylac-  
42 etamide);

43       (4) Allylprodine;

44       (5) Alphacetylmethadol (except levo-alphacetylmethadol also known as  
45 levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);

46       (6) Alphameprodine;

47       (7) Alphamethadol;

48       (8) Alpha-methylfentanyl;

- 1 (9) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperid-  
2 eridiny]-N-phenylpropanamide);
- 3 (10) Benzethidine;
- 4 (11) Betacetylmethadol;
- 5 (12) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperid-  
6 inyl]-N-phenylpropanamide);
- 7 (13) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-  
8 methyl-4-piperidiny)-N-phenylpropanamide);
- 9 (14) Betameprodine;
- 10 (15) Betamethadol;
- 11 (16) Betaprodine;
- 12 (17) Clonitazene;
- 13 (18) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcy-  
14 clopentanecarboxamide);
- 15 (19) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcy-  
16 clopropanecarboxamide);
- 17 (20) Dextromoramide;
- 18 (21) Diampromide;
- 19 (22) Diethylthiambutene;
- 20 (23) Difenoxin;
- 21 (24) Dimenoxadol;
- 22 (25) Dimepheptanol;
- 23 (26) Dimethylthiambutene;
- 24 (27) Dioxaphetyl butyrate;
- 25 (28) Dipipanone;
- 26 (29) Ethylmethylthiambutene;
- 27 (30) Etonitazene;
- 28 (31) Etoxidine;
- 29 (32) Fentanyl-related substances. "Fentanyl-related substances"  
30 means any substance not otherwise listed and for which no exemption or  
31 approval is in effect under section 505 of the federal food, drug, and  
32 cosmetic act, 21 U.S.C. 355, and that is structurally related to fen-  
33 tanyl by one (1) or more of the following modifications:
- 34 i. Replacement of the phenyl portion of the phenethyl group by any  
35 monocycle, whether or not further substituted in or on the monocycle;  
36
- 37 ii. Substitution in or on the phenethyl group with alkyl, alkenyl,  
38 alkoxy, hydroxy, halo, haloalkyl, amino, or nitro groups;
- 39 iii. Substitution in or on the piperidine ring with alkyl,  
40 alkenyl, alkoxy, ester, ether, hydroxy, halo, haloalkyl, amino,  
41 or nitro groups;
- 42 iv. Replacement of the aniline ring with any aromatic monocycle,  
43 whether or not further substituted in or on the aromatic monocycle;  
44 and/or
- 45 v. Replacement of the N-propionyl group by another acyl group;
- 46 (33) Furethidine;
- 47 (34) Hydroxypethidine;
- 48 (35) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-  
49 phenylisobutyramide);
- 50 (36) Ketobemidone;



- 1 (37) Levomoramide;  
 2 (38) Levophenacymorphan;  
 3 (39) 3-Methylfentanyl;  
 4 (40) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide];  
 5  
 6 (41) Morpheridine;  
 7 (42) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);  
 8 (43) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);  
 9 (44) Noracymethadol;  
 10 (45) Norlevorphanol;  
 11 (46) Normethadone;  
 12 (47) Norpipanone;  
 13 (48) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl) acetamide);  
 14  
 15 (49) Para-chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl) isobutyramide);  
 16  
 17 (50) Para-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);  
 18  
 19 (51) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);  
 20  
 21 (52) Para-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);  
 22  
 23 (53) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);  
 24 (54) Phenadoxone;  
 25 (55) Phenampromide;  
 26 (56) Phenomorphan;  
 27 (57) Phenoperidine;  
 28 (58) Piritramide;  
 29 (59) Proheptazine;  
 30 (60) Properidine;  
 31 (61) Propiram;  
 32 (62) Racemoramide;  
 33 (63) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);  
 34  
 35 (64) Tilidine;  
 36 (65) Trimeperidine;  
 37 (66) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide);  
 38  
 39 (67) Valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide).  
 40  
 41 (c) Any of the following opium derivatives, their salts, isomers and  
 42 salts of isomers, unless specifically excepted, whenever the existence of  
 43 these salts, isomers and salts of isomers is possible within the specific  
 44 chemical designation:  
 45 (1) Acetorphine;  
 46 (2) Acetyldihydrocodeine;  
 47 (3) Benzylmorphine;  
 48 (4) Codeine methylbromide;  
 49 (5) Codeine-N-Oxide;  
 50 (6) Cyprenorphine;

- 1 (7) Desomorphine;
- 2 (8) Dihydromorphine;
- 3 (9) Drotebanol;
- 4 (10) Etorphine (except hydrochloride salt);
- 5 (11) Heroin;
- 6 (12) Hydromorphinol;
- 7 (13) Methyldesorphine;
- 8 (14) Methyldihydromorphine;
- 9 (15) Morphine methylbromide;
- 10 (16) Morphine methylsulfonate;
- 11 (17) Morphine-N-Oxide;
- 12 (18) Myrophine;
- 13 (19) Nicocodeine;
- 14 (20) Nicomorphine;
- 15 (21) Normorphine;
- 16 (22) Pholcodine;
- 17 (23) Thebacon.

18 (d) Hallucinogenic substances. Any material, compound, mixture or  
19 preparation which contains any quantity of the following hallucinogenic  
20 substances, their salts, isomers and salts of isomers, unless specifically  
21 excepted, whenever the existence of these salts, isomers, and salts of iso-  
22 mers is possible within the specific chemical designation (for purposes of  
23 this paragraph only, the term "isomer" includes the optical, position and  
24 geometric isomers):

- 25 (1) Dimethoxyphenethylamine, or any compound not specifically  
26 excepted or listed in another schedule that can be formed from  
27 dimethoxyphenethylamine by replacement of one (1) or more hydrogen  
28 atoms with another atom(s), functional group(s) or substructure(s)  
29 including, but not limited to, compounds such as DOB, DOC, 2C-B,  
30 25B-NBOMe;
- 31 (2) Methoxyamphetamine or any compound not specifically excepted or  
32 listed in another schedule that can be formed from methoxyamphetamine  
33 by replacement of one (1) or more hydrogen atoms with another atom(s),  
34 functional group(s) or substructure(s) including, but not limited to,  
35 compounds such as PMA and DOM;
- 36 (3) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 37 (4) 5-methoxy-N,N-diisopropyltryptamine;
- 38 (5) Amphetamine or methamphetamine with a halogen substitution on the  
39 benzyl ring, including compounds such as fluorinated amphetamine and  
40 fluorinated methamphetamine;
- 41 (6) 3,4-methylenedioxy amphetamine;
- 42 (7) 3,4-methylenedioxymethamphetamine (MDMA);
- 43 (8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-et-  
44 hyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-et-  
45 hyl MDA, MDE, MDEA);
- 46 (9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hyd-  
47 roxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hyd-  
48 roxy MDA);
- 49 (10) 3,4,5-trimethoxy amphetamine;

- 1 (11) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-  
2 (dimethylamino)ethyl]indole and 5-MeO-DMT);  
3 (12) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-am-  
4 inobutyl) indole);  
5 (13) Alpha-methyltryptamine;  
6 (14) Bufotenine;  
7 (15) Diethyltryptamine (DET);  
8 (16) Dimethyltryptamine (DMT);  
9 (17) Ibogaine;  
10 (18) Lysergic acid diethylamide;  
11 (19) Marihuana;  
12 (20) Mescaline;  
13 (21) Parahexyl;  
14 (22) Peyote;  
15 (23) N-ethyl-3-piperidyl benzilate;  
16 (24) N-methyl-3-piperidyl benzilate;  
17 (25) Psilocybin;  
18 (26) Psilocyn;  
19 (27) Tetrahydrocannabinols, except as defined by section 37-2701(p),  
20 Idaho Code, or synthetic equivalents of the substances contained in the  
21 plant, or in the resinous extractives of Cannabis, sp. and/or synthetic  
22 substances, derivatives, and their isomers with similar chemical  
23 structure such as the following:  
24 i. Tetrahydrocannabinols:  
25 a.  $\Delta^1$  cis or trans tetrahydrocannabinol, and their opti-  
26 cal isomers, excluding dronabinol in sesame oil and encapsu-  
27 lated in either a soft gelatin capsule or in an oral solution  
28 in a drug product approved by the U.S. Food and Drug Adminis-  
29 tration.  
30 b.  $\Delta^6$  cis or trans tetrahydrocannabinol, and their optical  
31 isomers.  
32 c.  $\Delta^{3,4}$  cis or trans tetrahydrocannabinol, and its optical  
33 isomers. (Since nomenclature of these substances is not in-  
34 ternationally standardized, compounds of these structures,  
35 regardless of numerical designation of atomic positions are  
36 covered.)  
37 d. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-  
38 loctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-  
39 1-ol)], also known as 6aR-trans-3-(1,1-dimethylhep-  
40 tyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-  
41 dibenzo[b,d]pyran-9-methanol (HU-210) and its geometric  
42 isomers (HU211 or dexanabinol).  
43 ii. The following synthetic drugs:  
44 a. Any compound structurally derived from (1H-indole-3-  
45 yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-in-  
46 dole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or  
47 (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl  
48 or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobu-  
49 tan-2-yl) carboxamide by substitution at the nitrogen atoms  
50 of the indole ring or carboxamide to any extent, whether or

- 1 not further substituted in or on the indole ring to any extent,  
2 whether or not substituted to any extent in or on the  
3 cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the  
4 ring may include, but is not limited to, heteroatoms such as  
5 nitrogen, sulfur and oxygen).
- 6 b. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the  
7 pyrrole ring to any extent, whether or not further substituted  
8 in the pyrrole ring to any extent, whether or not substituted  
9 in the naphthyl ring to any extent.
- 10 c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene  
11 ring to any extent, whether or not further substituted  
12 in the indene ring to any extent, whether or not substituted  
13 in the naphthyl ring to any extent.
- 14 d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the  
15 indole ring to any extent, whether or not further substituted  
16 in the indole ring to any extent, whether or not substituted  
17 in the phenyl ring to any extent.
- 18 e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the  
19 phenolic ring to any extent, whether or not substituted in  
20 the cyclohexyl ring to any extent.
- 21 f. Any compound structurally derived from 3-(benzoyl)indole structure with substitution at the nitrogen atom of  
22 the indole ring to any extent, whether or not further substituted  
23 in the indole ring to any extent and whether or not substituted  
24 in the phenyl ring to any extent.
- 25 g. [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrol-  
26 o[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone  
27 (WIN-55,212-2).
- 28 h. 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-  
29 243).
- 30 i. [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-  
31 5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydro-  
32 phenanthridin-1-yl]acetate (CP 50,5561).
- 33 (28) Ethylamine analog of phencyclidine: N-ethyl-1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;
- 34 (29) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) -  
35 pyrrolidine, PCPy, PHP;
- 36 (30) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-  
37 piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;
- 38 (31) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;
- 39 (32) Spores or mycelium capable of producing mushrooms that contain  
40 psilocybin or psilocin.
- 41 (e) Unless specifically excepted or unless listed in another schedule,  
42 any material, compound, mixture or preparation which contains any quantity  
43 of the following substances having a depressant effect on the central ner-  
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1 vous system, including its salts, isomers, and salts of isomers whenever the  
2 existence of such salts, isomers, and salts of isomers is possible within the  
3 specific chemical designation:

4 (1) Gamma hydroxybutyric acid (some other names include GHB; gam-  
5 ma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sod-  
6 ium oxybate; sodium oxybutyrate);

7 (2) Flunitrazepam (also known as "R2," "Rohypnol");

8 (3) Mecloqualone;

9 (4) Methaqualone.

10 (f) Stimulants. Unless specifically excepted or unless listed in an-  
11 other schedule, any material, compound, mixture, or preparation which con-  
12 tains any quantity of the following substances having a stimulant effect on  
13 the central nervous system, including its salts, isomers, and salts of iso-  
14 mers:

15 (1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-ox-  
16 azoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);

17 (2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alp-  
18 ha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

19 (3) Substituted cathinones. Any compound, except bupropion or com-  
20 pounds listed under a different schedule, structurally derived from  
21 2-aminopropan-1-one by substitution at the 1-position with either  
22 phenyl, naphthyl or thiophene ring systems, whether or not the compound  
23 is further modified in any of the following ways:

24 i. By substitution in the ring system to any extent with alkyl,  
25 alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide sub-  
26 stituents, whether or not further substituted in the ring system  
27 by one (1) or more other univalent substituents;

28 ii. By substitution at the 3-position with an acyclic alkyl sub-  
29 stituent;

30 iii. By substitution at the 2-amino nitrogen atom with alkyl,  
31 dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the  
32 2-amino nitrogen atom in a cyclic structure.

33 (4) Fenethylamine;

34 (5) Methcathinone (some other names: 2-(methyl-amino)-propioph-  
35 enone, alpha-(methylamino)-propiophenone, N-methylcathinone, AL-  
36 464, AL-422, AL-463 and UR1423);

37 (6) (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-  
38 phenyl-2-oxazolamine];

39 (7) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);

40 (8) N-ethylamphetamine;

41 (9) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-ben-  
42 zeneethanamine).

43 SECTION 4. That Section 37-2732, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by  
46 this chapter, it is unlawful for any person to manufacture or deliver, or  
47 possess with intent to manufacture or deliver, a controlled substance.

48 (1) Any person who violates this subsection with respect to:

1 (A) A controlled substance classified in schedule I which is a  
2 narcotic drug or a controlled substance classified in schedule II,  
3 except as provided for in section 37-2732B(a) (3), Idaho Code, is  
4 guilty of a felony and upon conviction may be imprisoned for a term  
5 of years not to exceed life imprisonment, or fined not more than  
6 twenty-five thousand dollars (\$25,000), or both;

7 (B) Any other controlled substance which is a nonnarcotic drug  
8 classified in schedule I, or a controlled substance classified in  
9 schedule III, is guilty of a felony and upon conviction may be im-  
10 prisoned for not more than five (5) years, fined not more than fif-  
11 teen thousand dollars (\$15,000), or both;

12 (C) A substance classified in schedule IV, is guilty of a felony  
13 and upon conviction may be imprisoned for not more than three (3)  
14 years, fined not more than ten thousand dollars (\$10,000), or  
15 both;

16 (D) A substance classified in schedules V and VI, is guilty of  
17 a misdemeanor and upon conviction may be imprisoned for not more  
18 than one (1) year, fined not more than five thousand dollars  
19 (\$5,000), or both.

20 (b) Except as authorized by this chapter, it is unlawful for any per-  
21 son to create, deliver, or possess with intent to deliver, a counterfeit sub-  
22 stance.

23 (1) Any person who violates this subsection with respect to:

24 (A) A counterfeit substance classified in schedule I which is a  
25 narcotic drug, or a counterfeit substance classified in schedule  
26 II, is guilty of a felony and upon conviction may be imprisoned for  
27 not more than fifteen (15) years, fined not more than twenty-five  
28 thousand dollars (\$25,000), or both;

29 (B) Any other counterfeit substance classified in schedule I  
30 which is a nonnarcotic drug contained in schedule I or a counter-  
31 feit substance contained in schedule III, is guilty of a felony and  
32 upon conviction may be imprisoned for not more than five (5) years,  
33 fined not more than fifteen thousand dollars (\$15,000), or both;

34 (C) A counterfeit substance classified in schedule IV, is guilty  
35 of a felony and upon conviction may be imprisoned for not more  
36 than three (3) years, fined not more than ten thousand dollars  
37 (\$10,000), or both;

38 (D) A counterfeit substance classified in schedules V and VI or a  
39 noncontrolled counterfeit substance, is guilty of a misdemeanor  
40 and upon conviction may be imprisoned for not more than one (1)  
41 year, fined not more than five thousand dollars (\$5,000), or both.

42 (c) It is unlawful for any person to possess a controlled substance un-  
43 less the substance was obtained directly from, or pursuant to, a valid pre-  
44 scription or order of a practitioner while acting in the course of his pro-  
45 fessional practice, or except as otherwise authorized by this chapter.

46 (1) Any person who violates this subsection and has in his possession  
47 a controlled substance classified in schedule I which is a narcotic  
48 drug or a controlled substance classified in schedule II, is guilty of  
49 a felony and upon conviction may be imprisoned for not more than seven

1 (7) years, or fined not more than fifteen thousand dollars (\$15,000), or  
2 both.

3 (2) Any person who violates this subsection and has in his possession  
4 lysergic acid diethylamide is guilty of a felony and upon conviction may  
5 be imprisoned for not more than three (3) years, or fined not more than  
6 five thousand dollars (\$5,000), or both.

7 (3) Any person who violates this subsection and has in his possession a  
8 controlled substance which is a nonnarcotic drug classified in schedule  
9 I except lysergic acid diethylamide, or a controlled substance classi-  
10 fied in schedules III, IV, V and VI is guilty of a misdemeanor and upon  
11 conviction thereof may be imprisoned for not more than one (1) year, or  
12 fined not more than one thousand dollars (\$1,000), or both.

13 (d) It shall be unlawful for any person to be present at or on premises  
14 of any place where he knows illegal controlled substances are being manufac-  
15 tured or cultivated, or are being held for distribution, transportation, de-  
16 livery, administration, use, or to be given away. A violation of this sec-  
17 tion shall deem those persons guilty of a misdemeanor and upon conviction  
18 shall be punished by a fine of not more than three hundred dollars (\$300) and  
19 not more than ninety (90) days in the county jail, or both.

20 (e) If any person is found to possess marijuana, which for the purposes  
21 of this subsection shall be restricted to all parts of the plants of the  
22 genus Cannabis, including the extract or any preparation of cannabis which  
23 contains tetrahydrocannabinol, in an amount greater than three (3) ounces  
24 net weight, it shall be a felony and upon conviction may be imprisoned for  
25 not more than five (5) years, or fined not more than ten thousand dollars  
26 (\$10,000), or both.

27 (f) If two (2) or more persons conspire to commit any offense defined  
28 in this act, said persons shall be punishable by a fine or imprisonment, or  
29 both, which may not exceed the maximum punishment prescribed for the of-  
30 fense, the commission of which was the object of the conspiracy.

31 (g) (1) It is unlawful for any person to manufacture or distribute a  
32 "simulated controlled substance," or to possess with intent to distrib-  
33 ute, a "simulated controlled substance." Any person who violates this  
34 subsection shall, upon conviction, be guilty of a misdemeanor and upon  
35 conviction thereof shall be punished by a fine of not more than one thou-  
36 sand dollars (\$1,000) and not more than one (1) year in the county jail,  
37 or both.

38 (2) It is unlawful for any person to possess a "simulated controlled  
39 substance." Any person who violates this subsection shall, upon convic-  
40 tion, be guilty of a misdemeanor and upon conviction thereof shall be  
41 punished by a fine of not more than three hundred dollars (\$300) and not  
42 more than six (6) months in the county jail, or both.

43 (h) It is unlawful for any person to cause to be placed in any newspaper,  
44 magazine, handbill, or other publication, or to post or distribute in any  
45 public place, any advertisement or solicitation offering for sale simulated  
46 controlled substances. Any person who violates this subsection is guilty of  
47 a misdemeanor and shall be punished in the same manner as prescribed in sub-  
48 section (g) of this section.

49 (i) No civil or criminal liability shall be imposed by virtue of this  
50 chapter on any person registered under the Uniform Controlled Substances

1 Act who manufactures, distributes, or possesses an imitation controlled  
2 substance for use as a placebo or other use by a registered practitioner, as  
3 defined in section 37-2701 (~~aab~~), Idaho Code, in the course of professional  
4 practice or research.

5 (j) No prosecution under this chapter shall be dismissed solely by rea-  
6 son of the fact that the dosage units were contained in a bottle or other con-  
7 tainer with a label accurately describing the ingredients of the imitation  
8 controlled substance dosage units. The good faith of the defendant shall be  
9 an issue of fact for the trier of fact.

10 (k) Upon conviction of a felony or misdemeanor violation under this  
11 chapter or upon conviction of a felony pursuant to the "racketeering act,"  
12 section 18-7804, Idaho Code, or the money laundering and illegal investment  
13 provisions of section 18-8201, Idaho Code, the court may order restitution  
14 for costs incurred by law enforcement agencies in investigating the viola-  
15 tion. Law enforcement agencies shall include, but not be limited to, the  
16 Idaho state police, county and city law enforcement agencies, the office  
17 of the attorney general and county and city prosecuting attorney offices.  
18 Costs shall include, but not be limited to, those incurred for the purchase  
19 of evidence, travel and per diem for law enforcement officers and witnesses  
20 throughout the course of the investigation, hearings and trials, and any  
21 other investigative or prosecution expenses actually incurred, including  
22 regular salaries of employees. In the case of reimbursement to the Idaho  
23 state police, those moneys shall be paid to the Idaho state police for  
24 deposit into the drug and driving while under the influence enforcement  
25 donation fund created in section 57-816, Idaho Code. In the case of reim-  
26 bursement to the office of the attorney general, those moneys shall be paid  
27 to the general fund. A conviction for the purposes of this section means that  
28 the person has pled guilty or has been found guilty, notwithstanding the form  
29 of the judgment (s) or withheld judgment (s).

30 SECTION 5. An emergency existing therefor, which emergency is hereby  
31 declared to exist, this act shall be in full force and effect on and after its  
32 passage and approval.