

FIRST REGULAR SESSION

# HOUSE BILL NO. 358

## 98TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE ROWLAND.

0890H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 217.720 and 217.722, RSMo, section 195.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 195.010 as enacted by house bill no. 641, ninety-sixth general assembly, first regular session, and to enact in lieu thereof four new sections relating to crime, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 217.720 and 217.722, RSMo, section 195.010 as enacted by senate  
2 bill no. 491, ninety-seventh general assembly, second regular session, and section 195.010 as  
3 enacted by house bill no. 641, ninety-sixth general assembly, first regular session, are repealed  
4 and four new sections enacted in lieu thereof, to be known as sections 195.010, 217.720,  
5 217.722, and 579.010, to read as follows:

195.010. The following words and phrases as used in this chapter and chapter 579,  
2 unless the context otherwise requires, mean:

- 3 (1) "Addict", a person who habitually uses one or more controlled substances to such  
4 an extent as to create a tolerance for such drugs, and who does not have a medical need for such  
5 drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control  
6 with reference to his or her addiction;
- 7 (2) "Administer", to apply a controlled substance, whether by injection, inhalation,  
8 ingestion, or any other means, directly to the body of a patient or research subject by:
- 9 (a) A practitioner (or, in his or her presence, by his or her authorized agent); or  
10 (b) The patient or research subject at the direction and in the presence of the practitioner;
- 11 (3) "Agent", an authorized person who acts on behalf of or at the direction of a  
12 manufacturer, distributor, or dispenser. The term does not include a common or contract carrier,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 public warehouseman, or employee of the carrier or warehouseman while acting in the usual and  
14 lawful course of the carrier's or warehouseman's business;

15 (4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general  
16 authorized to investigate, commence and prosecute an action under this chapter;

17 (5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I  
18 through V listed in this chapter. **The term includes an altered state of a drug or substance**  
19 **listed in Schedules I through V absorbed into the human body;**

20 (6) "Controlled substance analogue", a substance the chemical structure of which is  
21 substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

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

25 (b) With respect to a particular individual, which that individual represents or intends  
26 to have a stimulant, depressant, or hallucinogenic effect on the central nervous system  
27 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous  
28 system of a controlled substance included in Schedule I or II. The term does not include a  
29 controlled substance; any substance for which there is an approved new drug application; any  
30 substance for which an exemption is in effect for investigational use, for a particular person,  
31 under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. Section 355) to the  
32 extent conduct with respect to the substance is pursuant to the exemption; or any substance to  
33 the extent not intended for human consumption before such an exemption takes effect with  
34 respect to the substance;

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

39 (8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one  
40 person to another of drug paraphernalia or of a controlled substance, or an imitation controlled  
41 substance, whether or not there is an agency relationship, and includes a sale;

42 (9) "Dentist", a person authorized by law to practice dentistry in this state;

43 (10) "Depressant or stimulant substance":

44 (a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid  
45 or any derivative of barbituric acid which has been designated by the United States Secretary of  
46 Health and Human Services as habit forming under 21 U.S.C. Section 352(d);

47 (b) A drug containing any quantity of:

48 a. Amphetamine or any of its isomers;

- 49           b. Any salt of amphetamine or any salt of an isomer of amphetamine; or
- 50           c. Any substance the United States Attorney General, after investigation, has found to  
51 be, and by regulation designated as, habit forming because of its stimulant effect on the central  
52 nervous system;
- 53           (c) Lysergic acid diethylamide; or
- 54           (d) Any drug containing any quantity of a substance that the United States Attorney  
55 General, after investigation, has found to have, and by regulation designated as having, a  
56 potential for abuse because of its depressant or stimulant effect on the central nervous system or  
57 its hallucinogenic effect;
- 58           (11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user  
59 or research subject by or pursuant to the lawful order of a practitioner including the prescribing,  
60 administering, packaging, labeling, or compounding necessary to prepare the substance for such  
61 delivery. "Dispenser" means a practitioner who dispenses;
- 62           (12) "Distribute", to deliver other than by administering or dispensing a controlled  
63 substance;
- 64           (13) "Distributor", a person who distributes;
- 65           (14) "Drug":
- 66           (a) Substances recognized as drugs in the official United States Pharmacopoeia, Official  
67 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any  
68 supplement to any of them;
- 69           (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or  
70 prevention of disease in humans or animals;
- 71           (c) Substances, other than food, intended to affect the structure or any function of the  
72 body of humans or animals; and
- 73           (d) Substances intended for use as a component of any article specified in this  
74 subdivision. It does not include devices or their components, parts or accessories;
- 75           (15) "Drug-dependent person", a person who is using a controlled substance and who  
76 is in a state of psychic or physical dependence, or both, arising from the use of such substance  
77 on a continuous basis. Drug dependence is characterized by behavioral and other responses  
78 which include a strong compulsion to take the substance on a continuous basis in order to  
79 experience its psychic effects or to avoid the discomfort caused by its absence;
- 80           (16) "Drug enforcement agency", the Drug Enforcement Administration in the United  
81 States Department of Justice, or its successor agency;
- 82           (17) "Drug paraphernalia", all equipment, products, substances and materials of any kind  
83 which are used, intended for use, or designed for use, in planting, propagating, cultivating,  
84 growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing,

85 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the  
86 human body a controlled substance or an imitation controlled substance in violation of this  
87 chapter or chapter 579. It includes, but is not limited to:

88 (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating,  
89 growing or harvesting of any species of plant which is a controlled substance or from which a  
90 controlled substance can be derived;

91 (b) Kits used, intended for use, or designed for use in manufacturing, compounding,  
92 converting, producing, processing, or preparing controlled substances or imitation controlled  
93 substances;

94 (c) Isomerization devices used, intended for use, or designed for use in increasing the  
95 potency of any species of plant which is a controlled substance or an imitation controlled  
96 substance;

97 (d) Testing equipment used, intended for use, or designed for use in identifying, or in  
98 analyzing the strength, effectiveness or purity of controlled substances or imitation controlled  
99 substances;

100 (e) Scales and balances used, intended for use, or designed for use in weighing or  
101 measuring controlled substances or imitation controlled substances;

102 (f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose  
103 and lactose, used, intended for use, or designed for use in cutting controlled substances or  
104 imitation controlled substances;

105 (g) Separation gins and sifters used, intended for use, or designed for use in removing  
106 twigs and seeds from, or in otherwise cleaning or refining, marijuana;

107 (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or  
108 designed for use in compounding controlled substances or imitation controlled substances;

109 (i) Capsules, balloons, envelopes and other containers used, intended for use, or  
110 designed for use in packaging small quantities of controlled substances or imitation controlled  
111 substances;

112 (j) Containers and other objects used, intended for use, or designed for use in storing or  
113 concealing controlled substances or imitation controlled substances;

114 (k) Hypodermic syringes, needles and other objects used, intended for use, or designed  
115 for use in parenterally injecting controlled substances or imitation controlled substances into the  
116 human body;

117 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise  
118 introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

119 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens,  
120 permanent screens, hashish heads, or punctured metal bowls;

- 121           b. Water pipes;
- 122           c. Carburetion tubes and devices;
- 123           d. Smoking and carburetion masks;
- 124           e. Roach clips meaning objects used to hold burning material, such as a marijuana  
125 cigarette, that has become too small or too short to be held in the hand;
- 126           f. Miniature cocaine spoons and cocaine vials;
- 127           g. Chamber pipes;
- 128           h. Carburetor pipes;
- 129           i. Electric pipes;
- 130           j. Air-driven pipes;
- 131           k. Chillums;
- 132           l. Bongs;
- 133           m. Ice pipes or chillers;
- 134           (m) Substances used, intended for use, or designed for use in the manufacture of a  
135 controlled substance;
- 136 In determining whether an object, product, substance or material is drug paraphernalia, a court  
137 or other authority should consider, in addition to all other logically relevant factors, the  
138 following:
- 139           a. Statements by an owner or by anyone in control of the object concerning its use;
- 140           b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any  
141 state or federal law relating to any controlled substance or imitation controlled substance;
- 142           c. The proximity of the object, in time and space, to a direct violation of this chapter or  
143 chapter 579;
- 144           d. The proximity of the object to controlled substances or imitation controlled  
145 substances;
- 146           e. The existence of any residue of controlled substances or imitation controlled  
147 substances on the object;
- 148           f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of  
149 the object, to deliver it to persons who he or she knows, or should reasonably know, intend to  
150 use the object to facilitate a violation of this chapter or chapter 579; the innocence of an owner,  
151 or of anyone in control of the object, as to direct violation of this chapter or chapter 579 shall not  
152 prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- 153           g. Instructions, oral or written, provided with the object concerning its use;
- 154           h. Descriptive materials accompanying the object which explain or depict its use;
- 155           i. National or local advertising concerning its use;
- 156           j. The manner in which the object is displayed for sale;

- 157 k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like  
158 or related items to the community, such as a licensed distributor or dealer of tobacco products;
- 159 l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales  
160 of the business enterprise;
- 161 m. The existence and scope of legitimate uses for the object in the community;
- 162 n. Expert testimony concerning its use;
- 163 o. The quantity, form or packaging of the product, substance or material in relation to  
164 the quantity, form or packaging associated with any legitimate use for the product, substance or  
165 material;
- 166 (18) "Federal narcotic laws", the laws of the United States relating to controlled  
167 substances;
- 168 (19) "Hospital", a place devoted primarily to the maintenance and operation of facilities  
169 for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or  
170 more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal  
171 physical conditions; or a place devoted primarily to provide, for not less than twenty-four  
172 consecutive hours in any week, medical or nursing care for three or more nonrelated  
173 individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding  
174 homes as defined in chapter 198;
- 175 (20) "Immediate precursor", a substance which:
- 176 (a) The state department of health and senior services has found to be and by rule  
177 designates as being the principal compound commonly used or produced primarily for use in the  
178 manufacture of a controlled substance;
- 179 (b) Is an immediate chemical intermediary used or likely to be used in the manufacture  
180 of a controlled substance; and
- 181 (c) The control of which is necessary to prevent, curtail or limit the manufacture of the  
182 controlled substance;
- 183 (21) "Imitation controlled substance", a substance that is not a controlled substance,  
184 which by dosage unit appearance (including color, shape, size and markings), or by  
185 representations made, would lead a reasonable person to believe that the substance is a controlled  
186 substance. In determining whether the substance is an imitation controlled substance the court  
187 or authority concerned should consider, in addition to all other logically relevant factors, the  
188 following:
- 189 (a) Whether the substance was approved by the federal Food and Drug Administration  
190 for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and  
191 Drug Administration approved package, with the federal Food and Drug Administration  
192 approved labeling information;

193 (b) Statements made by an owner or by anyone else in control of the substance  
194 concerning the nature of the substance, or its use or effect;

195 (c) Whether the substance is packaged in a manner normally used for illicit controlled  
196 substances;

197 (d) Prior convictions, if any, of an owner, or anyone in control of the object, under state  
198 or federal law related to controlled substances or fraud;

199 (e) The proximity of the substances to controlled substances;

200 (f) Whether the consideration tendered in exchange for the noncontrolled substance  
201 substantially exceeds the reasonable value of the substance considering the actual chemical  
202 composition of the substance and, where applicable, the price at which over-the-counter  
203 substances of like chemical composition sell. An imitation controlled substance does not include  
204 a placebo or registered investigational drug either of which was manufactured, distributed,  
205 possessed or delivered in the ordinary course of professional practice or research;

206 (22) "Laboratory", a laboratory approved by the department of health and senior services  
207 as proper to be entrusted with the custody of controlled substances but does not include a  
208 pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

209 (23) "Manufacture", the production, preparation, propagation, compounding or  
210 processing of drug paraphernalia or of a controlled substance, or an imitation controlled  
211 substance, either directly or by extraction from substances of natural origin, or independently by  
212 means of chemical synthesis, or by a combination of extraction and chemical synthesis, and  
213 includes any packaging or repackaging of the substance or labeling or relabeling of its  
214 container. This term does not include the preparation or compounding of a controlled substance  
215 or an imitation controlled substance or the preparation, compounding, packaging or labeling of  
216 a narcotic or dangerous drug:

217 (a) By a practitioner as an incident to his or her administering or dispensing of a  
218 controlled substance or an imitation controlled substance in the course of his or her professional  
219 practice, or

220 (b) By a practitioner or his or her authorized agent under his or her supervision, for the  
221 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

222 (24) "Marijuana", all parts of the plant genus Cannabis in any species or form thereof,  
223 including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana,  
224 Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin  
225 extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture,  
226 or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant,  
227 fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound,  
228 manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin

229 extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of  
230 germination;

231 (25) "Methamphetamine precursor drug", any drug containing ephedrine,  
232 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical  
233 isomers;

234 (26) "Narcotic drug", any of the following, whether produced directly or indirectly by  
235 extraction from substances of vegetable origin, or independently by means of chemical synthesis,  
236 or by a combination of extraction and chemical analysis:

237 (a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters,  
238 ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers,  
239 esters, ethers, and salts is possible within the specific chemical designation. The term does not  
240 include the isoquinoline alkaloids of opium;

241 (b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine,  
242 and derivatives of ecgonine or their salts have been removed;

243 (c) Cocaine or any salt, isomer, or salt of isomer thereof;

244 (d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

245 (e) Any compound, mixture, or preparation containing any quantity of any substance  
246 referred to in paragraphs (a) to (d) of this subdivision;

247 (27) "Official written order", an order written on a form provided for that purpose by the  
248 United States Commissioner of Narcotics, under any laws of the United States making provision  
249 therefor, if such order forms are authorized and required by federal law, and if no such order  
250 form is provided, then on an official form provided for that purpose by the department of health  
251 and senior services;

252 (28) "Opiate", any substance having an addiction-forming or addiction-sustaining  
253 liability similar to morphine or being capable of conversion into a drug having addiction-forming  
254 or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does  
255 not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of  
256 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

257 (29) "Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

258 (30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug  
259 other than a controlled substance;

260 (31) "Person", an individual, corporation, government or governmental subdivision or  
261 agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or  
262 commercial entity;

263 (32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where  
264 the context so requires, the owner of a store or other place of business where controlled

265 substances are compounded or dispensed by a licensed pharmacist; but nothing in this chapter  
266 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist  
267 any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

268 (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

269 (34) "Possessed" or "possessing a controlled substance", a person, with the knowledge  
270 of the presence and nature of a substance, has actual or constructive possession of the substance.  
271 A person has actual possession if he has the substance on his or her person or within easy reach and  
272 convenient control. A person who, although not in actual possession, has the power and the  
273 intention at a given time to exercise dominion or control over the substance either directly or  
274 through another person or persons is in constructive possession of it. Possession may also be  
275 sole or joint. If one person alone has possession of a substance possession is sole. If two or  
276 more persons share possession of a substance, possession is joint;

277 (35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific  
278 investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by  
279 this state to distribute, dispense, conduct research with respect to or administer or to use in  
280 teaching or chemical analysis, a controlled substance in the course of professional practice or  
281 research in this state, or a pharmacy, hospital or other institution licensed, registered, or  
282 otherwise permitted to distribute, dispense, conduct research with respect to or administer a  
283 controlled substance in the course of professional practice or research;

284 (36) "Production", includes the manufacture, planting, cultivation, growing, or  
285 harvesting of drug paraphernalia or of a controlled substance or an imitation controlled  
286 substance;

287 (37) "Registry number", the number assigned to each person registered under the federal  
288 controlled substances laws;

289 (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such  
290 transaction made by any person, whether as principal, proprietor, agent, servant or employee;

291 (39) "State" when applied to a part of the United States, includes any state, district,  
292 commonwealth, territory, insular possession thereof, and any area subject to the legal authority  
293 of the United States of America;

294 (40) "Synthetic cannabinoid"[,] includes unless specifically excepted or unless listed in  
295 another schedule, any natural or synthetic material, compound, mixture, or preparation that  
296 contains any quantity of a substance that is a cannabinoid receptor agonist, including but not  
297 limited to any substance listed in paragraph (ll) of subdivision (4) of subsection 2 of section  
298 195.017 and any analogues; homologues; isomers, whether optical, positional, or geometric;  
299 esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the  
300 isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it

301 shall not include any approved pharmaceutical authorized by the United States Food and Drug  
302 Administration;

303 (41) "Ultimate user", a person who lawfully possesses a controlled substance or an  
304 imitation controlled substance for his or her own use or for the use of a member of his or her  
305 household or immediate family, regardless of whether they live in the same household, or for  
306 administering to an animal owned by him or by a member of his or her household. For purposes  
307 of this section, the phrase "immediate family" means a husband, wife, parent, child, sibling,  
308 stepparent, stepchild, stepbrother, stepsister, grandparent, or grandchild;

309 (42) "Wholesaler", a person who supplies drug paraphernalia or controlled substances  
310 or imitation controlled substances that he himself has not produced or prepared, on official  
311 written orders, but not on prescriptions.

195.010. The following words and phrases as used in sections 195.005 to 195.425,  
2 unless the context otherwise requires, mean:

3 (1) "Addict", a person who habitually uses one or more controlled substances to such  
4 an extent as to create a tolerance for such drugs, and who does not have a medical need for such  
5 drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control  
6 with reference to his addiction;

7 (2) "Administer", to apply a controlled substance, whether by injection, inhalation,  
8 ingestion, or any other means, directly to the body of a patient or research subject by:

9 (a) A practitioner (or, in his presence, by his authorized agent); or

10 (b) The patient or research subject at the direction and in the presence of the practitioner;

11 (3) "Agent", an authorized person who acts on behalf of or at the direction of a  
12 manufacturer, distributor, or dispenser. The term does not include a common or contract carrier,  
13 public warehouseman, or employee of the carrier or warehouseman while acting in the usual and  
14 lawful course of the carrier's or warehouseman's business;

15 (4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general  
16 authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

17 (5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I  
18 through V listed in sections 195.005 to 195.425. **The term includes an altered state of a drug  
19 or substance listed in Schedules I through V absorbed into the human body;**

20 (6) "Controlled substance analogue", a substance the chemical structure of which is  
21 substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

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

25 (b) With respect to a particular individual, which that individual represents or intends  
26 to have a stimulant, depressant, or hallucinogenic effect on the central nervous system  
27 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous  
28 system of a controlled substance included in Schedule I or II. The term does not include a  
29 controlled substance; any substance for which there is an approved new drug application; any  
30 substance for which an exemption is in effect for investigational use, for a particular person,  
31 under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent  
32 conduct with respect to the substance is pursuant to the exemption; or any substance to the extent  
33 not intended for human consumption before such an exemption takes effect with respect to the  
34 substance;

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

39 (8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one  
40 person to another of drug paraphernalia or of a controlled substance, or an imitation controlled  
41 substance, whether or not there is an agency relationship, and includes a sale;

42 (9) "Dentist", a person authorized by law to practice dentistry in this state;

43 (10) "Depressant or stimulant substance":

44 (a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid  
45 or any derivative of barbituric acid which has been designated by the United States Secretary of  
46 Health and Human Services as habit forming under 21 U.S.C. 352(d);

47 (b) A drug containing any quantity of:

48 a. Amphetamine or any of its isomers;

49 b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

50 c. Any substance the United States Attorney General, after investigation, has found to  
51 be, and by regulation designated as, habit forming because of its stimulant effect on the central  
52 nervous system;

53 (c) Lysergic acid diethylamide; or

54 (d) Any drug containing any quantity of a substance that the United States Attorney  
55 General, after investigation, has found to have, and by regulation designated as having, a  
56 potential for abuse because of its depressant or stimulant effect on the central nervous system or  
57 its hallucinogenic effect;

58 (11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user  
59 or research subject by or pursuant to the lawful order of a practitioner including the prescribing,

60 administering, packaging, labeling, or compounding necessary to prepare the substance for such  
61 delivery. "Dispenser" means a practitioner who dispenses;

62 (12) "Distribute", to deliver other than by administering or dispensing a controlled  
63 substance;

64 (13) "Distributor", a person who distributes;

65 (14) "Drug":

66 (a) Substances recognized as drugs in the official United States Pharmacopoeia, Official  
67 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any  
68 supplement to any of them;

69 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or  
70 prevention of disease in humans or animals;

71 (c) Substances, other than food, intended to affect the structure or any function of the  
72 body of humans or animals; and

73 (d) Substances intended for use as a component of any article specified in this  
74 subdivision. It does not include devices or their components, parts or accessories;

75 (15) "Drug-dependent person", a person who is using a controlled substance and who  
76 is in a state of psychic or physical dependence, or both, arising from the use of such substance  
77 on a continuous basis. Drug dependence is characterized by behavioral and other responses  
78 which include a strong compulsion to take the substance on a continuous basis in order to  
79 experience its psychic effects or to avoid the discomfort caused by its absence;

80 (16) "Drug enforcement agency", the Drug Enforcement Administration in the United  
81 States Department of Justice, or its successor agency;

82 (17) "Drug paraphernalia", all equipment, products, substances and materials of any kind  
83 which are used, intended for use, or designed for use, in planting, propagating, cultivating,  
84 growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing,  
85 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the  
86 human body a controlled substance or an imitation controlled substance in violation of sections  
87 195.005 to 195.425. It includes, but is not limited to:

88 (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating,  
89 growing or harvesting of any species of plant which is a controlled substance or from which a  
90 controlled substance can be derived;

91 (b) Kits used, intended for use, or designed for use in manufacturing, compounding,  
92 converting, producing, processing, or preparing controlled substances or imitation controlled  
93 substances;

94 (c) Isomerization devices used, intended for use, or designed for use in increasing the  
95 potency of any species of plant which is a controlled substance or an imitation controlled  
96 substance;

97 (d) Testing equipment used, intended for use, or designed for use in identifying, or in  
98 analyzing the strength, effectiveness or purity of controlled substances or imitation controlled  
99 substances;

100 (e) Scales and balances used, intended for use, or designed for use in weighing or  
101 measuring controlled substances or imitation controlled substances;

102 (f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose  
103 and lactose, used, intended for use, or designed for use in cutting controlled substances or  
104 imitation controlled substances;

105 (g) Separation gins and sifters used, intended for use, or designed for use in removing  
106 twigs and seeds from, or in otherwise cleaning or refining, marijuana;

107 (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or  
108 designed for use in compounding controlled substances or imitation controlled substances;

109 (i) Capsules, balloons, envelopes and other containers used, intended for use, or  
110 designed for use in packaging small quantities of controlled substances or imitation controlled  
111 substances;

112 (j) Containers and other objects used, intended for use, or designed for use in storing or  
113 concealing controlled substances or imitation controlled substances;

114 (k) Hypodermic syringes, needles and other objects used, intended for use, or designed  
115 for use in parenterally injecting controlled substances or imitation controlled substances into the  
116 human body;

117 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise  
118 introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

119 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens,  
120 permanent screens, hashish heads, or punctured metal bowls;

121 b. Water pipes;

122 c. Carburetion tubes and devices;

123 d. Smoking and carburetion masks;

124 e. Roach clips meaning objects used to hold burning material, such as a marijuana  
125 cigarette, that has become too small or too short to be held in the hand;

126 f. Miniature cocaine spoons and cocaine vials;

127 g. Chamber pipes;

128 h. Carburetor pipes;

129 i. Electric pipes;

- 130           j. Air-driven pipes;
- 131           k. Chillums;
- 132           l. Bongs;
- 133           m. Ice pipes or chillers;
- 134           (m) Substances used, intended for use, or designed for use in the manufacture of a  
135 controlled substance; In determining whether an object, product, substance or material is drug  
136 paraphernalia, a court or other authority should consider, in addition to all other logically  
137 relevant factors, the following:
- 138           a. Statements by an owner or by anyone in control of the object concerning its use;
- 139           b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any  
140 state or federal law relating to any controlled substance or imitation controlled substance;
- 141           c. The proximity of the object, in time and space, to a direct violation of sections  
142 195.005 to 195.425;
- 143           d. The proximity of the object to controlled substances or imitation controlled  
144 substances;
- 145           e. The existence of any residue of controlled substances or imitation controlled  
146 substances on the object;
- 147           f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of  
148 the object, to deliver it to persons who he knows, or should reasonably know, intend to use the  
149 object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of  
150 anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not  
151 prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- 152           g. Instructions, oral or written, provided with the object concerning its use;
- 153           h. Descriptive materials accompanying the object which explain or depict its use;
- 154           i. National or local advertising concerning its use;
- 155           j. The manner in which the object is displayed for sale;
- 156           k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like  
157 or related items to the community, such as a licensed distributor or dealer of tobacco products;
- 158           l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales  
159 of the business enterprise;
- 160           m. The existence and scope of legitimate uses for the object in the community;
- 161           n. Expert testimony concerning its use;
- 162           o. The quantity, form or packaging of the product, substance or material in relation to  
163 the quantity, form or packaging associated with any legitimate use for the product, substance or  
164 material;

165 (18) "Federal narcotic laws", the laws of the United States relating to controlled  
166 substances;

167 (19) "Hospital", a place devoted primarily to the maintenance and operation of facilities  
168 for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or  
169 more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal  
170 physical conditions; or a place devoted primarily to provide, for not less than twenty-four  
171 consecutive hours in any week, medical or nursing care for three or more nonrelated  
172 individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding  
173 homes as defined in chapter 198;

174 (20) "Immediate precursor", a substance which:

175 (a) The state department of health and senior services has found to be and by rule  
176 designates as being the principal compound commonly used or produced primarily for use in the  
177 manufacture of a controlled substance;

178 (b) Is an immediate chemical intermediary used or likely to be used in the manufacture  
179 of a controlled substance; and

180 (c) The control of which is necessary to prevent, curtail or limit the manufacture of the  
181 controlled substance;

182 (21) "Imitation controlled substance", a substance that is not a controlled substance,  
183 which by dosage unit appearance (including color, shape, size and markings), or by  
184 representations made, would lead a reasonable person to believe that the substance is a controlled  
185 substance. In determining whether the substance is an imitation controlled substance the court  
186 or authority concerned should consider, in addition to all other logically relevant factors, the  
187 following:

188 (a) Whether the substance was approved by the federal Food and Drug Administration  
189 for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and  
190 Drug Administration approved package, with the federal Food and Drug Administration  
191 approved labeling information;

192 (b) Statements made by an owner or by anyone else in control of the substance  
193 concerning the nature of the substance, or its use or effect;

194 (c) Whether the substance is packaged in a manner normally used for illicit controlled  
195 substances;

196 (d) Prior convictions, if any, of an owner, or anyone in control of the object, under state  
197 or federal law related to controlled substances or fraud;

198 (e) The proximity of the substances to controlled substances;

199 (f) Whether the consideration tendered in exchange for the noncontrolled substance  
200 substantially exceeds the reasonable value of the substance considering the actual chemical

201 composition of the substance and, where applicable, the price at which over-the-counter  
202 substances of like chemical composition sell. An imitation controlled substance does not include  
203 a placebo or registered investigational drug either of which was manufactured, distributed,  
204 possessed or delivered in the ordinary course of professional practice or research;

205 (22) "Laboratory", a laboratory approved by the department of health and senior services  
206 as proper to be entrusted with the custody of controlled substances but does not include a  
207 pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

208 (23) "Manufacture", the production, preparation, propagation, compounding or  
209 processing of drug paraphernalia or of a controlled substance, or an imitation controlled  
210 substance, either directly or by extraction from substances of natural origin, or independently by  
211 means of chemical synthesis, or by a combination of extraction and chemical synthesis, and  
212 includes any packaging or repackaging of the substance or labeling or relabeling of its  
213 container. This term does not include the preparation or compounding of a controlled substance  
214 or an imitation controlled substance or the preparation, compounding, packaging or labeling of  
215 a narcotic or dangerous drug:

216 (a) By a practitioner as an incident to his administering or dispensing of a controlled  
217 substance or an imitation controlled substance in the course of his professional practice, or

218 (b) By a practitioner or his authorized agent under his supervision, for the purpose of,  
219 or as an incident to, research, teaching or chemical analysis and not for sale;

220 (24) "Marijuana", all parts of the plant genus Cannabis in any species or form thereof,  
221 including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana,  
222 Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin  
223 extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture,  
224 or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant,  
225 fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound,  
226 manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin  
227 extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of  
228 germination;

229 (25) "Methamphetamine precursor drug", any drug containing ephedrine,  
230 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical  
231 isomers;

232 (26) "Narcotic drug", any of the following, whether produced directly or indirectly by  
233 extraction from substances of vegetable origin, or independently by means of chemical synthesis,  
234 or by a combination of extraction and chemical analysis:

235 (a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters,  
236 ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers,

237 esters, ethers, and salts is possible within the specific chemical designation. The term does not  
238 include the isoquinoline alkaloids of opium;

239 (b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine,  
240 and derivatives of ecgonine or their salts have been removed;

241 (c) Cocaine or any salt, isomer, or salt of isomer thereof;

242 (d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

243 (e) Any compound, mixture, or preparation containing any quantity of any substance  
244 referred to in paragraphs (a) to (d) of this subdivision;

245 (27) "Official written order", an order written on a form provided for that purpose by the  
246 United States Commissioner of Narcotics, under any laws of the United States making provision  
247 therefor, if such order forms are authorized and required by federal law, and if no such order  
248 form is provided, then on an official form provided for that purpose by the department of health  
249 and senior services;

250 (28) "Opiate", any substance having an addiction-forming or addiction-sustaining  
251 liability similar to morphine or being capable of conversion into a drug having addiction-forming  
252 or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does  
253 not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of  
254 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

255 (29) "Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

256 (30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug  
257 other than a controlled substance;

258 (31) "Person", an individual, corporation, government or governmental subdivision or  
259 agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or  
260 commercial entity;

261 (32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where  
262 the context so requires, the owner of a store or other place of business where controlled  
263 substances are compounded or dispensed by a licensed pharmacist; but nothing in sections  
264 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor  
265 licensed as a pharmacist any authority, right or privilege that is not granted to him by the  
266 pharmacy laws of this state;

267 (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

268 (34) "Possessed" or "possessing a controlled substance", a person, with the knowledge  
269 of the presence and nature of a substance, has actual or constructive possession of the substance.

270 A person has actual possession if he has the substance on his person or within easy reach and  
271 convenient control. A person who, although not in actual possession, has the power and the  
272 intention at a given time to exercise dominion or control over the substance either directly or

273 through another person or persons is in constructive possession of it. Possession may also be  
274 sole or joint. If one person alone has possession of a substance possession is sole. If two or  
275 more persons share possession of a substance, possession is joint;

276 (35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific  
277 investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by  
278 this state to distribute, dispense, conduct research with respect to or administer or to use in  
279 teaching or chemical analysis, a controlled substance in the course of professional practice or  
280 research in this state, or a pharmacy, hospital or other institution licensed, registered, or  
281 otherwise permitted to distribute, dispense, conduct research with respect to or administer a  
282 controlled substance in the course of professional practice or research;

283 (36) "Production", includes the manufacture, planting, cultivation, growing, or  
284 harvesting of drug paraphernalia or of a controlled substance or an imitation controlled  
285 substance;

286 (37) "Registry number", the number assigned to each person registered under the federal  
287 controlled substances laws;

288 (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such  
289 transaction made by any person, whether as principal, proprietor, agent, servant or employee;

290 (39) "State" when applied to a part of the United States, includes any state, district,  
291 commonwealth, territory, insular possession thereof, and any area subject to the legal authority  
292 of the United States of America;

293 (40) "Synthetic cannabinoid"[,] includes unless specifically excepted or unless listed in  
294 another schedule, any natural or synthetic material, compound, mixture, or preparation that  
295 contains any quantity of a substance that is a cannabinoid receptor agonist, including but not  
296 limited to any substance listed in paragraph (1) of subdivision (4) of subsection 2 of section  
297 195.017 and any analogues, homologues; isomers, whether optical, positional, or geometric;  
298 esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the  
299 isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it  
300 shall not include any approved pharmaceutical authorized by the United States Food and Drug  
301 Administration;

302 (41) "Ultimate user", a person who lawfully possesses a controlled substance or an  
303 imitation controlled substance for his own use or for the use of a member of his household or for  
304 administering to an animal owned by him or by a member of his household;

305 (42) "Wholesaler", a person who supplies drug paraphernalia or controlled substances  
306 or imitation controlled substances that he himself has not produced or prepared, on official  
307 written orders, but not on prescriptions.

217.720. 1. At any time during release on parole or conditional release the board [may] 2 **shall** issue a warrant for the arrest of a released offender for violation of any of the conditions 3 of parole or conditional release. The warrant shall authorize any law enforcement officer to 4 return the offender to the actual custody of the correctional center from which the offender was 5 released, or to any other suitable facility designated by the board. If any parole or probation 6 officer has probable cause to believe that such offender has violated a condition of parole or 7 conditional release, the probation or parole officer [may] **shall** issue a warrant for the arrest of 8 the offender. The probation or parole officer may effect the arrest or may deputize any officer 9 with the power of arrest to do so by giving the officer a copy of the warrant which shall outline 10 the circumstances of the alleged violation and contain the statement that the offender has, in the 11 judgment of the probation or parole officer, violated conditions of parole or conditional 12 release. The warrant delivered with the offender by the arresting officer to the official in charge 13 of any facility designated by the board to which the offender is brought shall be sufficient legal 14 authority for detaining the offender. After the arrest the parole or probation officer shall present 15 to the detaining authorities a similar statement of the circumstances of violation. Pending 16 hearing as hereinafter provided, upon any charge of violation, the offender shall remain in 17 custody or incarcerated without consideration of bail.

18 2. If the offender is arrested under the authority granted in subsection 1 of this section, 19 the offender shall have the right to a preliminary hearing on the violation charged unless the 20 offender waives such hearing. Upon such arrest and detention, the parole or probation officer 21 shall immediately notify the board and shall submit in writing a report showing in what manner 22 the offender has violated the conditions of his parole or conditional release. The board shall 23 order the offender discharged from such facility, require as a condition of parole or conditional 24 release the placement of the offender in a treatment center operated by the department of 25 corrections, or shall cause the offender to be brought before it for a hearing on the violation 26 charged, under such rules and regulations as the board may adopt. If the violation is established 27 and found, the board may continue or revoke the parole or conditional release, or enter such other 28 order as it may see fit. If no violation is established and found, then the parole or conditional 29 release shall continue. If at any time during release on parole or conditional release the offender 30 is arrested for a crime which later leads to conviction, and sentence is then served outside the 31 Missouri department of corrections, the board shall determine what part, if any, of the time from 32 the date of arrest until completion of the sentence imposed is counted as time served under the 33 sentence from which the offender was paroled or conditionally released.

34 3. An offender for whose return a warrant has been issued by the board shall, if it is 35 found that the warrant cannot be served, be deemed to be a fugitive from justice or to have fled 36 from justice. If it shall appear that the offender has violated the provisions and conditions of his

37 parole or conditional release, the board shall determine whether the time from the issuing date  
38 of the warrant to the date of his arrest on the warrant, or continuance on parole or conditional  
39 release shall be counted as time served under the sentence. In all other cases, time served on  
40 parole or conditional release shall be counted as time served under the sentence.

41 4. At any time during parole or probation, the board may issue a warrant for the arrest  
42 of any person from another jurisdiction, the visitation and supervision of whom the board has  
43 undertaken pursuant to the provisions of the interstate compact for the supervision of parolees  
44 and probationers authorized in section 217.810, for violation of any of the conditions of release,  
45 or a notice to appear to answer a charge of violation. The notice shall be served personally upon  
46 the person. The warrant shall authorize any law enforcement officer to return the offender to any  
47 suitable detention facility designated by the board. Any parole or probation officer may arrest  
48 such person without a warrant, or may deputize any other officer with power of arrest to do so  
49 by issuing a written statement setting forth that the defendant has, in the judgment of the parole  
50 or probation officer, violated the conditions of his release. The written statement delivered with  
51 the person by the arresting officer to the official in charge of the detention facility to which the  
52 person is brought shall be sufficient legal authority for detaining him. After making an arrest  
53 the parole or probation officer shall present to the detaining authorities a similar statement of the  
54 circumstances of violation.

217.722. 1. If any probation officer has probable cause to believe that the person on  
2 probation has violated a condition of probation, the probation officer [may] **shall** issue a warrant  
3 for the arrest of the person on probation. The officer may effect the arrest or may deputize any  
4 other officer with the power of arrest to do so by giving the officer a copy of the warrant which  
5 will outline the circumstances of the alleged violation and contain the statement that the person  
6 on probation has, in the judgment of the probation officer, violated the conditions of  
7 probation. The warrant delivered with the offender by the arresting officer to the official in  
8 charge of any jail or other detention facility shall be sufficient authority for detaining the person  
9 on probation pending a preliminary hearing on the alleged violation. Other provisions of law  
10 relating to release on bail of persons charged with criminal offenses shall be applicable to  
11 persons detained on alleged probation violations.

12 2. Any person on probation arrested under the authority granted in subsection 1 of this  
13 section shall have the right to a preliminary hearing on the violation charged as long as the  
14 person on probation remains in custody or unless the offender waives such hearing. The person  
15 on probation shall be notified immediately in writing of the alleged probation violation. If  
16 arrested in the jurisdiction of the sentencing court, and the court which placed the person on  
17 probation is immediately available, the preliminary hearing shall be heard by the sentencing  
18 court. Otherwise, the person on probation shall be taken before a judge or associate circuit judge

19 in the county of the alleged violation or arrest having original jurisdiction to try criminal offenses  
20 or before an impartial member of the staff of the Missouri board of probation and parole, and the  
21 preliminary hearing shall be held as soon as possible after the arrest. Such preliminary hearings  
22 shall be conducted as provided by rule of court or by rules of the Missouri board of probation and  
23 parole. If it appears that there is probable cause to believe that the person on probation has  
24 violated a condition of probation, or if the person on probation waives the preliminary hearing,  
25 the judge or associate circuit judge, or member of the staff of the Missouri board of probation  
26 and parole shall order the person on probation held for further proceedings in the sentencing  
27 court. If probable cause is not found, the court shall not be barred from holding a hearing on the  
28 question of the alleged violation of a condition of probation nor from ordering the person on  
29 probation to be present at such a hearing.

30 3. Upon such arrest and detention, the probation officer shall immediately notify the  
31 sentencing court and shall submit to the court a written report showing in what manner the  
32 person on probation has violated the conditions of probation. Thereupon, or upon arrest by  
33 warrant, the court shall cause the person on probation to be brought before it without unnecessary  
34 delay for a hearing on the violation charged. Revocation hearings shall be conducted as provided  
35 by rule of court.

**579.010. 1. A person commits the offense of ingesting a controlled substance if he  
2 or she intentionally ingests, inhales, or otherwise takes into the body any controlled  
3 substance, unless the substance was obtained directly from, or pursuant to, a valid  
4 prescription or order of a practitioner while acting in the course of a practitioner's  
5 professional practice.**

**6 2. The offense of ingesting a controlled substance is a Class A misdemeanor.**

**7 3. The venue for a violation of this section exists in either the jurisdiction in which  
8 the controlled substance was ingested, inhaled, or otherwise taken into the body or the  
9 jurisdiction in which the controlled substance was detected in the body of the accused.**

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