

(3) A rule issued by the Attorney General under paragraph (1) shall become immediately effective as an interim final rule without requiring the Attorney General to demonstrate good cause therefor. The interim final rule shall give interested persons the opportunity to comment and to request a hearing. After the conclusion of such proceedings, the Attorney General shall issue a final rule in accordance with the scheduling criteria of subsections (b), (c), and (d) of this section and section 812(b) of this title.

(Pub. L. 91-513, title II, §201, Oct. 27, 1970, 84 Stat. 1245; Pub. L. 95-633, title I, §102(a), Nov. 10, 1978, 92 Stat. 3769; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 98-473, title II, §§508, 509(a), Oct. 12, 1984, 98 Stat. 2071, 2072; Pub. L. 108-358, §2(b), Oct. 22, 2004, 118 Stat. 1663; Pub. L. 112-144, title XI, §1153, July 9, 2012, 126 Stat. 1132; Pub. L. 113-260, §2(b), Dec. 18, 2014, 128 Stat. 2930; Pub. L. 114-89, §2(b), Nov. 25, 2015, 129 Stat. 700.)

REFERENCES IN TEXT

This subchapter, referred to in subsections (a), (c)(8), (d)(3), (4)(A), (B), and (g)(2), (3), was in the original “this title”, meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the “Controlled Substances Act”. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsections (d)(3) and (g)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Schedules I, II, III, IV, and V, referred to in subsections (d)(4)(A), (B), (h)(1), and (j)(1), are set out in section 812(c) of this title.

The Psychotropic Substances Act of 1978, referred to in subsec. (d)(5), is Pub. L. 95-633, Nov. 10, 1978, 92 Stat. 3768, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

This subchapter and subchapter II of this chapter, referred to in subsec. (g)(1), was in the original “titles II and III of the Comprehensive Drug Abuse Prevention and Control Act”, which was translated as meaning titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, 1285, as amended, to reflect the probable intent of Congress. Title II is classified principally to this subchapter and part A of title III comprises subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title notes set out under section 801 of this title and Tables.

AMENDMENTS

2015—Subsec. (j). Pub. L. 114-89 added subsec. (j).
 2014—Subsec. (i). Pub. L. 113-260 added subsec. (i).
 2012—Subsec. (h)(2). Pub. L. 112-144 substituted “2 years” for “one year” and “1 year” for “six months”.
 2004—Subsec. (g)(1). Pub. L. 108-358, §2(b)(1), substituted “drug which contains a controlled substance from the application of this subchapter and subchapter II of this chapter if such drug” for “substance from a schedule if such substance”.

Subsec. (g)(3)(C). Pub. L. 108-358, §2(b)(2), added subpar. (C).

1984—Subsec. (g)(3). Pub. L. 98-473, §509(a), added par. (3).

Subsec. (h). Pub. L. 98-473, §508, added subsec. (h).

1978—Subsec. (d). Pub. L. 95-633 designated existing provisions as par. (1) and added pars. (2) to (5).

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (d)(2), (3), (4)(A), (B), (5) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-358 effective 90 days after Oct. 22, 2004, see section 2(d) of Pub. L. 108-358, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

§ 812. Schedules of controlled substances

(a) Establishment

There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.¹

(b) Placement on schedules; findings required

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

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

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

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

¹ See Amendment of Schedules of Controlled Substances note below.

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

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

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

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

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

(5) SCHEDULE V.—

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

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

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

(c) Initial schedules of controlled substances

Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 811 of this title, consist of the following drugs or other substances,¹ by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

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

- (1) Acetylmethadol.
- (2) Allylprodine.
- (3) Alphacetylmethadol.²
- (4) Alphameprodine.
- (5) Alphamethadol.
- (6) Benzethidine.
- (7) Betacetylmethadol.
- (8) Betameprodine.
- (9) Betamethadol.
- (10) Betaprodine.
- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Dextrorphan.
- (14) Diampromide.
- (15) Diethylthiambutene.
- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxeridine.

- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.
- (27) Levomoramide.
- (28) Levophenacilmorphan.
- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Proheptazine.
- (40) Properidine.
- (41) Racemoramide.
- (42) Trimeperidine.

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

- (1) Acetorphine.
- (2) Acetyldihydrocodeine.
- (3) Benzylmorphine.
- (4) Codeine methylbromide.
- (5) Codeine-N-Oxide.
- (6) Cyprenorphine.
- (7) Desomorphine.
- (8) Dihydromorphine.
- (9) Etorphine.
- (10) Heroin.
- (11) Hydromorphanol.
- (12) Methyl-desorphine.
- (13) Methylhydromorphine.
- (14) Morphine methylbromide.
- (15) Morphine methylsulfonate.
- (16) Morphine-N-Oxide.
- (17) Myrophine.
- (18) Nicocodeine.
- (19) Nicomorphine.
- (20) Normorphine.
- (21) Pholcodine.
- (22) Thebacon.

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

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

² So in original. Probably should be "Alphacetylmethadol."

- (14) N-methyl-3-piperidyl benzilate.
 (15) Psilocybin.
 (16) Psilocyn.
 (17) Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined under section 1639o of title 7).
 (18) 4-methylmethcathinone (Mephedrone).
 (19) 3,4-methylenedioxypropylvalerone (MDPV).
 (20) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).
 (21) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).
 (22) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).
 (23) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).
 (24) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).
 (25) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4).
 (26) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).
 (27) 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine (2C-N).
 (28) 2-(2,5-Dimethoxy-4-(n-propylphenyl)ethanamine (2C-P).

(d)(1) Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(2) In paragraph (1):

(A) The term “cannabimimetic agents” means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

- (i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.
 (ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.
 (iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.
 (iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.
 (v) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

(B) Such term includes—

- (i) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497);
 (ii) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog);
 (iii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);
 (iv) 1-butyl-3-(1-naphthoyl)indole (JWH-073);
 (v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019);
 (vi) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
 (vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);
 (viii) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);
 (ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);
 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);
 (xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);
 (xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);
 (xiii) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4);
 (xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8); and
 (xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

SCHEDULE II

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

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
 (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.
 (3) Opium poppy and poppy straw.
 (4) coca³ leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

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

³ So in original. Probably should be capitalized.

ethers, and salts is possible within the specific chemical designation:

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

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

SCHEDULE III

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

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
- (2) Phenmetrazine and its salts.
- (3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
- (4) Methylphenidate.

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

- (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
- (2) Chorhexadol.
- (3) Glutethimide.
- (4) Lysergic acid.
- (5) Lysergic acid amide.
- (6) Methyprylon.
- (7) Phencyclidine.
- (8) Sulfondiethylmethane.
- (9) Sulfonethylmethane.
- (10) Sulfonmethane.

(c) Nalorphine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited

quantities of any of the following narcotic drugs, or any salts thereof:

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

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

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

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

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

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

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

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

(e) Anabolic steroids.

SCHEDULE IV

- (1) Barbital.
- (2) Chloral betaine.
- (3) Chloral hydrate.
- (4) Ethchlorvynol.
- (5) Ethinamate.
- (6) Methohexital.
- (7) Meprobamate.
- (8) Methylphenobarbital.
- (9) Paraldehyde.
- (10) Petrichloral.
- (11) Phenobarbital.

SCHEDULE V

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

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

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

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

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

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

(Pub. L. 91-513, title II, §202, Oct. 27, 1970, 84 Stat. 1247; Pub. L. 95-633, title I, §103, Nov. 10, 1978, 92 Stat. 3772; Pub. L. 98-473, title II, §§507(c), 509(b), Oct. 12, 1984, 98 Stat. 2071, 2072; Pub. L. 99-570, title I, §1867, Oct. 27, 1986, 100 Stat. 3207-55; Pub. L. 99-646, §84, Nov. 10, 1986, 100 Stat. 3619; Pub. L. 101-647, title XIX, §1902(a), Nov. 29, 1990, 104 Stat. 4851; Pub. L. 112-144, title XI, §1152, July 9, 2012, 126 Stat. 1130; Pub. L. 115-334, title XII, §12619(b), Dec. 20, 2018, 132 Stat. 5018.)

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-334 inserted “, except for tetrahydrocannabinols in hemp (as defined under section 1639o of title 7)” after “Tetrahydrocannabinols” in schedule I(c)(17).

2012—Subsec. (c). Pub. L. 112-144, §1152(b), added schedule I(c)(18) to (28).

Pub. L. 112-144, §1152(a), added schedule I(d).

1990—Subsec. (c). Pub. L. 101-647 added item (e) at end of schedule III.

1986—Subsec. (c). Pub. L. 99-646 amended schedule II(a)(4) generally. Prior to amendment, schedule II(a)(4) read as follows: “Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.”

Pub. L. 99-570 amended schedule II(a)(4) generally. Prior to amendment, schedule II(a)(4) read as follows: “Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.”

1984—Subsec. (c). Pub. L. 98-473, §507(c), in schedule II(a)(4) added applicability to cocaine and ecgonine and their salts, isomers, etc.

Subsec. (d). Pub. L. 98-473, §509(b), struck out subsec. (d) which related to authority of Attorney General to exempt stimulants or depressants containing active medicinal ingredients.

1978—Subsec. (d)(3). Pub. L. 95-633 added cl. (3).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-647 effective 90 days after Nov. 29, 1990, see section 1902(d) of Pub. L. 101-647, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

AMENDMENT OF SCHEDULES OF CONTROLLED SUBSTANCES

For updated and republished schedules of controlled substances established by this section, see Code of Federal Regulations, Part 1308 of Title 21, Food and Drugs.

CONGRESSIONAL FINDING; EMERGENCY SCHEDULING OF GHB IN CONTROLLED SUBSTANCES ACT

Pub. L. 106-172, §§2, 3(a), Feb. 18, 2000, 114 Stat. 7, 8, provided that:

“SEC. 2. FINDINGS.

“Congress finds as follows:

“(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases especially at night clubs and parties.

“(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid (“GHB”) is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug’s ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol which potentiates its impact.

“(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

“(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1,4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

“(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

“(6) Abuse of illicit GHB is an imminent hazard to public safety that requires immediate regulatory action under the Controlled Substances Act (21 U.S.C. 801 et seq.).

“SEC. 3. EMERGENCY SCHEDULING OF GAMMA HYDROXYBUTYRIC ACID AND LISTING OF GAMMA BUTYROLACTONE AS LIST I CHEMICAL.

“(a) EMERGENCY SCHEDULING OF GHB.—

“(1) IN GENERAL.—The Congress finds that the abuse of illicit gamma hydroxybutyric acid is an imminent hazard to the public safety. Accordingly, the Attorney General, notwithstanding sections 201(a), 201(b), 201(c), and 202 of the Controlled Substances Act [21 U.S.C. 811(a)-(c), 812], shall issue, not later than 60 days after the date of the enactment of this Act [Feb. 18, 2000], a final order that schedules such drug (together with its salts, isomers, and salts of isomers) in the same schedule under section 202(c) of the Controlled Substances Act as would apply to a scheduling of a substance by the Attorney General under section 201(h)(1) of such Act (relating to imminent hazards to the public safety), except as follows:

“(A) For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, the final order shall treat such drug, when the drug is manufactured, distributed, or possessed in accordance with an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(i)] (whether the exemption involved is authorized before, on, or after the date of the enactment of this Act [Feb. 18, 2000]), as being in the same schedule as that recommended by the Secretary of Health and Human Services for the drug when the drug is the subject of an authorized investigational new drug application (relating to such section 505(i)). The recommendation referred to in the preceding sentence is contained in the first paragraph of the letter transmitted on May 19, 1999, by such Secretary (acting

through the Assistant Secretary for Health) to the Attorney General (acting through the Deputy Administrator of the Drug Enforcement Administration), which letter was in response to the letter transmitted by the Attorney General (acting through such Deputy Administrator) on September 16, 1997. In publishing the final order in the Federal Register, the Attorney General shall publish a copy of the letter that was transmitted by the Secretary of Health and Human Services.

“(B) In the case of gamma hydroxybutyric acid that is contained in a drug product for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] (whether the application involved is approved before, on, or after the date of the enactment of this Act [Feb. 18, 2000]), the final order shall schedule such drug in the same schedule as that recommended by the Secretary of Health and Human Services for authorized formulations of the drug. The recommendation referred to in the preceding sentence is contained in the last sentence of the fourth paragraph of the letter referred to in subparagraph (A) with respect to May 19, 1999.

“(2) FAILURE TO ISSUE ORDER.—If the final order is not issued within the period specified in paragraph (1), gamma hydroxybutyric acid (together with its salts, isomers, and salts of isomers) is deemed to be scheduled under section 202(c) of the Controlled Substances Act [21 U.S.C. 812(c)] in accordance with the policies described in paragraph (1), as if the Attorney General had issued a final order in accordance with such paragraph.”

PLACEMENT OF PIPRADROL AND SPA IN SCHEDULE IV TO CARRY OUT OBLIGATION UNDER CONVENTION ON PSYCHOTROPIC SUBSTANCES

Pub. L. 95-633, title I, §102(c), Nov. 10, 1978, 92 Stat. 3772, provided that: “For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino-1,2-diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act [this section and section 811 of this title], place such drugs in schedule IV of such Act [see subsec. (c) of this section].”

Provision of section 102(c) of Pub. L. 95-633, set out above, effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

§ 813. Treatment of controlled substance analogues

(a) In general

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

(b) Determination

In determining whether a controlled substance analogue was intended for human consumption under subsection (a), the following factors may be considered, along with any other relevant factors:

- (1) The marketing, advertising, and labeling of the substance.
- (2) The known efficacy or usefulness of the substance for the marketed, advertised, or labeled purpose.
- (3) The difference between the price at which the substance is sold and the price at which

the substance it is purported to be or advertised as is normally sold.

(4) The diversion of the substance from legitimate channels and the clandestine importation, manufacture, or distribution of the substance.

(5) Whether the defendant knew or should have known the substance was intended to be consumed by injection, inhalation, ingestion, or any other immediate means.

(6) Any controlled substance analogue that is manufactured, formulated, sold, distributed, or marketed with the intent to avoid the provisions of existing drug laws.

(c) Limitation

For purposes of this section, evidence that a substance was not marketed, advertised, or labeled for human consumption, by itself, shall not be sufficient to establish that the substance was not intended for human consumption.

(Pub. L. 91-513, title II, §203, as added Pub. L. 99-570, title I, §1202, Oct. 27, 1986, 100 Stat. 3207-13; amended Pub. L. 100-690, title VI, §6470(c), Nov. 18, 1988, 102 Stat. 4378; Pub. L. 115-271, title III, §3241, Oct. 24, 2018, 132 Stat. 3950.)

REFERENCES IN TEXT

Schedule I, referred to in subsec. (a), is set out in section 812(c) of this title.

AMENDMENTS

2018—Pub. L. 115-271 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1988—Pub. L. 100-690 substituted “any Federal law” for “this subchapter and subchapter II of this chapter”.

§ 814. Removal of exemption of certain drugs

(a) Removal of exemption

The Attorney General shall by regulation remove from exemption under section 802(39)(A)(iv) of this title a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

(b) Factors to be considered

In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

- (1) the scope, duration, and significance of the diversion;
- (2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and
- (3) whether the listed chemical can be readily recovered from the drug or group of drugs.

(c) Specificity of designation

The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.