Session of 2011

HOUSE BILL No. 2098

By Committee on Corrections and Juvenile Justice

1-26

AN ACT concerning controlled substances; relating to methamphetamine precursors; amending K.S.A. 65-4109 and 65-4123 and K.S.A. 2010 Supp. 65-4113 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 65-16,101, 65-16,102, 65-16,103, 65-16,104, 65-16,105, 65-16,106, 65-16,107 and 65-16,108.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-4109 is hereby amended to read as follows: 65-4109. (a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

(A) Amobarbital.....2126

(B) Secobarbital.....2316

(C) Pentobarbital.....2271

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

(2) Any suppository dosage form containing:

(A) Amobarbital..... 2126

(B) Secobarbital..... 2316

(C) Pentobarbital..... 2271

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

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.....2100

(4) Chlorhexadol.....2510

(5) Lysergic acid.....7300

(6) Lysergic acid amide.....7310

(7) Methyprylon.....2575

(8) Sulfondiethylmethane.....2600

(9) Sulfonethylmethane.....2605

(10) Sulfonmethane.....2610
(11) Tiletamine and zolazepam or any salt thereof.....7295
Some trade or other names for a tiletamine-zolazepam combination product: Telazol
Some trade or other names for tiletamine: 2- (ethylamino)-2-(2-thienyl)-cyclohexanone
Some trade or other names for zolazepam: 4- (2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrazapon
(12) Ketamine, its salts, isomers, and salts of isomers.....7285
Some other names for ketamine: (±) -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone
(13) Gamma hydroxybutyric acid, any salt, hydroxybutyric compound, derivative or preparation of gamma hydroxybutyric acid contained in a drug product for which an application has been approved under section 505 of the federal food, drug and cosmetic act

(c) Nalorphine.....9400

(d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
(1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium.....9803
(2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9804
(3) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium.....9805
(4) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9806
(5) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9807
(6) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9808
(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.....9809
(8) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9810

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any

quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the quantitive composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances.....1405

(2) Benzphetamine.....1228

(3) Chlorphentermine.....1645

(4) Chlortermine.....1647

(5) Phendimetrazine.....1615

(6) Ephedrine

(7) Pseudoephedrine

(f) Anabolic steroids.....4000

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

(1) boldenone

(2) chlorotestosterone (4-chlortestosterone)

(3) clostebol

(4) dehydrochlormethyltestosterone

(5) dihydrotestosterone (4-dihydrotestosterone)

(6) drostanolone

(7) ethylestrenol

(8) fluoxymesterone

(9) formebulone (formebolone)

(10) mesterolone

(11) methandienone

(12) methandranone

(13) methandriol

(14) methandrostenolone

(15) methenolone

(16) methyltestosterone

(17) mibolerone

(18) nandrolone

(19) norethandrolone

(20) oxandrolone

(21) oxymesterone

(22) oxymetholone

(23) stanolone

(24) stanozolol
(25) testolactone
(26) testosterone
(27) trenbolone
(28) any salt, ester~~,~~ or isomer of a drug or substance described or listed in this paragraph, if that salt, ester~~,~~ or isomer promotes muscle growth.

(A) Except as provided in (B), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States' secretary of health and human services for such administration.

(B) If any person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection (f).

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product.....7369
Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro -6-6-9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-0l, or (-)-delta-9- (trans)-tetrahydrocannabinol.

(h) *Excluding ephedrine and pseudoephedrine,* the board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Sec. 2. K.S.A. 2010 Supp. 65-4113 is hereby amended to read as follows: 65-4113. (a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing the following narcotic drug or its salts:

Buprenorphine.....9064

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

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

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

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

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

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

(6) Not more than .5 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

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

(1) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counterwithout a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose).....8161
(2) Pyrovalerone.....1485

~~(e) Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.~~

~~(f) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.~~

Sec. 3. K.S.A. 65-4123 is hereby amended to read as follows: 65-4123. (a) Except as otherwise provided in K.S.A. 65-4117, and amendments thereto, or in this subsection ~~(a)~~, no schedule I controlled substance ~~may~~ *shall* be dispensed. The board, by rules and regulations, may designate, in accordance with the provisions of this subsection, ~~(a)~~ a schedule I controlled substance as a schedule I designated prescription

substance. A schedule I controlled substance designated as a schedule I designated prescription substance ~~may~~ *shall* be dispensed only upon the written prescription of a practitioner. ~~Prior to designating a~~ *The board shall not designate a* schedule I controlled substance as a schedule I designated prescription substance~~,~~ *unless* the board ~~shall find~~ *finds that*: (1) ~~That the~~ *The* schedule I controlled substance has an accepted medical use in treatment in the United States; (2) ~~that~~ the public health will benefit ~~by~~ *from* the designation of the substance as a schedule I designated prescription substance; and (3) ~~that~~ the substance may be sold lawfully under federal law pursuant to a prescription. No prescription for a schedule I designated prescription substance ~~may~~ *shall* be refilled.

(b) Except *in emergency situations, or* when dispensed by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II ~~may~~ *shall* be dispensed without the written prescription of a practitioner or a mid-level practitioner. In emergency situations, as defined by rules and regulations of the board, schedule II drugs may be dispensed upon oral prescription of a practitioner or a mid-level practitioner reduced promptly to writing and filed by the pharmacy. No prescription for a schedule II substance ~~may~~ *shall* be refilled.

(c) Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, ~~a~~ *no* controlled substance included in schedule III or IV ~~which is a prescription drug~~ shall ~~not~~ be dispensed without a written or oral prescription of a practitioner or a mid-level practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times.

(d) A controlled substance shall not be distributed or dispensed other than for a medical purpose. Prescriptions shall be retained in conformity with the requirements of K.S.A. 65-4121*,* and amendments thereto.

Sec. 4. K.S.A. 65-4109 and 65-4123 and K.S.A. 2010 Supp. 65-16,101, 65-16,102, 65-16,103, 65-16,104, 65-16,105, 65-16,106, 65-16,107, 65-16,108 and 65-4113 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.