

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 919
HOUSE BILL 294

AN ACT TO REVISE THE LAWS CONCERNING DRUGS, THE VARIOUS ILLEGAL AND DANGEROUS DRUGS AND DRUG SUBSTANCES AND TO PROVIDE LAW ENFORCEMENT AUTHORITIES WITH ADDITIONAL POWERS OF DETECTION OF DRUG TRAFFIC IN THE FORM OF A GENERAL PROCEDURE FOR ELECTRONIC SURVEILLANCE.

The General Assembly of North Carolina enacts:

Section 1. Articles 5 and 5A of Chapter 90 of the General Statutes of North Carolina are rewritten as follows:

"Article 5.

"North Carolina Controlled Substances Act.

"§ 90-86. **Title of Article.** — This Article shall be known and may be cited as the 'North Carolina Controlled Substances Act'.

"§ 90-87. **Definitions.** — As used in this Article:

(a) 'Administer' means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means to the body of a patient or research subject by:

- (1) a practitioner (or, in his presence, by his authorized agent), or
- (2) the patient or research subject at the direction and in the presence of the practitioner.

(b) 'Agent' means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

(c) 'Bureau' means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice or its successor agency.

(d) 'Control' means to add, remove, or change the placement of a drug, substance, or immediate precursor included in Schedules I through VI of this Article.

(e) 'Controlled substance' means a drug, substance, or immediate precursor included in Schedules I through VI of this Article.

(f) 'Counterfeit substance' means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports, or is represented to be the product of or to have been distributed by, such other manufacturer, distributor, or dispenser.

(g) 'Deliver' or 'delivery' means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(h) 'Dispense' means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(i) 'Dispenser' means a practitioner who dispenses.

(j) 'Distribute' means to deliver other than by administering or dispensing a controlled substance.

(k) 'Distributor' means a person who distributes.

(l) 'Drug' means (1) substances recognized in the official United States pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) substances intended for use as a component of any article specified in (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(m) 'Drug dependent person' means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from use of that controlled substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

(n) 'Immediate precursor' means a substance which the North Carolina State Board of Health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

(o) 'Manufacture' means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of a natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

- (1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or
- (2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to research, teaching, or chemical analysis and not for sale.

(p) 'Marihuana' means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(q) 'Narcotic drug' means any of the following, 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, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but

not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(r) 'Opiate' means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under G.S. 90-88, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(s) 'Opium poppy' means the plant of the species *Papa ver somniferum* L., except its seeds.

(t) 'Person' means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(u) 'Peppy straw' means all parts, except the seeds, of the opium poppy, after mowing.

(v) 'Practitioner' means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

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

(w) 'Prescription' means:

(1) A written order or other order which is promptly reduced to writing for a controlled substance as defined in this Article, or for a preparation, combination, or mixture thereof, issued by a practitioner who is licensed in this State to administer or prescribe drugs in the course of his professional practice; a prescription does not include an order entered in a chart or other medical record of a patient by a practitioner for the administration of a drug; or

(2) A drug or preparation, or combination, or mixture thereof furnished pursuant to a prescription order.

(x) 'Production' includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(y) 'Registrant' means a person registered by the North Carolina Drug Authority to manufacture, distribute, or dispense any controlled substance as required by this Article.

(z) 'State' means the State of North Carolina.

(aa) 'Ultimate user' means a person who lawfully possesses a controlled substance for his own use, or for the use of a member of his household, or for administration to an animal owned by him or by a member of his household.

"§ 90-88. Authority to control. — (a) The North Carolina State Board of Health shall administer those portions of this Article having to do with the scheduling of controlled substances under this Article, and may add, delete, or reschedule substances within Schedules I through VI of this Article. On the petition of any interested party, or on its own motion, the North Carolina State Board of Health may add, delete, or reschedule a substance as a controlled substance within Schedules I through VI of this Article. In every case the North Carolina State Board of Health shall give notice of and hold a public hearing prior to adding, deleting or rescheduling a controlled substance within Schedules I through VI of this Article. A petition by the North Carolina Drug Authority, the North Carolina Department of Justice, or the North Carolina Board of Pharmacy to add, delete, or reschedule a controlled substance within Schedules I through VI of this Article shall be placed on the agenda, for consideration, at the next regularly scheduled meeting of the North Carolina State Board of Health, as a matter of

right. Notice as required by this section shall consist of notice by one publication in three newspapers of Statewide circulation qualified for legal advertising in accordance with G.S. 1-597 and 1-598. In addition, the North Carolina State Board of Health shall mail a notice of the proposed change and the date and place of the public hearing to each registrant under this Act. In making a determination regarding a substance, the North Carolina State Board of Health shall consider the following:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect if known;
- (3) the state of current scientific knowledge regarding the substance;
- (4) the history and current pattern of abuse;
- (5) the scope, duration, and significance of abuse;
- (6) the risk to the public health;
- (7) the potential of the substance to produce psychic or physiological dependence liability; and
- (8) whether the substance is an immediate precursor of a substance already controlled under this Article.

(b) After considering the required factors, the North Carolina State Board of Health shall make findings with respect thereto and shall issue an order adding, deleting or rescheduling the substance within Schedules I through VI of this Article.

(c) If the North Carolina State Board of Health designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled or deleted as a controlled substance under federal law, the North Carolina State Board of Health shall similarly control, or cease control of, the substance under this Article after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance unless, within the 30-day period, the North Carolina State Board of Health objects to such inclusion. In such case, the North Carolina State Board of Health shall cause to be published and made public the reasons for such objection and shall afford all interested parties an opportunity to be heard. At the conclusion of such hearing, the North Carolina State Board of Health shall make public its decision, which shall be final unless specifically acted upon by the North Carolina General Assembly. Upon publication of objection to inclusion under this Article by the North Carolina State Board of Health, control under this section shall automatically be stayed until such time as the North Carolina State Board of Health makes public its decision.

(e) The North Carolina State Board of Health shall exclude any non-narcotic substance from the provisions of this Article if such substance may, under the Federal Food, Drug and Cosmetic Act, lawfully be sold over-the-counter without prescription.

(f) Authority to control under this Article does not include distilled spirits, wine, malt beverages, or tobacco.

"§ 90-89. Schedule I controlled substances. — This Schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this Schedule, the North Carolina State Board of Health shall find: a high potential for abuse, no currently accepted medical use in the United States, or a lack of accepted safety for use in treatment under medical supervision. The following controlled substances are included in this Schedule:

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

1. Acetylmethadol.
2. Allylprodine.

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

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

1. Acetorphine.
2. Acetyldihydrocodeine.
3. Benzylmorphinr
4. Codeine methylbromide.
5. Codeine-N-Oxide.
6. Cyprenorphine.
7. Desomorphine
8. Dihydromorphine

9. Etorphine
10. Heroin.
11. Hydromorphenol.
12. Methylidesorphine .
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) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers, unless specifically excepted, or listed in another schedule, 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. Mescaline.
11. Peyote.
12. N-ethyl-3-piperidyl benzilate.
13. N-methyl-3-piperidyl benzilate.
14. Psilocybin.
15. Psilocyn.

"§ 90-90. **Schedule II controlled substances.** — This Schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this Schedule, the North Carolina State Board of Health shall find: a high potential for abuse; currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; and the abuse of the substance may lead to severe psychic or physical dependence. The following controlled substances are included in this Schedule:

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by 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 to any of the substances referred to in G.S. 90-90(a), but not including the isoquinoline alkaloids of opium.
3. Opium poppy and poppy straw.

4. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical to any of these substances, except that these substances shall not include decocainized coca leaves or extractions of coca leaves, which extracts do not contain cocaine or ecgonine.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation unless specifically exempted or listed in other schedules:

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-diphenyl-propane-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 exempted or listed in another schedule, any injectionable liquid which contains any quantity of methamphetamine, including its salts, isomers, or salts of isomers.

"§ 90-91. Schedule III controlled substances. — This Schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this Schedule, the North Carolina State Board of Health shall find: a potential for abuse less than the substances listed in Schedules I and II; currently accepted medical use in the United States; and abuse may lead to moderate or low physical dependence or high psychological dependence. The following controlled substances are included in this Schedule:

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

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

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

1. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
 2. Chlorhexadol.
 3. Glutethimide.
 4. Lysergic acid.
 5. Lysergic acid amide.
 6. Methyprylon.
 7. Phencyclidine.
 8. Sulfondiethylmethane.
 9. Sulfonethylmethane.
 10. Sulfonmethane.
- (c) Nalorphine.
- (d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof unless specifically exempted or listed in another schedule:
1. Not more than 1.80 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 1.80 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 four-fold 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, non-narcotic ingredients in recognized therapeutic amounts.
 5. Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic 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, non-narcotic 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, non-narcotic ingredients in recognized therapeutic amounts.
 8. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- (e) Any compound, mixture or preparation containing limited quantities of the following narcotic drugs, which shall include one or more active, non-narcotic, 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. Paregoric, USP; provided, that no person shall purchase or receive by any means whatsoever more than one fluid ounce of paregoric within a consecutive 24-hour period, except on prescription issued by a duly licensed physician.
- (f) Paregoric, U.S.P., may be dispensed at retail as permitted by federal law or administrative regulation without a prescription only by a registered pharmacist and no other person, agency or employee may dispense paregoric, U.S.P., even if under the direct supervision of a pharmacist.

(g) Notwithstanding the provisions of G.S. 90-91(f), after the pharmacist has fulfilled his professional responsibilities and legal responsibilities required of him in this Article, the actual cash transaction, credit transaction, or delivery of paregoric U.S.P., may be completed by a non-pharmacist. A pharmacist may refuse to dispense a paregoric, U.S.P., substance until he is satisfied that the product is being obtained for medicinal purposes only.

(h) Paregoric, U.S.P., may only be sold at retail without a prescription to a person at least 18 years of age. A pharmacist must require every retail purchaser of a paregoric, U.S.P., substance to furnish suitable identification, including proof of age when appropriate, in order to purchase paregoric, U.S.P. The name and address obtained from such identification shall be entered in the record of disposition to consumers.

(i) The North Carolina State Board of Health may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (a)(1) and (a) (2) of this Schedule 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 ingredients are included therein in such 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.

"§ 90-92. Schedule IV controlled substances. — This Schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this Schedule, the North Carolina State Board of Health shall find: a low potential for abuse relative to the substances listed in Schedule III of this Article; currently accepted medical use in the United States; and limited physical or psychological dependence relative to the substances listed in Schedule III of this Article. The following controlled substances are included in this Schedule:

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances unless specifically exempted or listed in another schedule:

1. Barbitol.
2. Chloral betaine.
3. Chloral hydrate.
4. Ethchlorvynol.
5. Ethinamate.
6. Meproamate.
7. Methohexital.
8. Methylphenobarbital.
9. Paraldehyde.
10. Petrichloral.
11. Phenobarbital.

(b) The North Carolina State Board of Health may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in this Schedule from the application of all or any part of this Article if the compound, mixture, or preparation contains one or more active, non-narcotic, medicinal ingredients not having a stimulant or depressant effect of the central nervous system; Provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

"§ 90-93. Schedule V controlled substances. — This Schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this Schedule, the North Carolina State Board of Health shall find: a low potential for abuse relative to the substances listed in Schedule IV of this Article; currently accepted medical use in the United

States; and limited physical or psychological dependence relative to the substances listed in Schedule IV of this Article. The following controlled substances are included in this Schedule:

(a) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more active, non-narcotic, 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.

(b) A Schedule V substance may be dispensed at retail without a prescription only by a registered pharmacist and no other person, agent or employee may dispense a Schedule V substance even if under the direct supervision of a pharmacist.

(c) Notwithstanding the provisions of G.S. 90-93(b), after the pharmacist has fulfilled the responsibilities required of him in this Article, the actual cash transaction, credit transaction, or delivery of a Schedule V substance, may be completed by a non-pharmacist. A pharmacist may refuse to dispense a Schedule V substance until he is satisfied that the product is being obtained for medicinal purposes only.

(d) A Schedule V substance may be sold at retail without a prescription only to a person at least 18 years of age. The pharmacist must require every retail purchaser of a Schedule V substance to furnish suitable identification, including proof of age when appropriate, in order to purchase a Schedule V substance. The name and address obtained from such identification shall be entered in the record of disposition to consumers.

"§ 90-94. Schedule VI controlled substances. — This Schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that such substance comes within this Schedule, the North Carolina State Board of Health shall find: no currently accepted medical use in the United States, or a relatively low potential for abuse in terms of risk to public health and potential to produce psychic or physiological dependence liability based upon present medical knowledge, or a need for further and continuing study to develop scientific evidence of its pharmacological effects.

(a) The following controlled substances are included in this Schedule:

1. Marihuana.
2. Tetrahydrocannabinols.

"§ 90-95. Violations, penalties. — (a) Except as authorized by this Article, it shall be unlawful for any person:

- (1) to manufacture, distribute or dispense or possess with intent to distribute a controlled substance listed in any Schedule of this Article;
- (2) to create, distribute or possess with intent to distribute a counterfeit controlled substance included in any Schedule of this Article;
- (3) to possess a controlled substance included in any Schedule of this Article.

(b) Any person who violates G.S. 90-95(a)(1) or G.S. 90-95(a)(2) shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court. In addition to any term of imprisonment, any sentence imposed may include a special probation term of not more than the difference between the time required to be actively served and five years. Any

person convicted of a second violation of G.S.90-95(a)(1) or G.S. 90-95(a)(2) shall be sentenced to a term of not less than five years nor more than ten years or fined not more than ten thousand dollars (\$10,000) or both in the discretion of the court. Any person convicted of a third or subsequent violation of G.S. 90-95(a)(1) or G.S. 90-95(a)(2) shall be sentenced to a term of not less than fifteen years nor more than the term of his life or fined not more than fifteen thousand dollars (\$15,000) or both in the discretion of the court.

(c) Any person who violates G.S. 90-95(a)(3) with respect to controlled substances included in Schedules I or II of this Article shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000) or both in the discretion of the court. In addition to any term of imprisonment, any sentence imposed may include a special probation term of not more than the difference between the time required to be actively served and five years. Any person convicted of a second violation of G.S. 90-95(a)(3) with respect to controlled substances included in Schedules I or II of this Article shall be guilty of a felony and shall be sentenced to a term of not less than five years nor more than ten years or fined not more than ten thousand dollars (\$10,000), or both, in the discretion of the court. Any person convicted of a third or subsequent violation of G.S. 90-95(a)(3) with respect to controlled substances included in Schedules I or II of this Article shall be guilty of a felony and shall be sentenced to a term of not less than fifteen years nor more than the term of his lifetime or fined not more than fifteen thousand dollars (\$15,000), or both, in the discretion of the court.

(d) Any person who violates G.S. 90-95(a)(3) with respect to controlled substances included in Schedules III and IV of this Article shall, for the first offense, be guilty of a misdemeanor. In addition to any term of imprisonment, any sentence imposed may include a special probation term of not more than the difference between the time required to be actively served and two years. Any person convicted of a second violation with respect to controlled substances included in Schedules III and IV, of this Article, shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both, in the discretion of the court. Any person convicted of a third or subsequent violation of G.S. 90-95(a)(3) with respect to controlled substances included in Schedules III and IV of this Article shall be guilty of a felony.

(e) Any person who violates G.S. 90-95(a)(3) with respect to controlled substances included in Schedules V and VI of this Article shall, for the first offense, be guilty of a misdemeanor and be sentenced to a term of imprisonment of not more than six months or fined not more than five hundred dollars (\$500.00). Any person convicted of a second violation of G.S. 90-95(a)(3) with respect to controlled substances included in Schedules V and VI of this Article shall be guilty of a misdemeanor and be sentenced to a term of imprisonment of not more than two years, or fined, or by both in the discretion of the court. Any person convicted of a third or subsequent violation of G.S. 90-95(a)(3) with respect to controlled substances included in Schedules V and VI of this Article shall be guilty of a felony.

(f) Possession by any person of controlled substances included in any Schedule of this Article in violation of G.S. 90-95(a)(3) shall be presumed to be possession of such substances for purposes of violating G.S. 90-95(a)(1) in the following cases:

- (1) possession of more than 25 tablets, capsules, or other dosage forms of any controlled substance included in Schedules III or IV of this Article;
- (2) possession of more than 5 fluid ounces of paregoric, U.S. P., as controlled within Schedule III of this Article;
- (3) possession of more than 5 grams of marijuana as controlled within Schedule VI of this Article from which the resin has not been extracted, or possession of more than one gram of the extracted resin thereof and every salt, compound, derivative, mixture or preparation of such resin, or possession of more than one one-hundredth gram of tetrahydrocannabinols.

(g) A special probation term imposed under this Article may include, but need not be limited to, requirements for rehabilitation treatment.

(h) A special probation term imposed under this Article may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall not be increased by the period of the special probation term and the resulting term of imprisonment shall not be diminished by the time which was spent on special probation. A person whose special probation term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment.

(i) Any person who is at least 18 years of age but not 21 years of age or older who violates this Article by distributing a substance included in Schedules I through VI of this Article to a person under 18 years of age who is at least three years younger than himself shall be punished by up to twice the maximum fine and term of imprisonment authorized. Any person who is 21 years of age or older who distributes a substance included in Schedules I through VI of this Article to any person less than 21 years of age shall be punished by a term of not less than ten years nor more than life imprisonment and shall be fined not more than fifteen thousand dollars (\$15,000) for the first and all subsequent violations of this Article.

"§ 90-95.1. Continuing criminal enterprise. — (a) Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than ten (10) years and which may be up to life imprisonment, to a fine of not more than one hundred thousand dollars (\$100,000), and to the forfeiture prescribed in subsection (b) of this section; except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than twenty (20) years and which may be up to life imprisonment, to a fine of not more than two hundred thousand dollars (\$200,000), and to the forfeiture described in subsection (b) of this section.

(b) Any person who is convicted under subsection (a) of engaging in a continuing criminal enterprise shall forfeit to the State of North Carolina:

1. the profits obtained by him in such enterprise, and
2. any of his interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

(c) For purposes of this section, a person is engaged in a continuing criminal enterprise if:

1. he violates any provision of this act, the punishment of which is a felony; and
2. such violation is a part of a continuing series of violations of this act;
 - A. which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management; and
 - B. from which such person obtains substantial income or resources.

(d) In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted.

"§ 90-96. Conditional discharge and expunction of records for first offense. — (a) Whenever any person who has not previously been convicted of any offense under this Article, or under any statute of the United States, or any state relating to controlled substances included in any Schedule of this Article pleads guilty to or is found guilty of violating this Article by possessing a controlled substance included within Schedules III through VI of this Article, the court may without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may require. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court

shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions of this Article. Discharge and dismissal under this section may occur only once with respect to any person.

(b) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (a) of this subsection, such person, if he were not over 21 years of age at the time of the offense, may apply to the court for an order to expunge from all official records (other than the confidential file to be retained by the North Carolina Department of Justice under paragraph (c)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over 21 years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

(c) The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the North Carolina Department of Justice, the names of all persons convicted under this act, together with the offense or offenses of which such persons were convicted. The clerk shall also file with the North Carolina Department of Justice the names of those persons granted a conditional discharge under the provisions of this act, and the North Carolina Department of Justice shall maintain a confidential file containing the names of persons granted conditional discharges. The information contained in such file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense under this Article has been previously granted a conditional discharge.

"§ 90-97. Other penalties. — Any penalty imposed for violation of this Article shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law. If a violation of this act is a violation of a Federal law or the law of another state, a conviction or acquittal under Federal law or the law of another state for the same act is a bar to prosecution in this State.

"§ 90-98. Attempt and conspiracy; penalties. — Any person who attempts or conspires to commit any offense defined in this Article is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"§ 90-99. Republishing of schedules. — The North Carolina Drug Authority shall update and republish the Schedules established by this Article on a semi-annual basis for two years from the effective date of this Article, and thereafter on an annual basis.

"§ 90-100. Rules and regulations. — The North Carolina Drug Authority is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this State.

"§ 90-101. Registration requirements. — (a) Every person who manufactures, distributes, dispenses or conducts research with any controlled dangerous substance within this State or who proposes to engage in the manufacture, distribution, dispensing of, or the conduct of research with any controlled substance within this State, shall obtain annually a registration issued by the North Carolina Drug Authority in accordance with the rules and regulations promulgated by it.

(b) Persons registered by the North Carolina Drug Authority under this Article (including research facilities) to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Article.

(c) The following persons shall not be required to register and may lawfully possess controlled substances under the provisions of this Article:

- (1) an agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled substance if such agent is acting in the usual course of his business or employment;
- (2) a common or contract carrier, or public warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment;
- (3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner;
- (4) practitioners licensed in North Carolina by their respective licensing boards under Articles 1, 2, 4, 6, 11 and 12 of this Chapter.
- (5) Any law enforcement officer acting within the course and scope of official duties, or any person employed in an official capacity by, or acting as an agent of, any law enforcement agency or other agency charged with enforcing the provisions of this Article when acting within the course and scope of official duties.

(d) The North Carolina Drug Authority, may, by regulation, waive the requirement for registration of certain classes of manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration shall be required at each principal place of business, research or professional practice where the registrant manufactures, distributes, dispenses or uses controlled substances.

(f) The North Carolina Drug Authority is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by it.

"§ 90-102. Registration. — (a) The North Carolina Drug Authority shall register an applicant to manufacture or distribute controlled substances included in Schedules I through VI of this Article unless it determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

- (1) maintenance of effective controls against diversion of any controlled substances and any substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;
- (2) compliance with applicable federal, state and local law;
- (3) prior conviction record of applicant, its agents or employees under federal and State laws relating to the manufacture, distribution, or dispensing of such substances;
- (4) past experience in the manufacture of controlled substances, and the existence in the establishment or facility of effective controls against diversion; and
- (5) any factor relating to revocation, suspension, or denial of past registrations, licenses, or applications under this or any other state or federal law;
- (6) such other factors as may be relevant to and consistent with the public health and safety.

(b) Registration granted under subsection (a) of this section shall not entitle a registrant to manufacture and distribute controlled substances included in Schedule I or II other than those specified in the registration.

(c) Practitioners, other than those exempted by G.S. 90-101 (c)(4) must be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the laws of this State. The North Carolina Drug Authority need not require separate registration under this Article for practitioners engaging in research with non-narcotic controlled substances in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under Federal law to conduct research with Schedules I and VI substances may conduct research with Schedules I and VI substances within this State upon furnishing the North Carolina Drug Authority evidence of that Federal registration.

(d) Manufacturers, distributors and research facilities registered or licensed under federal law to manufacture, distribute or do research on controlled substances included in Schedules I through VI of this Article shall be entitled to registration under this Article, but such registration is expressly made subject to the provisions of G.S. 90-103. Research facilities registered under Federal law to conduct research with Schedules I and VI controlled substances may conduct research with Schedules I and VI controlled substances within this State upon furnishing the North Carolina Drug Authority evidence of that Federal registration.

(e) The North Carolina Drug Authority shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any substances prior to the effective date of this Article and who are registered or licensed by the State.

"§ 90-103. Revocation or suspension of registration. — (a) A registration under G.S. 90-102 to manufacture, distribute, or dispense a controlled substance, may be suspended or revoked by the North Carolina Drug Authority upon a finding that the registrant:

- (1) has furnished false or fraudulent material information in any application filed under this Article;
- (2) has been convicted of a felony under any State or federal law relating to any controlled substance; or
- (3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(b) The North Carolina Drug Authority may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) Before denying, suspending, or revoking a registration or refusing a renewal of registration, the North Carolina Drug Authority shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the North Carolina Drug Authority at a time and place not less than 30 days after the date of service of the order, but in the case of a denial or renewal of registration, the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with rules and regulations of the North Carolina Drug Authority required by G.S. 143, Article 18, and subject to judicial review as provided in G.S. 143, Article 33. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this Article or any law of the State.

(d) The North Carolina Drug Authority may suspend, without an order to show cause, any registration simultaneously with the institutions of proceedings under this section, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the

conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the North Carolina Drug Authority, or dissolved by a court of competent jurisdiction.

(e) In the event the North Carolina Drug Authority suspends or revokes a registration granted under G.S. 90-102, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the North Carolina Drug Authority be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances may be ordered forfeited to the State.

(f) The Bureau shall promptly be notified of all orders suspending or revoking registration.

"§ 90-104. Records of registrants or practitioners. — Each registrant or practitioner manufacturing, distributing, or dispensing controlled substances under this act shall keep records and maintain inventories in conformance with the record-keeping and the inventory requirements of the federal law and shall conform to such rules and regulations as may be promulgated by the North Carolina Drug Authority.

"§ 90-105. Order forms. — Controlled substances included in Schedules I and II of this Article shall be distributed only by a registrant or practitioner, pursuant to an order form. Compliance with the provisions of the Federal Controlled Substances Act or its successor respecting order forms shall be deemed compliance with this section.

"§ 90-106. Prescriptions and labeling. — (a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule II of this Article may be dispensed without the written prescription of a practitioner.

(b) In emergency situations, as defined by rule of the North Carolina State Board of Health, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the dispensing agent. Prescriptions shall be retained in conformity with the requirements of Section 90-104. No prescription for a Schedule II substance may be refilled.

(c) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedules III or IV, except paregoric, U.S.P., as provided in G.S. 90-91(e)., of this Article may be dispensed without a prescription, and oral prescriptions shall be promptly reduced to writing and filed with the dispensing agent. Such prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription.

(d) No controlled substance included in Schedule V of this Article or paregoric, U.S.P., may be distributed or dispensed other than for a medical purpose.

(e) No controlled substance included in Schedule VI of this Article may be distributed or dispensed other than for scientific or research purposes by persons registered under, or permitted by, this Article to engage in scientific or research projects.

(f) No controlled substance shall be dispensed or distributed in this State unless such substance shall be in a container clearly labeled in accord with regulations lawfully adopted and published by the federal government or the North Carolina Drug Authority.

(g) When a copy of a prescription for a controlled substance under this article is given as required by G.S. 90-70, such copy shall be plainly marked: 'Copy - for information only.' Copies of prescriptions for controlled substances shall not be filled or refilled.

(h) A pharmacist dispensing a controlled substance under this article shall enter the date of dispensing and shall write his own signature on the face of the prescription pursuant to which such controlled substance was dispensed.

"§ 90-107. **Prescriptions, stocks, etc., open to inspection by officials.** — Prescriptions, order forms and records, required by this Article, and stocks of controlled substances included in Schedules I through VI of this Article shall be open for inspection only to federal and State officers, whose duty it is to enforce the laws of this State or of the United States relating to controlled substances included in Schedules I through VI of this Article. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge other than to other law enforcement officials or agencies, except in connection with a prosecution or proceeding in court or before a licensing board or officer to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

"§ 90-108. **Prohibited acts; penalties.** — (a) It shall be unlawful for any person:

- (1) other than practitioners licensed under Articles 1, 2, 4, 6, 11, 12 of this Chapter to represent to any registrant who manufactures, distributes, or dispenses a controlled substance under the provision of this Article that he is a licensed practitioner in order to secure or attempt to secure any controlled substance as defined in this Article or to in any way impersonate a practitioner for the purpose of securing or attempting to secure any drug requiring a prescription from a practitioner as listed above and who is licensed by this State.
- (2) who is subject to the requirements of G.S. 90-101 or a practitioner to distribute or dispense a controlled substance in violation of G.S. 90-105 or 90-106;
- (3) who is a registrant to manufacture, distribute, or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;
- (4) to omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or its successor;
- (5) to refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice or information required under this Article;
- (6) to refuse any entry into any premises or inspection authorized by this Article;
- (7) to knowingly keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled substances in violation of this Article for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this Article.
- (8) who is a registrant or a practitioner to distribute a controlled substance included in Schedule I or II of this Article in the course of his legitimate business, except pursuant to an order form as required by G.S. 90-105;
- (9) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;
- (10) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;
- (11) to furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this Article, or any record required to be kept by this Article;
- (12) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the

foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled substance.

(b) Any person who violates this section shall be guilty of a misdemeanor. Provided, that if the violation is prosecuted by an information, indictment, or warrant which alleges that the violation was committed intentionally, and upon trial it is specifically found that the violation was committed intentionally, such violations shall be a felony punishable by imprisonment for not less than one year nor more than five years and a fine of not more than five thousand dollars (\$5,000).

"§ 90-109. Nonprofessional treatment. — (a) Any person other than a practitioner, who holds himself out to the public, or any part of it, as being a drug treatment facility, or as being able or available to treat, give shelter or comfort to, or who proposes to do any of the foregoing to or for any person using, under the influence of, or experiencing the effects of a controlled substance included in Schedules I through VI of this Article shall first be licensed by the North Carolina Drug Authority as a drug treatment facility.

(b) A license required by this section shall be obtained from the North Carolina Drug Authority and may be in the form of a letter from the North Carolina Drug Authority, signed by the Director of the North Carolina Drug Authority to the person applying for the license. A license as required by this section shall not be transferable, shall be prominently displayed at the place where treatment, shelter or comfort are afforded, and shall bear such reasonable restrictions, including duration, as the North Carolina Drug Authority may impose on it. A license application as required by this section need not be in any special form, but must disclose the essential plan of operation of the proposed drug treatment facility, the names and qualifications of all persons agreeing to provide professional medical services, paramedical or associated services, and the identity and qualifications of the supervisory and adult persons who will be available at the place of the proposed drug treatment facility.

(c) The North Carolina Drug Authority shall not issue a drug treatment facility license to an applicant until it shall satisfy itself that professional and competent medical services are at all times available to the applicant at the drug treatment facility, that a responsible adult will be present or immediately available to the applicant at all times at the drug treatment facility, and that the applicant will make a positive contribution toward controlling drug dependence and assisting drug dependent persons. The North Carolina Drug Authority may deny license applications of proposed or existing drug treatment facilities if it finds there are reasonable grounds for belief that issuance of the license would be inconsistent with the safety of the public or with the application of law.

(d) A license granted under this section shall not in any way alter or reduce the liability of the licensee, its agents or employees, voluntary or compensated, with respect to any phase of its operations.

(e) Violation of this section shall be a misdemeanor.

"§ 90-109.1. Treatment. — (a) A person may request treatment and rehabilitation for drug dependence from a practitioner, and such practitioner or employees thereof shall not disclose the name of such person to any law enforcement officer or agency; nor shall such information be admissible as evidence in any court, grand jury, or administrative proceeding unless authorized by the person seeking treatment. A practitioner may undertake the treatment and rehabilitation of such person or refer such person to another practitioner for such purpose and under the same requirement of confidentiality.

(b) A person seeking treatment or rehabilitation for drug dependence shall first be examined and evaluated by a practitioner. Such practitioner shall prescribe a proper-course of treatment and medication, if needed. The treating practitioner may further prescribe a course of treatment or rehabilitation and authorize another practitioner to provide the prescribed treatment or rehabilitation services.

(c) Every practitioner that provides treatment or rehabilitation services to a person dependent upon drugs, shall periodically as required by the Director of the North Carolina Drug Authority commencing January 1, 1972, make a statistical report to the Director of the North Carolina Drug Authority in such form and manner as the director shall prescribe for each such person treated or to whom rehabilitation services were provided. The form of the report prescribed shall be furnished by the Director of the North Carolina Drug Authority. Such report shall include the number of persons treated or to whom rehabilitation services were provided; the county of such person's legal residence; the age of such person; the number of such persons treated as inpatients and the number treated as outpatients; the number treated who had received previous treatment or rehabilitation services; and any other data required by the director. If treatment or rehabilitation services are provided to a person by a hospital, public agency, or drug treatment facility, such hospital, public agency, or drug treatment facility shall coordinate with the treating medical practitioner so that statistical reports required in this section shall not duplicate one another. The director shall cause all such reports to be compiled into periodical reports which shall be a public record.

"§ 90-110. Injunctions. — (a) The Superior Court of North Carolina shall have jurisdiction in proceedings in accordance with the rules of those courts to enjoin violations of this Article.(b) In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the rules of the Superior Courts of North Carolina.

"§ 90-111. Cooperative arrangements. — (a) The North Carolina Drug Authority and the Attorney General of North Carolina shall cooperate with Federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they are authorized to:

- (1) arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;
- (2) coordinate and cooperate in training programs on controlled substances for law enforcement at the local and state levels;
- (3) cooperate with the Bureau by establishing a centralized unit which will accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the State, and make such information available for federal, State, and local law enforcement purposes. Provided that neither the Attorney General of North Carolina, the North Carolina Drug Authority, nor any other State officer or agency shall be authorized to accept or file, or give out the names or other form of personal identification of drug dependent persons who voluntarily seek treatment or assistance related to their drug dependency.

"§ 90-112. Forfeitures. — (a) The following shall be subject to forfeiture:

- (1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of the provisions of this Article;
- (2) All raw material, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of the provisions of this Article;
- (3) All property which is used, or intended for use, as a container for property described in subsections (1) and (2);
- (4) All conveyances, including vehicles, vessels, or aircraft, which are used or intended for use to unlawfully conceal, convey, or transport, or in any manner to facilitate the unlawful concealment, conveyance, or transportation of property described in (1) or (2), except that

- a. No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this chapter unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this Article;
 - b. No conveyance shall be forfeited under the provisions of this section by reason of any act or omission, committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state;
 - c. No conveyance shall be forfeited under the provisions of this section unless the violation is that encompassed in section 90-95(a)(1) or 90-95(a)(2) of this Article.
 - d. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who had no knowledge of or consented to the act or omission.
- (5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this Article.
- (b) Any property subject for forfeiture under this Article may be seized by any law enforcement officer upon process issued by any district or superior court having jurisdiction over the property except that seizure without such process may be made when:
- (1) The seizure is incident to an arrest or a search under a search warrant;
 - (2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this Article.
- (c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in custody of the law enforcement agency seizing it, which may:
- (1) Place the property under seal; or,
 - (2) Remove the property to a place designated by it; or,
 - (3) Request that the North Carolina Department of Justice take custody of the property and remove it to an appropriate location for disposition in accordance with law.
- (d) Whenever property is forfeited under this Article, the law enforcement agency having custody of it may:
- (1) Retain the property for official use; or
 - (2) Sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be disposed of for payment of all proper expenses of the proceedings for forfeiture and sale including expense of seizure, maintenance of custody, advertising, and court costs; or
 - (3) Transfer any conveyance including vehicles, vessels, or aircraft which are forfeited under the provisions of this Article to the North Carolina Department of Justice when, in the discretion of the presiding judge and upon application of the North Carolina Department of Justice, said conveyance may be of official use to the North Carolina Department of Justice;
 - (4) Upon determination by the director of any law enforcement agency that a vehicle, vessel or aircraft transferred pursuant to the provisions of this article is of no further use to said agency for use in official investigations, such vehicle, vessel or aircraft may be sold as surplus property in the same manner as other vehicles owned by the law enforcement agency and the

proceeds from such sale after deducting the cost of sale shall be paid to the treasurer or proper officer authorized to receive fines and forfeitures to be used for the school fund of the county in the county in which said vehicle, vessel or aircraft was seized; provided, that any vehicle transferred to any law enforcement agency under the provisions of this article which has been modified to increase speed shall be used in the performance of official duties only and not for resale, transfer or disposition other than as junk.

(e) All substances included in Schedules I through VI that are possessed, transferred, sold, or offered for sale in violation of the provisions of this Article shall be deemed contraband and seized and summarily forfeited to the State. All substances included in Schedules I through VI of this Article which are seized or come into the possession of the State, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the State according to rules and regulations of the North Carolina Department of Justice.

- (1) All species of plants from which controlled substances included in Schedules I, II and VI of this Article may be derived, which have been planted or cultivated in violation of this Article, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.
- (2) The failure, upon demand by the Attorney General of North Carolina, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

"§ 90-113. Furnishing controlled substances to inmates of charitable, mental or penal institutions. — If any person shall sell or give to any inmate of any charitable, mental or penal institution any controlled substance included in Schedules I through VI of this Article, except under the general supervision of a practitioner, he shall be guilty of a felony, and, upon conviction thereof, punished as provided in G.S. 90-95; and if he be an officer or employee of any institution of the State, he shall be dismissed from his office.

"§ 90-113.1. Burden of proof; liabilities. — (a) It shall not be necessary for the State to negate any exemption or exception set forth in this Article in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this Article, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this Article, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

(c) No liability shall be imposed by virtue of this Article upon any duly authorized officer, engaged in the lawful enforcement of this Article.

"§ 90-113.2. Judicial review. — All final determinations, findings, and conclusions of the North Carolina Drug Authority or the North Carolina State Board of Health under this Article shall be final and conclusive decisions of the matters involved, except that any person aggrieved by such decision may obtain review of the decision as provided in G.S. 143, Article 33. Findings of fact by the North Carolina Drug Authority or the North Carolina State Board of Health, if supported by substantial evidence, shall be conclusive.

"§ 90-113.3. Education and research. — (a) The North Carolina Department of Public Instruction and the North Carolina State Board of Higher Education are authorized and directed to carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with such programs, they are authorized to:

- (1) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;
- (2) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances; and
- (3) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them.

(b) The North Carolina Department of Public Instruction and the North Carolina Board of Higher Education or either of them may enter into contracts for educational activities related to controlled substances.

(c) The North Carolina Drug Authority is authorized and directed to encourage research on misuse and abuse of controlled substances. In connection with such research and in furtherance of the enforcement of this Article, it is authorized to:

- (1) Establish methods to assess accurately the effects of controlled substances and to identify and characterize controlled substances with potential for abuse;
- (2) Make studies and undertake programs of research to:
 - a. Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this Article;
 - b. Determine patterns of misuse and abuse of controlled substances and the social effect thereof; and
 - c. Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.
- (3) Enter into contracts with the North Carolina State Board of Health, with other public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(d) The North Carolina Drug Authority may enter into contracts for research activities related to controlled substances, and the North Carolina Department of Public Instruction and the North Carolina Board of Higher Education or either of them may enter into contracts for educational activities related to controlled substances, without performance bonds.

(e) The North Carolina Drug Authority may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any State civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(f) The North Carolina Drug Authority may authorize persons engaged in research to possess and distribute controlled substances in accordance with such restrictions as the authorization may impose. Persons who obtain this authorization shall be exempt from State prosecution for possession and distribution of controlled substances to the extent authorized by the North Carolina Drug Authority.

"§ 90-113.4. Possession of hypodermic syringes and needles regulated. — (a) No person except a manufacturer or a wholesaler or agents or employees of such manufacturers or wholesalers or a retail dealer in surgical instruments, practitioner, or registered research facility, shall at any time have or possess a hypodermic syringe or needle or any instrument or implement adapted for the use of administering controlled substances injections and which is possessed for the purpose of administering controlled substances, unless such possession be authorized by the certificate of a physician issued within the period of one year prior thereto;

provided, however, a nurse who is licensed by the North Carolina Board of Nursing and who is specifically authorized by a physician or dentist to give subcutaneous injections under the supervision or direction of such physician or dentist may possess hypodermic syringes or needles for the purpose of giving such injections.

(b) Violation of this Section shall be a misdemeanor.

"§ 90-113.5. State Board of Pharmacy, North Carolina Department of Justice and peace officers to enforce Article. — It is hereby made the duty of the State Board of Pharmacy, its officers, agents, inspectors, and representatives, and all peace officers within the State, including agents of the North Carolina Department of Justice, and all State's attorneys, to enforce all provisions of this Article, except those specifically delegated, and to co-operate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to controlled substances. The North Carolina Department of Justice is hereby authorized to make initial investigation of all violations of this Article, and is given original but not exclusive jurisdiction in respect thereto with all other law enforcement officers of the State.

"§ 90-113.6. Payments and advances. — (a) The Attorney General is authorized to pay any person, from funds appropriated for the North Carolina Department of Justice, for information concerning a violation of this Article, such sum or sums of money as he may find appropriate, without reference to any rewards to which such persons may otherwise be entitled by law.

(b) Monies expended from appropriations of North Carolina Department of Justice for the purchase of controlled substances or other substances proscribed by this Article which is subsequently recovered shall be reimbursed to the current appropriation for the Department.

(c) The Attorney General is authorized to direct the advance of funds by the State Treasurer in connection with the enforcement of this Article.

"§ 90-113.7. Pending proceedings. — (a) Prosecutions for any violation of law occurring prior to the effective date of this Article shall not be affected by these repealers, or amendments, or abated by reason, thereof.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this Article shall not be affected by these repealers, or amendments, or abated by reason, thereof.

(c) All administrative proceedings pending on the effective date of this enactment shall be continued and brought to final determination in accord with laws and regulations in effect prior to the date of this enactment. Such drugs placed under control prior to enactment of this Article which are not included within Schedules I through VI of this Article shall automatically be controlled and listed in the appropriate schedule.

(d) The provisions of this Article shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings, and investigations which occur following its effective date."

Sec. 2. Continuation of regulations. — Any orders, rules, and regulations which have been promulgated under any law affected by this act and which are in effect on the day preceding the effective date of this act shall continue in effect until modified, superseded, or repealed by proper authority.

Sec. 3. Severability. — If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.

Sec. 4. Effective date. — This act shall take effect on January 1, 1972.

In the General Assembly read three times and ratified, this the 19th day of July, 1971.