

for nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine which are not listed in another schedule.

(6) The transaction information provided for in R.S. 40:1049.3 for the purchase of a nonprescription product containing ephedrine, pseudoephedrine, or phenylpropanolamine shall constitute an "order from a practitioner" as provided for in R.S. 40:970(C). Possession of a nonprescription product containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to a valid transaction as provided for in R.S. 40:1049.3 shall be a defense for a violation of R.S. 40:970(C).

(Paragraph E added by Act 314 of 2009 Legislature)

(Amended by Act 513 of 1991 Legislature; Act 842 of 1991 Legislature, effective July 23, 1991; Act 156 of 1993 Legislature; Act 288 of 1993 Legislature; and Act 616 of 1993 Legislature)

*NOTE: Asterisks in Schedule I(A) and (B) indicate substances for which greater penalties are provided in R.S. 40:966(B) and (C).

§964.1. Treatment of controlled analogues

A controlled substance analogue shall be treated, for the purposes of any state law and to the extent intended for human consumption, as a controlled dangerous substance in either Schedule I or Schedule II of R.S. 40:964.

(Added by Act 34 of 1994 Legislature; Amended by Act 1036 of 2001 Legislature)

§965. Secretary of Department of Health and Hospitals; authority to except

A. The Secretary of the Department of Health and Hospitals may, by regulation, except any material, compound, mixture, or preparation containing any depressant or stimulant substance listed in Subsection A, B, C, or D of Schedule III or in Schedule IV or Schedule V from the application of all or any part of this Part if the material, compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, provided that such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

B. The Secretary of the Department of Health and Hospitals may, by regulation, exempt any compound, mixture, or preparation containing any anabolic steroid substances listed in Schedule III(E) of R.S. 40:964 from the application of all or any part of this Part if, because of its concentration, preparation, mixture, or delivery system, it has no significant potential for abuse.

(Added by Act 513 of 1991 Legislature)

§966. Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; possession of marijuana; possession of synthetic cannabinoids

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule I; or

(Amended by Act 1036 of 2001 Legislature)

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule I.

B. Penalties for Violation of Subsection A of this Section.

Any person who violates Subsection A of this Section with respect to:

(1) A substance classified in Schedule I which is a narcotic drug (all substances in Schedule I preceded by an asterisk "*"), upon conviction shall be sentenced to imprisonment for not less than five nor more than fifty years at hard labor, at least five years of which shall be served without benefit of probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

(Amended by Act 403 of 2001 Legislature)

(2) Except as otherwise provided in Paragraph (3) of this Subsection, any other controlled dangerous substance classified in Schedule I, shall upon conviction be sentenced to a term of imprisonment at hard labor for not less than five years nor more than thirty years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and pay a fine of not more than fifty thousand dollars.

(Amended by Act 403 of 2001 Legislature)

- (3) A substance classified in Schedule I which is marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or synthetic cannabinoids shall upon conviction be sentenced to a term of imprisonment at hard labor for not less than five nor more than thirty years, and pay a fine of not more than fifty thousand dollars.
- C. Possession.
- It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule I unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:
- (1) A substance classified in Schedule I which is a narcotic drug (all substances in Schedule I preceded by an asterisk), shall be imprisoned at hard labor for not less than four years nor more than ten years, and may, in addition, be required to pay a fine of not more than five thousand dollars.
(Amended by Act 403 of 2001 Legislature)
- (2) Phencyclidine, shall be sentenced to imprisonment with or without hard labor for not less than five years nor more than twenty years, and may be sentenced to pay a fine of not more than five thousand dollars, or both.
- (3) Any other controlled dangerous substance classified in Schedule I, shall be imprisoned at hard labor for not more than ten years, and may, in addition, be required to pay a fine of not more than five thousand dollars.
- D. Other penalties for possession.
- (1) Except as otherwise authorized in this Part:
- (a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of a narcotic drug (all substances in Schedule I preceded by an asterisk “*”), shall be sentenced to serve a term of imprisonment at hard labor of not less than five years nor more than thirty years, and to pay a fine of not less than fifty thousand dollars nor more than one hundred fifty thousand dollars.
- (b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of a narcotic drug (all substances in Schedule I preceded by an asterisk “*”), shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars nor more than three hundred fifty thousand dollars.
- (c) Any person who knowingly or intentionally possesses four hundred grams or more of a narcotic drug (all substances in Schedule I preceded by an asterisk “*”), shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years nor more than thirty years, and to pay a fine of not less than two hundred fifty thousand dollars nor more than six hundred thousand dollars.
(Added by Act 403 of 2001 Legislature)
- E. Possession of marijuana, or synthetic cannabinoids.
- (1) Except as provided in Subsections E and F of this Section, on a first conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be fined not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both.
- (2) Except as provided in Subsections F or G of this Section, on a second conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be fined not less than two hundred fifty dollars, nor more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both. If the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.
(Amended by Act 403 of 2001 Legislature, Act 661 of 2010 Legislature)
- (3) Except as provided in Subsections F or G of this Section, on a third or subsequent conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the offender shall be sentenced to imprisonment with or without hard labor for not more than twenty years, and may, in addition, be sentenced to pay a fine of not more than five thousand dollars.
(Amended by Act 403 of 2001 Legislature, Act 19 of 2007 Legislature)
- (4) A conviction for the violation of any other statute or ordinance with the same elements as R.S.

40:966(C) prohibiting the possession of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

- (5) A conviction for the violation of any other statute or ordinance with the same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

(Added by Act 345 of 2004 Legislature)

(Amended by Acts 565, 810, and 866 of 2010 Legislature)

F. Except as otherwise authorized in this Part:

- (1) Any person who knowingly or intentionally possesses sixty pounds or more, but less than two thousand pounds of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars nor more than one hundred thousand dollars.
- (2) Any person who knowingly or intentionally possesses two thousand pounds or more, but less than ten thousand pounds of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years nor more than forty years, and to pay a fine of not less than one hundred thousand dollars nor more than four hundred thousand dollars.
- (3) Any person who knowingly or intentionally possesses ten thousand pounds or more of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard labor of not less than twenty-five years, nor more than forty years, and to pay a fine of not less than four hundred thousand dollars nor more than one million dollars.

(Amended by Act 403 of 2001 Legislature, Acts 565, 810, and 866 of 2010 Legislature)

G. With respect to any person to whom the provisions of Subsections D and F are applicable, the adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for probation or parole prior to serving the minimum sentences provided by Subsection D or F.

(Amended by Act 403 of 2001 Legislature)

(Amended by Act 207 of 1973 Legislature; Act 631 of 1977 Legislature; Act 800 of 1981 Legislature, effective August 2, 1981; Act 598 of 1983 Legislature; Act 910 of 1984 Legislature; Act 208 of 1985 Legislature; Act 769 of 1986 Legislature; Act 850 of 1987 Legislature; Act 99 of 1991 Legislature; Act 969 of 1993 Legislature; and Act 77 of 1994 Legislature)

§967. Prohibited acts – Schedule II; penalties

A. Manufacture; Distribution.

Except as authorized by this Part or by Part VII-B of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, it shall be unlawful for any person knowingly or intentionally:

- (1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule II; or
- (Amended by Act 1036 of 2001 Legislature)*
- (2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule II.

B. Penalties for Violation of Subsection A.

Except as provided in Subsection F, any person who violates Subsection A with respect to:

- (1) A substance classified in Schedule II which is an amphetamine or methamphetamine or which is a narcotic drug, except cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of R.S. 40:964 and except oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 and except methadone as provided in Schedule II(B)(11) of R.S. 40:964, shall be sentenced to a term of imprisonment at hard labor for not less than two years nor more than thirty years, and may, in addition, be sentenced to pay a fine of not more than fifty thousand dollars.

(Amended by Act 1284 of 1997 Legislature, Acts 403 and 1036 of 2001 Legislature, Act 337 of 2005 Legislature, Act 68 of 2006 Legislature)

- (2) Pentazocine, shall be sentenced to imprisonment at hard labor for not less than two years nor more

than ten years, at least two years of which shall be served without benefit of parole, probation, or suspension of sentence, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

(Amended by Act 403 of 2001 Legislature)

- (3) Production or manufacturing of amphetamine or methamphetamine shall be sentenced to imprisonment at hard labor for not less than ten years nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and in addition, may be sentenced to pay a fine of not more than five hundred thousand dollars.

(Amended by Act 403 of 2001 Legislature, Act 1284 of 1997 Legislature)

- (4) (a) Production or manufacturing of cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of R.S. 40:964 or oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 or methadone as provided in Schedule II(B)(11) of R.S. 40:964 shall be sentenced to imprisonment at hard labor for not less than ten nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and may be fined not more than five hundred thousand dollars.
- (b) Distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of R.S. 40:964 or oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 or methadone as provided in Schedule II(B)(11) of R.S. 40:964 shall be sentenced to a term of imprisonment at hard labor for not less than two years nor more than thirty years, with the first two years of said sentence being without benefit of parole, probation, or suspension of sentence, and in addition, may be sentenced to pay a fine of not more than fifty thousand dollars.

(Amended by Act 1284 of 1997 Legislature, Act 403 of 2001 Legislature, Act 337 of 2005 Legislature, Act 68 of 2006 Legislature)

- (5) Any other controlled dangerous substance classified in Schedule II except pentazocine, amphetamine, methamphetamine, cocaine, oxycodone, or methadone shall be sentenced to a term of imprisonment at hard labor for not more than ten years, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

(Added by Act 1284 of 1997 Legislature; amended by Act 337 of 2005 Legislature, Act 68 of 2006 Legislature)

C. Possession.

It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance as classified in Schedule II unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978 while acting in the course of his professional practice, or except as otherwise authorized by this Part.

- (1) Any person who violates this Subsection with respect to pentazocine shall be imprisoned with or without hard labor for not less than two years and for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.
- (2) Any person who violates this Subsection as to any other controlled dangerous substance shall be imprisoned with or without hard labor for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.

D. *(Repealed by Act 800 of 1981 Legislature, effective August 2, 1981)*

E. *(Repealed by Act 800 of 1981 Legislature, effective August 2, 1981)*

F. Other Penalties for Possession.

- (1) Except as otherwise authorized in this Part:

- (a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of cocaine or of a mixture or substance containing a detectable amount of cocaine or of its analogues as provided in Schedule II (A)(4) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty thousand dollars.
- (b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of cocaine or of a mixture or substance containing a detectable amount of cocaine or of its analogues as provided in Schedule II (A)(4) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years, nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars, nor more than three hundred fifty thousand dollars.
- (c) Any person who knowingly or intentionally possesses four hundred grams or more of cocaine or

of a mixture or substance containing a detectable amount of cocaine or of its analogues as provided in Schedule II (A)(4) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years, nor more than thirty years and to pay a fine of not less than two hundred fifty thousand dollars, nor more than six hundred thousand dollars.

- (2) Except as otherwise authorized in this Part:
- (a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of amphetamine or methamphetamine or of a mixture or substance containing a detectable amount of amphetamine or methamphetamine or any of their analogues as provided in Schedule II(C) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty thousand dollars.
 - (b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of amphetamine or methamphetamine or of a mixture or substance containing a detectable amount of amphetamine or methamphetamine or any of their analogues as provided in Schedule II(C) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years, nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars, nor more than three hundred fifty thousand dollars.
 - (c) Any person who knowingly or intentionally possesses four hundred grams or more of amphetamine or methamphetamine or of a mixture or substance containing a detectable amount of amphetamine or methamphetamine or any of its analogues as provided in Schedule II(C) of R.S. 40:964, shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years, nor more than thirty years and to pay a fine of not less than two hundred fifty thousand dollars, nor more than six hundred thousand dollars.
- (3) Except as otherwise authorized in this Part:
- (a) Any person who knowingly or intentionally possesses twenty-eight grams or more, but less than two hundred grams, of gamma hydroxybutyric acid or of a mixture or substance containing a detectable amount of gamma hydroxybutyric acid or of its analogues shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty years, and to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty thousand dollars.
 - (b) Any person who knowingly or intentionally possesses two hundred grams or more, but less than four hundred grams, of gamma hydroxybutyric acid or of a mixture or substance containing a detectable amount of gamma hydroxybutyric acid or of its analogues shall be sentenced to serve a term of imprisonment at hard labor of not less than ten years, nor more than thirty years, and to pay a fine of not less than one hundred thousand dollars, nor more than three hundred fifty thousand dollars.
 - (c) Any person who knowingly or intentionally possesses four hundred grams or more of gamma hydroxybutyric acid or of a mixture or substance containing a detectable amount of gamma hydroxybutyric acid or of its analogues shall be sentenced to serve a term of imprisonment at hard labor of not less than fifteen years, nor more than thirty years and to pay a fine of not less than two hundred fifty thousand dollars, nor more than six hundred thousand dollars.

(Added by Act 1194 of 1999 Legislature; amended by Act 13 of 2000 Legislature, Act 403 of 2001 Legislature, Act 761 of 2003 Legislature)

- G. With respect to any person to whom the provisions of Subsection F are applicable, the adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for probation or parole prior to serving the minimum sentences provided by Subsection F.

(Amended by Act 2 of 1991 Legislature; Act 100 of 1991 Legislature; Act 513 of 1991 Legislature; Act 969 of 1993 Legislature; and Act 77 of 1994 Legislature)

§968. Prohibited acts – Schedule III; penalties

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

- (1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule III; or
- (2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule III.

B. Penalties for Violation of Subsection A.

Any person who violates Subsection A with respect to any controlled dangerous substance

classified in Schedule III shall be sentenced to a term of imprisonment at hard labor for not more than ten years, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

C. Possession.

It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule III unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978 or R.S. 40:1239, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Subsection shall be imprisoned with or without hard labor for not more than five years, and in addition, may be required to pay a fine of not more than five thousand dollars.

(Amended by Act 207 of 1973 Legislature, and Act 513 of 1991 Legislature)

§969. Prohibited acts – Schedule IV; penalties

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

- (1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule IV; or
- (2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule IV.

B. Penalties for Violation of Subsection A.

Any person who violates Subsection A with respect to:

- (1) Flunitrazepam shall be sentenced to a term of imprisonment at hard labor for not less than five years nor more than thirty years, and pay a fine of not more than fifty thousand dollars.
- (2) Any other controlled dangerous substance classified in Schedule IV, except flunitrazepam, shall be sentenced to a term of imprisonment at hard labor for not more than ten years, and in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

(Amended by Act 1191 of 1997 Legislature)

C. Possession.

It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule IV unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

- (1) Flunitrazepam shall be imprisoned at hard labor for not more than ten years, and in addition, may be required to pay a fine of not more than five thousand dollars.
- (2) Any other controlled dangerous substance shall be imprisoned with or without hard labor for not more than five years, and in addition, may be required to pay a fine of not more than five thousand dollars.

(Amended by Act 1191 of 1997 Legislature, Act 14 of 2005 Legislature)

- D. Whoever, with the intent to commit a crime of violence as defined in R.S. 14:2(13)(j) against an individual, violates Subsection A of this Section by administering a controlled dangerous substance to a person who is unaware that the controlled dangerous substance has been or is being administered to him, shall be sentenced to a term of imprisonment at hard labor for not less than five years nor more than forty years, and in addition, may be fined not more than one hundred thousand dollars.

(Added by Act 1191 of 1997 Legislature)

(Amended by Act 207 of 1973 Legislature)

§970. Prohibited acts – Schedule V; penalties

A. Manufacture; Distribution.

Except as authorized by this Part, it shall be unlawful for any person knowingly or intentionally:

- (1) To produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule V; or
- (2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule V.

B. Penalties for Violation of Subsection A.

Any person who violates Subsection A with respect to any controlled dangerous substance classified in Schedule V shall be sentenced to a term of imprisonment at hard labor for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.

C. Possession.

It is unlawful for any person unknowingly or intentionally to possess a controlled dangerous

substance classified in Schedule V unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Section shall be imprisoned with or without hard labor for not more than five years, and in addition, may be required to pay a fine of not more than five thousand dollars.

(Amended by Act 207 of 1973 Legislature)

§971. Prohibited acts – all schedules

- A. (1) It shall be unlawful for any person:
- (a) Who is subject to the requirements of this Part to distribute or dispense a controlled dangerous substance in violation of this Part; or
 - (b) Who is a licensee to manufacture, distribute, or dispense a controlled dangerous substance to another licensee or other authorized person not authorized by his license; or
 - (c) To omit, remove, alter, or obliterate a symbol required by the Uniform Controlled Dangerous Substances Law; or
 - (d) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this Part; or
 - (e) To refuse entry into any premise for inspection as authorized by this Part; or
 - (f) To keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is frequented by persons using controlled dangerous substances in violation of this Part for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this Part.
- (2) Any person who violates this subsection shall be fined not more than fifteen thousand dollars. Such proceeding shall be independent, and not in lieu of, other proceedings under this part or any other law of this state. If the violation is prosecuted by a bill of information or an indictment which alleges that the violation was committed knowingly or intentionally, such person, upon conviction, shall be imprisoned for not more than six months; and, in addition, may be sentenced to pay a fine of not more than five hundred dollars.
- B. (1) It shall be unlawful for any person knowingly or intentionally:
- (a) To use in the course of the manufacture or distribution of a controlled dangerous substance a license number which is fictitious, revoked, suspended, or issued to another person; or
 - (b) To acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery, deception, or subterfuge; or
 - (c) To furnish false or fraudulent material, information in any application, report, or other document required to be kept by this Part; or
 - (d) 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 of any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance; or
 - (e) To alter any controlled dangerous substance obtained by prescription without prior approval of the department; or
 - (f) To alter any prescription for a controlled dangerous substance, provided that this shall not apply to the person issuing the original prescription or the pharmacist pursuant to instructions from the physician; or
 - (g) To obtain or attempt to obtain a prescription or prescription blank form from a doctor, dentist, or veterinarian for a controlled dangerous substance and/or legend drug by fraud, theft, misrepresentation, deception, or subterfuge; or
 - (h) To possess a prescription for a controlled dangerous substance and/or legend drug without the express consent of the party for whom such prescription was written. For the purposes hereof, a legend drug is any drug or drug product bearing on the label of the manufacturer or distributor as required by the federal Food and Drug Administration the statement "Caution: Federal law prohibits dispensing without prescription."
 - (i) To obtain or seek to obtain any controlled dangerous substance or a prescription for a controlled dangerous substance from a health care practitioner, while being supplied with any controlled dangerous substance or a prescription for any controlled dangerous substance by another health care practitioner, without disclosing the fact of the existing prescription to the practitioner from whom the subsequent prescription for a controlled dangerous substance is sought. Failure of a practitioner to request the disclosure is not a violation of this Subsection by the practitioner. The disclosure shall include the name of the controlled dangerous substance, the date of the

prescription, the amount of the controlled substance prescribed, and the number of refills if any. The disclosure shall be made in writing by the person obtaining or seeking to obtain the controlled dangerous substance and shall be made a part of the person's medical record by the health care practitioner. As used in this Section, the term "existing" shall mean the period of time within which the prescription was prescribed to be taken.

- (2) Any person who violates this Subsection shall be imprisoned, with or without hard labor, for not more than five years, and in addition, may be sentenced to pay a fine of not more than five thousand dollars.
- C. (1) It shall be unlawful for a person, including a physician, dentist, podiatrist, or veterinarian, to prescribe, dispense, or administer legally controlled substances beyond his respective prescribing authority or for a purpose other than accepted medical treatment of a disease, condition, or illness.
(2) It shall be unlawful for a pharmacist to dispense legally controlled substances beyond his dispensing authority.
(3) Any person who violates this Subsection shall be subject to the penalties as established for the controlled dangerous substance and the particular criminal act committed in R.S. 40:966 through 967.
- D. Every practitioner, as defined in R.S. 40:961(31), may, if he has a good faith belief that a crime has been committed on the premises, notify local law enforcement authorities when it is believed that an individual has obtained a fraudulent prescription for any controlled dangerous substance or any person has attempted to obtain a fraudulent prescription for any controlled dangerous substance.
(Added by Act 600 of 2006 Legislature)
- E. Every pharmacy in which a controlled dangerous substance is physically obtained by a patient or a patient's agent shall require every person purchasing, receiving, or otherwise acquiring any controlled dangerous substance to produce a photo identification card, unless the patient or the patient's agent is known to the pharmacist. The person purchasing, receiving, or otherwise acquiring the controlled dangerous substance does not have to be the specific patient to whom the prescription is issued.

(Added by Act 600 of 2006 Legislature)

(Amended by Act 207 of 1973 Legislature; Acts 613 and 700 of 1975 Legislature; Act 786 of 1978 Legislature; Act 984 of 1988 Legislature)

§971.1. Prohibited acts; false representation

- A. It shall be unlawful for any person to produce, manufacture, distribute, dispense, transport, deliver, or possess with intent to distribute or dispense any substance which is represented to be a controlled dangerous substance and which is an imitation controlled dangerous substance, or any controlled dangerous substance which is a counterfeit controlled dangerous substance.
(Amended by Act 530 of 2010 Legislature, Act 100 of 2011 Legislature)
- B. The provisions of this Section shall not apply to a law enforcement officer acting in the course and scope of his employment or to a medical practitioner, pharmacist, or other person authorized to dispense or administer controlled dangerous substances pursuant to Part X of Chapter 4 of Title 40 of the Revised Statutes of 1950.
- C. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

(Amended by Act 154 of 1993 Legislature; Act 34 of 1994 Legislature)

§971.2 Unlawfully prescribing, distributing, dispensing, or assisting in illegally obtaining controlled dangerous substances

- A. This Section shall be known as and may be cited as the "Pain Management Clinic Drug Abuse and Overdose Prevention Act."
- B. It shall be unlawful for a physician, other licensed health care practitioner as defined in R.S. 40:961(31), or any other person to knowingly or intentionally commit any of the following acts:
 - (1) Assist a patient or any other person in obtaining a controlled dangerous substance through misrepresentation, fraud, forgery, deception, or subterfuge.
 - (2) Write a prescription for a controlled dangerous substance for a fictitious person.
 - (3) Distribute or dispense a controlled dangerous substance to a fictitious person.
 - (4) Operate any type of business or establishment where the primary purpose of the business or establishment is the sale, exchange, barter, or trade of a controlled dangerous substance for anything of value through misrepresentation, fraud, forgery, deception, or subterfuge.

- C. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, and in addition may be sentenced to pay a fine of not more than fifty thousand dollars.

(Amended by Act 51 of 2006 Legislature)

(Added by Act 25 of 2005 Legislature)

§972. Rules and regulations and fees

- A. The Board of Pharmacy is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled dangerous substances within this state.
- B. The fees collected by the Board of Pharmacy for registration and licensing shall not exceed the following schedule:

	<u>Minimum</u>
(1) Manufacturer	\$100.00
(2) Ambulatory surgical centers	\$ 50.00
(3) Emergency medical centers	\$ 50.00
(4) Hospital	\$ 50.00
(5) Methadone clinic	\$ 50.00
(6) Wholesaler / distributor	\$ 50.00
(7) Practitioner	\$ 20.00
(8) Intern / resident	\$ 20.00
(9) Drug detection / canine	\$ 30.00
(10) Researcher	\$ 30.00
(11) Sales representative (or medical service representative or detail person)	\$ 20.00
(12) Other (schools, laboratories, crime laboratories, coroners, ambulance services, analytical laboratories, etc.)	\$ 20.00
(13) Duplicate / Replacement fee	\$ 5.00
(14) Delinquent fee (30 days after expiration / assessed per year)	\$ 10.00

- C. All said fees collected in accordance with the provisions of this Chapter shall be deposited in a separate fund and used for the administration and enforcement of this Part, and for education and research as provided by R.S. 40:992, together with any supplemental funds appropriated by the legislature or federal funds or grants received.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§973. Licensing requirements

- A. Every person who manufactures, distributes, or dispenses any controlled dangerous substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance within this state, shall obtain a license issued by the Board of Pharmacy in accordance with the rules and regulations promulgated by it.
- B. The following persons shall not be required to obtain a license and may lawfully possess controlled dangerous substances under the provisions of this Part:
- (1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;
 - (2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;
 - (3) An ultimate user or person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner.
- C. The Board of Pharmacy may, by regulation, waive the requirement for licensing of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.
- D. A separate license shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.
- E. The Board of Pharmacy is authorized to inspect the establishment of a licensee or applicant for licensing in accordance with the rules and regulations promulgated by it.
- F. (1) Any person licensed by the Board of Pharmacy to manufacture, distribute, or dispense controlled dangerous substances shall submit to the Board of Pharmacy data on transactions involving the disbursement of Schedule II controlled dangerous substances to licensed Louisiana registrants except as provided in R.S. 40:972 and 988(B).
- (2) The Board of Pharmacy is authorized to promulgate rules and regulations necessary to implement the

provisions of this Subsection including but not limited to the scope of such data, the form in which it is to be submitted, and the time requirements for such submission.

- G. (1) The Board of Pharmacy shall disseminate its findings concerning possible violations to the respective boards for action in correcting violations on the part of licensed Louisiana registrants.
- (2) (a) Such supervisory board shall receive the findings of the Board of Pharmacy concerning possible violations and shall disseminate such findings to the respective boards for action in correcting violations on the part of licensed Louisiana registrants.
- (b) All expenses for the operation of the supervisory board shall be borne by the licensing boards which make up said supervisory boards.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; Act 702 of 1984 Legislature; Act 662 of 1989 Legislature, effective July 7, 1989; and Act 834 of 2006 Legislature)

§974. Licensing

- A. The Board of Pharmacy shall license an applicant to manufacture or distribute controlled dangerous substances included in Schedules I through V of R.S. 40:964 at such fees as it shall determine to be reasonable, unless it determines that the issuance of such license 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 particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;
 - (2) Compliance with applicable state and local law;
 - (3) Prior conviction record of applicant under federal or state laws relating to the manufacture, distribution, or dispensing of such substances;
 - (4) Past experience in the manufacture of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and
 - (5) Such other factors as are relevant to and consistent with the public health and safety.
- B. Licenses granted under Subsection A of this Section shall not entitle a licensee to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the license.
- C. A license application by a practitioner who wishes to conduct research with a controlled substance shall be referred to the Board of Pharmacy. Licensing by the Board of Pharmacy for the purpose of bona fide research with a controlled dangerous substance by a practitioner deemed qualified by the Board of Pharmacy may be denied only on a ground specified in R.S. 40:975(A) or on the ground that the applicant's past practice or proposed procedures furnish grounds for the belief that the applicant will abuse or unlawfully transfer such substances from legitimate medical or scientific use.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§975. Denial, revocation, suspension, or termination of license

- A. A license pursuant to R.S. 40:974 to manufacture, distribute, or dispense a controlled dangerous substance may be suspended or revoked by the Board of Pharmacy upon a finding that the applicant or licensee:
 - (1) Has materially falsified any application filed pursuant to this Part or required by this Part; or
 - (2) Has been convicted of a felony under this Part or any law of the United States, or of any state, relating to any substances defined herein as a controlled dangerous substance, or any felony under any other law of the United States or of any state within five years of the date of the issuance of the license; or
 - (3) Has had his federal license suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances; or
 - (4) Has manufactured, distributed or dispensed controlled dangerous substances in violation of any provision of this Part or any other state or federal laws pertaining to the manufacture, distribution or dispensing of controlled dangerous substances; or
 - (5) Has repeatedly failed to submit to the Board of Pharmacy data on transactions involving the disbursement of Schedule II controlled dangerous substances to licensed Louisiana registrants as required by R.S. 40:973(F) and by rules promulgated pursuant thereto.
- B. The Board of Pharmacy may limit revocation or suspension of a license to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.
- C. Before taking action pursuant to this Section or pursuant to a denial of license under R.S. 40:974, the Board of Pharmacy shall serve upon the applicant or licensee an order to show cause why the license should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis

thereof and shall call upon the applicant or licensee to appear before the Board of Pharmacy at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this Section in accordance with R.S. 49:951 et seq. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this Part or any law of the state.

- D. The Board of Pharmacy may, in its discretion, suspend any license simultaneously with the institution of proceedings under this Section in cases where it finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Board of Pharmacy or dissolved by a court of competent jurisdiction.
- E. In the event the Board of Pharmacy suspends or revokes a license granted under R.S. 40:974, all controlled dangerous substances owned or possessed by the licensee pursuant to such license at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the Board of Pharmacy, 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 dangerous substances shall be forfeited to the state.
- F. The Bureau of Narcotics and Dangerous Drugs shall promptly be notified of all orders suspending or revoking license and all forfeitures of controlled dangerous substances.
- G. (1) A license pursuant to R.S. 40:974 to manufacture, distribute, or dispense a controlled dangerous substance shall be terminated by the Board of Pharmacy if the licensee has failed to timely renew the license and submit the applicable fee, including the fee for the prescription monitoring program authorized pursuant to R.S. 40:1013, and thirty days have elapsed since the date of expiration.
 - (2) Any appeal from the provisions of this Subsection shall be governed by the Administrative Procedure Act.
 - (3) The Board of Pharmacy shall promulgate rules, regulations, and standards to implement the provisions of this Subsection. The rules, regulations, and standards shall be promulgated in accordance with the Administrative Procedure Act.

(Amended by Act 608 of 1978 Legislature; Act 786 of 1978 Legislature, effective July 17, 1978; Act 702 of 1984 Legislature; Act 62 of 1997 Legislature; Act 676 of 2006 Legislature, effective July 1, 2006; and Act 834 of 2006 Legislature)

§976. Records of licensees

Each licensee manufacturing, distributing or dispensing controlled dangerous substances in Schedule I, II, III, IV or V shall make a complete and accurate record of all stocks of such dangerous substances on hand. Thereafter, complete and accurate records of all such dangerous substances shall be maintained until the next inventory is made for the next two-year period as required by this Section. At each two-year period after July 29, 1970, at the time of his regular physical inventory, each licensee manufacturing, distributing, or dispensing controlled dangerous substances shall prepare an inventory of each dangerous substance in his possession. Records and inventories shall contain such information as shall be provided by rules and regulations promulgated by the Board of Pharmacy. This Section shall not apply to practitioners who lawfully prescribe or administer, but do not otherwise dispense, controlled dangerous substances listed in Schedule II, III, IV or V of this Part.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§976.1. Chemical precursor, recordkeeping requirements

- A. A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following precursor substances shall make an accurate and legible record of the transaction and maintain the record for a period of at least five years after the date of the transaction:
 - (1) Methylamine
 - (2) Ethylamine
 - (3) D-lysergic acid
 - (4) Ergotamine tartrate
 - (5) Diethyl malonate
 - (6) Malonic acid
 - (7) Ethyl malonate
 - (8) Barbituric acid
 - (9) Piperidine
 - (10) N-acetylanthranilic acid

- (11) Pyrrolidine
 - (12) Phenylacetic acid
 - (13) Anthranilic acid
 - (14) Morpholine
 - (15) Ephedrine
 - (16) Pseudoephedrine or norpseudoephedrine
 - (17) Phenylpropanolamine
 - (18) Acetic anhydride
 - (19) Anthranilic acid, its esters and its salts
 - (20) Benzaldehyde
 - (21) Benzyl chloride
 - (22) Benzyl cyanide
 - (23) Ergonovine and its salts
 - (24) Hydriodic acid
 - (25) Isosafrole
 - (26) 3,4-methylenedioxyphenyl-2-propanone
 - (27) N-ethylephedrine, its salts, optical isomers, and salts of optical isomers
 - (28) N-ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers
 - (29) N-methylephedrine, its salts, optical isomers, and salts of optical isomers
 - (30) N-methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers
 - (31) Nitroethane
 - (32) 1-phenyl-1-chloro-2-methylaminopropanone (chlorophedrine, chloropseudoephedrine), their salts, optical isomers, and salts of optical isomers
 - (33) Phenyl-2-propanone
 - (34) Piperonal
 - (35) Propionic anhydride
 - (36) Safrole
 - (37) Thionylchloride
- B. (1) Before selling, transferring, or otherwise furnishing to a person in this state a precursor substance designated in Subsection A of this Section, a manufacturer, wholesaler, retailer, or other person shall obtain from the buyer or recipient not representing a business the following information:
- (a) The recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than post office box number. This information shall be obtained from a driver's license or other personal identification card issued by the Department of Public Safety and Corrections that contains a photograph of the recipient;
 - (b) The year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient;
 - (c) A complete description of how the substance is to be used; and
 - (d) The recipient's signature.
- (2) Before selling, transferring, or otherwise furnishing to a person in this state a precursor substance designated in Subsection A of this Section, a manufacturer, wholesaler, retailer, or other person shall obtain from the buyer or recipient representing a business the following information:
- (a) A letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number and a complete description of how the substance is to be used; and
 - (b) The signature of the recipient.
- (3) For any recipient, the seller, manufacturer, or retailer shall sign as a witness to the signature and identification of the recipient.
- C. Except as provided by Subsection E of this Section, a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to a person in this state a precursor substance designated in Subsection A of this Section shall, at least twenty-one days before the delivery of the substance, submit a report of the transaction on a form obtained from the deputy secretary that includes the information required by Subsection B of this Section.
- D. The deputy secretary shall supply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a precursor substance subject to Subsection A of this Section a form for the submission of:
- (1) The report required by Subsection C of this Section;
 - (2) The name and measured amount of the precursor substance delivered; and
 - (3) Any other information required by the deputy secretary.

- E. The deputy secretary shall require a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by Subsection C of this Section if the deputy secretary determines either of the following:
 - (1) That there is a pattern of regular supply and purchase of the substance between the furnisher and the recipient; or
 - (2) That the recipient has established a record of utilization of the substance solely for a lawful purpose.
- F. A manufacturer, wholesaler, retailer, or other person who received from a source outside this state a substance designated in Subsection A of this Section or who discovers a loss or theft of a substance designated in Subsection A of this Section shall submit a report of the transaction to the deputy secretary in accordance with rules adopted pursuant to administrative procedure, and shall include in the report any difference between the amount of the substance actually received and the amount of the substance shipped according to the shipping statement or invoice or the amount of the loss or theft.
- G. A report required under Subsection F of this Section shall:
 - (1) Be made not later than the third day after the date that the manufacturer, wholesaler, retailer, or other person learns of the discrepancy, loss, or theft.
 - (2) If the discrepancy, loss, or theft occurred during a shipment of the substance, include the name of the common carrier or person who transported the substance and the date that the substance was shipped.
- H. The provisions of this Section shall not apply to the sale or transfer of a nonnarcotic product that includes a precursor substance listed in Subsection A, if the product may otherwise be sold lawfully with a prescription or over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301, et seq.) or a rule adopted thereunder.
- I. Any person who violates the provisions of this Section shall be imprisoned with or without hard labor for not more than one year, and in addition may be fined not more than one thousand dollars.

(Amended by Act 994 of 1993 Legislature)

§977. Order forms

Controlled dangerous substances in Schedules I and II shall be distributed only pursuant to an order form.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§978. Prescriptions

- A. Except when dispensed or administered directly by a medical practitioner or administered by a person authorized to administer by such practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under the Louisiana Revised Statutes, of 1950, may be dispensed or administered without either the written prescription of a practitioner, or an electronic prescription order as provided by federal law or regulation, except that in emergency situations, as prescribed by the department by regulation, such drug may be dispensed or administered upon oral prescription reduced promptly to writing and filed by the pharmacist. Prescriptions shall be retained in conformity with the requirements of R.S. 40:976. No prescription for a Schedule II substance may be refilled.

(Amended by Act 155 of 2011 Legislature)

- B. Except when dispensed or administered directly by a practitioner or administered by a person authorized to administer by such practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III and IV which is a prescription drug as determined under the Louisiana Revised Statutes may be dispensed or administered without either a written prescription, an oral prescription, or an electronic prescription order as provided by federal law or regulation. Such prescription may not be filled or refilled more than six months after the date thereof or refilled more than five times after the date of the prescription, unless renewed by the practitioner.

(Amended by Act 155 of 2011 Legislature)

- C. No controlled dangerous substance included in Schedule V may be distributed, administered or dispensed other than for a medical purpose by prescription of a licensed practitioner or as otherwise permitted by the provisions of this Part. However, nothing contained in this Subsection shall prohibit a practitioner from delegating the authority to administer controlled dangerous substances in Schedule V to a person authorized by such practitioner.

(Amended by Act 667 of 1975 Legislature; and Act 786 of 1978 Legislature, effective July 17, 1978)

- D. Notwithstanding the requirements of this Section, a prescription for a controlled substance listed in Schedule II, III, IV, or V may be generated, signed, transmitted, and received in electronic form, but only in conformance with the federal rules established by the United States Drug Enforcement Administration at 21 CFR 1311.

(Added by Act 155 of 2011 Legislature)

§979. Attempt and conspiracy

- A. Except as otherwise provided herein, any person who attempts or conspires to commit any offense denounced and or made unlawful by the provisions of this Part shall, upon conviction, be fined or imprisoned in the same manner as for the offense planned or attempted, but such fine or imprisonment shall not exceed one-half of the longest term of imprisonment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Amended by Act 403 of 2001 Legislature)

- B. Any person who attempts or conspires to distribute or possess with intent to distribute any substance classified in Schedule I, as provided for in R.S. 40:963 and R.S. 40:964, which is a narcotic drug (all substances in Schedule I preceded by an asterisk "*") shall, upon conviction, be imprisoned at hard labor for not less than eight nor more than fifty years without benefit of parole, probation or suspension of sentence and may, in addition, be required to pay a fine of not more than ten thousand dollars.

(Amended by Act 632 of 1977 Legislature)

§980. Additional penalties

Any penalty imposed for violation of this Part shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

§981. Distribution to persons under age eighteen

- A. Persons over twenty-five to persons under eighteen. Any person who is at least twenty-five years of age, or more, who violates R.S. 40:966 or R.S. 40:967 by distributing a substance, listed in Schedules I or II, which is a narcotic drug, to a person under eighteen years of age, shall, upon conviction, be punished by imprisonment at hard labor for not less than ten nor more than thirty years.
- B. Any person who is at least eighteen years of age who violates R.S. 40:966 or R.S. 40:967 by distributing a substance listed in Schedules I or II which is a narcotic drug to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment of not less than five years nor more than thirty years.
- C. Any person who is at least eighteen years of age who violates R.S. 40:966 through R.S. 40:970 by distributing any other controlled dangerous substance listed in Schedules I, II, III, IV and V to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment up to one and one-half times the longest term of imprisonment authorized by R.S. 40:966 through R.S. 40:970 or by payment of not more than twice the fine authorized by R.S. 40:966 through R.S. 40:970, or both.

(Amended Act 207 of 1973 Legislature, Act 403 of 2001 Legislature)

§981.1. Distribution to a student

Any person who violates any provision of R.S. 40:966 through R.S. 40:970 by distributing any controlled dangerous substance listed in Schedules I, II, III, IV, and V to any student enrolled in any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution in Louisiana shall, upon conviction, be punished by a term of imprisonment of not more than one and one-half times the longest term of imprisonment authorized by the applicable provisions of R.S. 40:966 through R.S. 40:970 or by payment of not more than twice the fine authorized by the applicable provisions of R.S. 40:966 through R.S. 40:970, or both.

(Added by Act 1051 of 1986 Legislature, amended by Act 403 of 2001 Legislature)

§981.2. Soliciting minors to produce, manufacture, distribute, or dispense controlled dangerous substances

- A. No person eighteen years of age or older shall solicit, procure, or counsel any person under eighteen years of age to produce, manufacture, distribute, or dispense or possess with the intent to produce, manufacture, distribute, or dispense in violation of any provision of R.S. 40:966 through R.S. 40:970, any controlled dangerous substance listed in Schedules I, II, III, IV, or V, or to distribute or attempt to distribute, in violation of R.S. 40:989, a chemical substance commonly known as "rush".

(Amended by Act 616 of 2012 Legislature)

- B. Except as provided in Subsection C of this Section, any person who violates the provisions of this

Section shall upon conviction be punished by a term of imprisonment of not more than one and one-half times the longest term of imprisonment authorized by the applicable provision of R.S. 40:966 through R.S. 40:970, or by a fine of not more than twice that authorized by such applicable provision, or both.
(Amended by Act 403 of 2001 Legislature)

- C. Any person eighteen years of age or older who violates the provisions of this Section by soliciting, procuring, or counseling a person under eighteen years of age to distribute or to attempt to distribute cocaine, oxycodone, heroin, methamphetamine, or methadone in violation of R.S. 40:967(A) or (B) shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence.
(Amended by Act 403 of 2001 Legislature, Act 337 of 2005 Legislature, Act 68 of 2006 Legislature, Act 616 of 2012 Legislature)

(Added by Act 885 of 1988 Legislature; amended by Act 372 of 1989 Legislature; Act 837 of 1991 Legislature)

§981.3. Violation of Uniform Controlled Dangerous Substances Law; drug free zone

- A. (1) Any person who violates a provision of R.S. 40:966 through 970 of the Uniform Controlled Dangerous Substances Law while on any property used for school purposes by any school, within two thousand feet of any such property, or while on a school bus, shall, upon conviction, be punished in accordance with Subsection E of this Section.
(Amended by Act 168 of 2006 Legislature, Act 506 of 2010 Legislature)
- (2) Any person who violates a provision of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A) while on property used as a drug treatment facility or within two thousand feet of any such property, when included within an area marked as a drug free zone pursuant to R.S. 40:1058.10 shall, upon conviction, be punished in accordance with Subsection E of this Section.
(Amended by Act 168 of 2006 Legislature, Act 506 of 2010 Legislature)
- (3) (a) Any person who violates a provision of R.S. 40:966 through 970 of the Uniform Controlled Dangerous Substances Law while on any religious building property, public housing authority property, child day care center property, or within two thousand feet of any such property, if the area is posted as a drug free zone, shall, upon conviction, be punished in accordance with Subsection E of this Section.
(Amended by Act 253 of 1999 Legislature, Acts 142 and 168 of 2006 Legislature, Act 506 of 2010 Legislature)
- (b) In order for the provisions of this Section to apply to religious buildings, public housing authority property, or child day care property, the building must be posted as a drug free zone as provided herein. The design and posting of the signs shall be at the discretion of the entity that owns or has authority over the religious building, public housing authority property, or child day care center property. In order to post the area as a drug free zone, the signs shall be located in a visible manner on or near each religious building, public housing authority property, or child day care center property indicating that such area is a drug free zone, that such zone extends for a distance of two thousand feet, and that a violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law.
(Amended by Act 253 of 1999 Legislature, Acts 142 and 168 of 2006 Legislature, Act 506 of 2010 Legislature)

(Added by Act 355 of 1997 Legislature)

- B. Lack of knowledge that the prohibited act occurred on or within two thousand feet of school or drug treatment facility property shall not be a defense.
(Amended by Act 506 of 2010 Legislature)

- C. For purposes of this Section:

- (1) *School* means any public or private elementary, secondary, vocational-technical school, or any public or private college or university in Louisiana.
- (2) *School property* means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the state or by a political subdivision and used or operated as a playground or recreational facility and all parks and recreational areas administered by the office of state parks.
- (3) *Drug treatment facility* means all property used for diagnostic, treatment, and rehabilitative services to patients and their families with problems related to alcohol, drug, or substance abuse.
- (4) *Religious building property* means property on which is located any church, synagogue, mosque, or other building, structure, or place used for religious worship or other religious purpose.
(Added by Act 355 of 1997 Legislature)
- (5) *Public housing authority property* means all property owned or operated by a public housing

authority or agency created by state law or by any ordinance enacted by a local governing authority.
(Added by Act 253 of 1999 Legislature)

- (6) *Child day care center property* means property on which is located a facility licensed as a day care center under the provisions of the Child Care Facility and Child-Placing Agency Licensing Act (R.S. 46:1401 et seq.) or licensed as a group child day care home under the provisions of the Child Care Registration Law (R.S. 46:1441 et seq.).
(Added by Act 142 of 2006 Legislature)

- D. A violation of this Section within two thousand feet of school property, a drug treatment facility, religious building property, public housing authority property, or child day care facility property shall not include an act which occurs entirely within a private residence wherein no person seventeen years of age or under was present.
(Amended by Act 355 of 1997 Legislature, Act 253 of 1999 Legislature, Act 142 of 2006 Legislature, Act 506 of 2010 Legislature)

- E. (1) Whoever violates a provision of this Section shall be punished by the imposition of the maximum fine and be imprisoned for not more than one and one-half times the longest term of imprisonment authorized by the applicable provisions of R.S. 40:966 through 970.
(Amended by Act 403 of 2001 Legislature)

- (2) A sentence imposed for a violation of the provisions of this Section shall not be subject to parole, probation, or suspension of sentence to the extent that the minimum sentence for a violation of a felony provision of R.S. 40:966 through 970 is not subject to parole, probation, or suspension of sentence.

(Added by Act 820 of 2004 Legislature)

(Added by Act 171 of 1989 Legislature; amended by Act 293 of 1990 Legislature, effective July 5, 1990; Act 1027 of 1990 Legislature, effective July 26, 1990; Act 46 of 1994 Legislature)

§981.4. Drug-traffic loitering

- A. *Drug-traffic loitering* is the remaining in a public place in a manner and under circumstances manifesting the purpose to engage in unlawful conduct in violation of R.S. 40:966 through 995 or R.S. 40:1031 through 1036.
- B. Whoever commits the crime of drug-traffic loitering shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned for not more than six months, or sentenced to community service not to exceed one hundred twenty hours, or any combination of or all three.
- C. For the purposes of this Section, the following words have the following meanings:
- (1) *Drug paraphernalia* means and includes the items enumerated and described in R.S. 40:1031.
 - (2) *Illegal drug activity* means unlawful conduct which violates any provision of this Part or the equivalent federal statute or ordinance of any political subdivision of this state.
 - (3) *Known drug trafficker* means any person who has, within the knowledge of the arresting peace officer, been convicted of, or pled guilty or nolo contendere to, within the last two years in any court, any illegal drug activity.
 - (4) *Public place* means any area generally visible to public view and includes but is not limited to streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, transit stations, shelters, automobiles, and buildings, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.
- D. Among the circumstances which may be considered in determining whether the person is manifesting a purpose to engage in unlawful drug-related activity are that the person is:
- (1) Seen by the officer to be in possession of drug paraphernalia; or
 - (2) A known drug trafficker; or
 - (3) Behaving in such a manner as to raise a reasonable suspicion that he is about to engage in or is engaging in unlawful drug-related activity and such activity includes any of the following actions:
 - (a) Acting as a “lookout”;
 - (b) Being physically identified by an officer as a member of a criminal street gang or association, which has as its purpose illegal drug activity;
 - (c) Transferring small objects or packages for currency in a furtive fashion;
 - (d) Being in an area known for unlawful drug use and drug trafficking;
 - (e) Being on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity;
 - (f) Being within six feet of any vehicle registered to a known unlawful drug user, possessor, or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity;

- (g) Repeatedly beckoning to, stopping, or attempting to stop passersby or engaging passersby in conversation;
- (h) Repeatedly stopping or attempting to stop motor vehicle operators by hailing, waving of arms, or any other bodily gesture, or
- (i) Circling an area in a motor vehicle and repeatedly beckoning to, contacting, or attempting to stop pedestrians; or
- (4) The subject of any court order, which directs the person to stay out of any specified area as a condition of release from custody, a condition of probation, parole, or other supervision or any court order, in a criminal or civil case involving illegal drug activity; or
- (5) Evicted as the result of his illegal drug activity and ordered to stay out of a specified area affected by drug-related activity; or
- (6) Taking flight upon the appearance of a police officer; or
- (7) Trying to conceal himself or any object within his possession that reasonably could be involved in an unlawful drug-related activity.

(Added by Act 1067 of 1995 Legislature)

§982. Second or subsequent offenses

- A. Any person convicted of any offense under this part, if the offense is a second or subsequent offense, shall be sentenced to a term of imprisonment that is twice that otherwise authorized or to payment of a fine that is twice that otherwise authorized, or both. If the conviction is for an offense punishable under R.S. 40:966(B), R.S. 40:967(B), R.S. 40:968(B) or R.S. 40:969(B), and if it is the offender's second or subsequent offense, the court may impose in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.
- B. For purposes of this Section, an offense shall be considered a second or subsequent offense, if, prior to the commission of such offense, the offender had at any time been convicted of any violation of this state, the United States, any other state of or any foreign country, relating to the unlawful use, possession, production, manufacturing, distribution, or dispensation of any narcotic drug, marijuana, depressant, stimulant, or hallucinogenic drugs.

(Amended by Act 207 of 1973 Legislature)

§983. Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance; definition; penalties.

- A. Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance is any of the following:
 - (1) The purchase, sale, distribution, or possession of any material, compound, mixture, preparation, supplies, equipment, or structure with the intent that it be used for the unlawful manufacture of a controlled dangerous substance.
 - (2) The transportation or arranging for the transportation of any material, compound, mixture, preparation, supplies, or equipment with the intent that such material, compound, mixture, preparation, supplies, or equipment be used for the unlawful manufacture of a controlled dangerous substance.
 - (3) The distribution of any material, compound, mixture, preparation, equipment, supplies, or products, which material, compound, mixture, preparation, equipment, supplies, or products have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.
 - (4) The disposal of any material, compound, mixture, preparation, equipment, supplies, products, or byproducts, which material, compound, mixture, preparation, equipment, supplies, products, or byproducts have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.
- B. It shall be unlawful for any person to knowingly or intentionally create or operate a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance.
- C. Whoever commits the crime of creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance shall be sentenced to imprisonment at hard labor for not less than five years nor more than fifteen years; and may, in addition, be sentenced to pay a fine of not more than twenty-five thousand dollars.
- D. In addition to the penalty provided in Subsection C of this Section, a person convicted under the provisions of this Section may be ordered to make restitution for the actual governmental cost incurred in the cleanup of any hazardous waste resulting from the operation of a laboratory for the unlawful

manufacture of a controlled dangerous substance. The court may order that such amount be paid directly to the governmental agency or agencies that actually incurred the cleanup expense.

(Added by Act 1051 of 2003 Legislature)

§983.1 Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance on or within one thousand feet of school property.

- A. Any person who creates or operates a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance in violation of the provisions of R.S. 40:983 while on any property used for school purposes by any school or within one thousand feet of any such property shall, upon conviction, be punished in accordance with Subsection D of this Section.
- B. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.
- C. For purposes of this Section:
 - (1) *School* means any public or private elementary, secondary, vocational-technical school, or any public or private college or university in Louisiana.
 - (2) *School property* means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the state or by a political subdivision and used or operated as a playground or recreational facility and all parks and recreational areas administered by the office of state parks.
- D. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not less than five nor more than fifteen years; and may, in addition, be sentenced to pay a fine of not more than twenty-five thousand dollars. At least three years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.
- E. The sentence imposed pursuant to the provisions of this Section shall be served consecutively with the sentence imposed pursuant to the provisions of R.S. 40:983.

(Added by Act 875 of 2004 Legislature)

§984. Powers of enforcement personnel

Board of Pharmacy's authorized employees may:

- (1) Carry firearms;
- (2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;
- (3) Make arrests without warrant for any offense under this Part on the same basis as provided in Code of Criminal Procedure Article 213; and
- (4) Make seizures of property pursuant to the authority granted under the provisions of this Part.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§985. Search warrants

A search warrant relating to offenses involving controlled dangerous substances may be authorized to be served at any time of the day or night if the judge or magistrate issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant.

§986. Administrative inspections and warrants

- A. Issuance and execution of administrative inspection warrants shall be as follows:
 - (1) Any judge of a state court of record, or any state magistrate of any court of record may, within his jurisdiction, and upon proper oath or affirmation after being satisfied there is probable cause to believe that legal grounds exist for the issuance of such warrant, issue warrants for the purpose of conducting administrative inspections authorized by this part or regulations thereunder, and may authorize seizure of property related to such inspections.
 - (2) A warrant shall issue only upon an affidavit of any law enforcement officer or employee designated in R.S. 40:984 having knowledge of the facts alleged, sworn to before a judge or magistrate of any court of record and establishing the grounds for issuing the warrant. If the judge or magistrate of any court of record is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall also identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by R.S. 40:984 to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in

support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purposes specified, and, where appropriate, shall also direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate of any court of record to whom it shall be returned.

- (3) A search warrant issued pursuant to this section must be executed and returned within ten days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken. The judge or magistrate of any court of record, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.
 - (4) The judge or magistrate of any court of record who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the state court for the judicial district in which the inspection was made.
- B. The Board of Pharmacy is authorized to make administrative inspections of controlled premises in accordance with the following provisions:
- (1) For purposes of this Section only, "controlled premises" means:
 - (a) Places where persons licensed or exempted from licensing requirements under this Part are required to keep records; and
 - (b) Places including factories, warehouses, establishments, and conveyances where persons licensed or exempted from licensing requirements under this part are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.
 - (2) When so authorized by an administrative inspection warrant issued pursuant to Subsection A of this Section a law enforcement officer or an employee as designated in R.S. 40:984 hereof, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting such an administrative inspection.
 - (3) When so authorized by an administrative inspection warrant, a law enforcement officer or an employee as designated in R.S. 40:984 hereof shall have the right:
 - (a) To inspect and copy records required by this Part to be kept;
 - (b) To inspect, within reasonable limits and in a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and except as provided in Paragraph (B)(5) of this Section, all other things therein including records, files, papers, processes, controls, and facilities subject to regulation and control by the provisions of this Part or by regulations promulgated by the Board of Pharmacy; and
 - (c) To inventory any stock of any controlled dangerous substance therein and obtain samples of any such substance.
 - (4) This Section shall not be construed to prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with R.S. 40:986 nor shall this Section be construed to prevent entries and administrative inspections including seizures of property without a warrant:
 - (a) With the written consent of the owner, operator, or agent in charge of the controlled premises; or
 - (b) In situations involving inspection of conveyances where there is probable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.
 - (5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:
 - (a) Financial data;
 - (b) Sales data other than shipment data; or
 - (c) Pricing data.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§987. Injunctions

Any district court of this state shall have jurisdiction in proceedings in accordance with the rules of such courts to enjoin violations of this Part and in accordance with the Code of Civil Procedure and other laws of this state.

§988. Cooperative arrangements; inspections

- A. The Board of Pharmacy may cooperate with federal and other state agencies in discharging its

responsibilities concerning dangerous substances. To this end, it is authorized to:

- (1) Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances.
 - (2) Coordinate and cooperate in training programs on dangerous substance law enforcement at the local and state levels.
 - (3) Cooperate with the Federal Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit which will receive, catalogue, file, and collect statistics, including records of drug dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes.
 - (4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.
- B. (1) Anything contained in any other provision of Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 to the contrary notwithstanding, the inspections authorized or required by said law, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy only are concerned, shall be conducted by the Louisiana Board of Pharmacy, through its duly authorized officers, members, inspectors, agents and representatives, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy are concerned; and compliance with requirements involving security measures, inventories, records and reports required by said law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the Louisiana Board of Pharmacy, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy only are concerned.
- (2) Anything contained in any other provision of Part X of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 to the contrary notwithstanding, the inspections authorized or required by said law, insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners only are concerned, shall be conducted by the Louisiana State Board of Medical Examiners, through its duly authorized officers, members, inspectors, agents, and representatives, insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners are concerned. Compliance with requirements involving security measures, inventories, records, and reports required by said law or the regulations promulgated in connection therewith, or both, shall be administratively determined by the Louisiana State Board of Medical Examiners insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners only are concerned.
- C. Anything contained in any other provision of Part X of Chapter 4 of this Title to the contrary notwithstanding, the inspections authorized or required by said law, insofar as persons licensed by the Department of Health and Hospitals including dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state, shall be conducted and furnished exclusively by the Department of Health and Hospitals, through its duly authorized officers, members, inspectors, agents and representatives, insofar as dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state registered and licensed under the Department of Health and Hospitals are concerned; and compliance with requirements involving security measures, inventories, records and reports required by said law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the Department of Health and Hospitals.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; and Act 834 of 2006 Legislature)

§989. Dangerous chemical substances; butyl nitrite, nitrous oxide, and amyl nitrite; use and transference; penalties

- A. (1) It shall be unlawful for any person to inhale, ingest, use, or possess any compound, liquid, or chemical which contains butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl nitrite, or tertiary butyl nitrite.
- (2) It shall be unlawful for any person to inhale, ingest, use, or possess any compound, liquid, or chemical which contains nitrous oxide, commonly known as "laughing gas" and any amyl nitrite, commonly known as "poppers" or "snappers".
- (3) The provisions hereof do not apply to the possession and use of these substances prescribed as part of the care or treatment of a disease, condition, or injury by a licensed medical or dental practitioner or to the use as part of a manufacturing process or industrial operation.

- (4) The provisions of this Section do not apply to the possession, use, or sale of nitrous oxide as a propellant in food preparation for restaurant, food service, or houseware products.
- B. It shall be unlawful for any person to possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section for the purpose of inducing or aiding any other person to inhale or ingest such substance or otherwise violate the provisions of Subsection A.
- C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.
- D. Any person who violates any of the provisions of this Section may, in the discretion of the trial judge, be required to participate in an approved drug rehabilitation program, as a condition of probation.

(Amended by Act 933 of 1992 Legislature, effective July 9, 1992, and Act 500 of 1993 Legislature)

§989.1 Unlawful production, manufacture, distribution, or possession of hallucinogenic plants

- A. (1) It shall be unlawful for any person knowingly or intentionally to produce, manufacture, distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.
- (2) Whoever violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not less than two years nor more than ten years and may, in addition, be sentenced to pay a fine of not more than twenty thousand dollars.
- B. (1) It shall be unlawful for any person knowingly or intentionally to possess a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.
- (2) Any person who violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not more than five years and may, in addition, be sentenced to pay a fine of not more than five thousand dollars.
- C. For the purposes of this Section:
 - (1) *Distribute* means to sell, lease, rent, barter, trade, furnish, supply, or otherwise transfer in exchange for anything of value a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.
 - (2) *Hallucinogenic plant* means any part or portion of any of the following:
 - (a) Brugmansia arborea.
 - (b) Amanita muscaria.
 - (c) Conocybe spp.
 - (d) Panaeolus spp.
 - (e) Psilocybe spp.
 - (f) Stropharia spp.
 - (g) Vinca rosea.
 - (h) Ipomoea violacea.
 - (i) Datura spp.
 - (j) Pancreatium trianthum.
 - (k) Kaempferia galangal.
 - (l) Olmedioperebea sclerophylla.
 - (m) Mesembryanthemum spp.
 - (n) Virola spp.
 - (o) Anadenanthera peregrina.
 - (p) Anadenanthera colubrine.
 - (q) Erythina spp.
 - (r) Genista canariensis.
 - (s) Mimosa hostilis.
 - (t) Rhynchosia spp.
 - (u) Sophora secundiflora.
 - (v) Peganum harmala.
 - (w) Banisteriopsis spp.
 - (x) Tetrapteris methystica.
 - (y) Heimia salicifolia.
 - (z) Tabernanthe iboga.
 - (aa) Prestonia amazonica.
 - (bb) Lagoehilus inebrians.
 - (cc) Rivea corymbosa.
 - (dd) Salvia divinorum.
 - (ee) Atropa belladonna.

- (ff) *Hyoscyamus niger*.
 - (gg) *Mandragora officinarum*.
 - (hh) *Brunfelsia* spp.
 - (ii) *Methysticodendron anesianum*.
 - (jj) *Latua pubiflora*.
 - (kk) *Calea Zacatechichi*.
 - (ll) *Physalis subglabrata*.
 - (mm) *Solanum carolinense*.
- (3) *Homeopathic drug* means any drug labeled as being homeopathic which is listed in the Homeopathic Pharmacopeia of the United States, an addendum to it, or its supplements. The potencies of homeopathic drugs are specified in terms of dilution. Homeopathic drug products must contain diluents commonly used in homeopathic pharmaceuticals. Drug products containing homeopathic ingredients in combination with non-homeopathic active ingredients are not homeopathic drug products.
 - (4) *Manufacture* means the production, preparation, propagation, compounding, or processing of a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container holding a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.
 - (5) *Production* includes the manufacture, planting, cultivation, growing, or harvesting of a hallucinogenic plant.
- D. The provisions of this Section shall not apply to the possession, planting, cultivation, growing, or harvesting of a hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes.
 - E. The provisions of this Section shall not apply to any dosage form which is legally obtainable from a retail establishment without a prescription and is recognized by the Federal Food and Drug Administration as a homeopathic drug.

(Added by Act 159 of 2005 Legislature)

§989.2 Unlawful production, manufacturing, distribution, or possession of prohibited plant products

- A. (1) It shall be unlawful for any person knowingly or intentionally to produce, manufacture, distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, or preparation which contains a prohibited plant and which meets any of the following criteria:
 - (a) It is intended to be placed in the oral or nasal cavity.
 - (b) It is prepared in such a manner as to be suitable for smoking in a pipe or cigarette, or other device.
 - (c) It is to be burned and inhaled or exhaled in any manner or in any form.
- (2) Whoever violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not more than five years and may, in addition, be sentenced to pay a fine of not more than ten thousand dollars.
- B. (1) It shall be unlawful for any person knowingly or intentionally to possess material, compound, mixture, or preparation which contains a prohibited plant and which is intended to be placed in the oral or nasal cavity, is prepared in such a manner as to be suitable for smoking in a pipe or cigarette, or is to be burned and inhaled or exhaled in any manner or in any form.
- (2) Any person who violates the provisions of this Subsection shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.
- C. For the purposes of this Section:
 - (1) "Distribute" means to sell, barter, trade, furnish, supply, or otherwise transfer in exchange for anything of value a material, compound, mixture, or preparation which contains a prohibited plant.
 - (2) "Homeopathic drug" means any drug labeled as being homeopathic which is listed in the Homeopathic Pharmacopoeia of the United States, an addendum to it, or its supplements. The potencies of homeopathic drugs are specified in terms of dilution. Homeopathic drug products must contain diluents commonly used in homeopathic pharmaceuticals. Drug products containing homeopathic ingredients in combination with non-homeopathic active ingredients are not homeopathic drug products.
 - (3) "Manufacture" means the production, preparation, propagation, compounding, or processing of a material, compound, mixture, or preparation which contains a prohibited plant either directly or

indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container holding a material, compound, mixture, or preparation which contains a prohibited plant.

- (4) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a prohibited plant.
 - (5) "Prohibited plant" means any combination of any of the parts, leaves, stems, stalks, seeds, materials, compounds, salts, derivatives, mixtures, preparations, or any resin extracted from any part of the following plants:
 - (a) *Artemisia vulgaris* (Mugwort).
 - (b) *Canavalia rosea* (Bay bean).
 - (c) *Leonotis leonurus* (Lion's tail).
 - (d) *Leonotis nepetifolia* (Lion's ear).
 - (e) *Leonurus sibiricus* (Honeyweed).
 - (f) *Nelumbo nucifera* (Sacred Lotus).
 - (g) *Nymphaea caerulea* (Blue Lotus, Egyptian Lotus).
 - (h) *Pedicularis densiflora* (Indian warrior).
 - (i) *Salvia divinorum*.
 - (j) *Scutellaria nana* (Dwarf skullcap).
 - (k) *Turnera diffusa* (Damiana).
 - (l) *Zornia latifolia*.
- D. The provisions of this Section shall not apply to any dosage form which is legally obtainable from a retail establishment without a prescription and is recognized by the United States Food and Drug Administration as a homeopathic drug.
- E. The provisions of this Section shall not apply to the possession, planting, cultivation, growing, or harvesting of a prohibited plant strictly for aesthetic landscaping, or decorative purposes.

(Added by Act 565 of 2010 Legislature)

§989.3 Unlawful distribution of products containing *Mitragyna speciosa* to minors; penalties

- A. It shall be unlawful for any person to distribute any product containing *Mitragyna speciosa* to a minor.
- B. Whoever violates the provisions of this Subsection shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(Added by Act 355 of 2012 Legislature)

§990. Burden of proof; liabilities

- A. It shall not be necessary for the state to negate any exemption or exception set forth in this Part in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this part, 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 part, 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 Part upon any duly authorized law enforcement officer, the Board of Pharmacy or its employees as provided in R.S. 40:984 engaged in the enforcement of any law, regulation, or municipal ordinance relating to controlled dangerous substances.

(Amended by Act 834 of 2006 Legislature)

§991. *(Repealed by Act 616 of 1981 Legislature)*

§991. Prescription for controlled dangerous substances; proof of valid prescription; time period for raising defense; notice to prosecution

- A. An individual who claims possession of a valid prescription for any controlled dangerous substance as a defense to a violation of the provisions of the Uniform Controlled Dangerous Substances Law shall have the obligation to produce sufficient proof of a valid prescription to the appropriate prosecuting office. Production of the original prescription bottle with the defendant's name, the pharmacist's name, and prescription number shall be sufficient proof of a valid prescription as provided for in this Section.
- B. As used in this Section, "controlled dangerous substance" shall have the meaning as provided in R.S. 40:961(7) and "prescription" shall have the same meaning as provided in R.S. 40:961(33).

- C. Any individual who claims the defense of a valid prescription for any controlled dangerous substance shall raise the defense before commencement of the trial through a motion to quash.

(Added by Act 265 of 2009 Legislature)

§992. Education and research

- A. The Board of Pharmacy is authorized to carry out educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances. In connection with such programs it is authorized to:
- (1) Promote better recognition of the problems of misuse and abuse of controlled dangerous 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 dangerous substances.
 - (3) Consult with interested groups and organizations to aid them in solving administrative and organizational problems.
 - (4) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances.
 - (5) Disseminate to the industry and the general public the results of research on misuse and abuse of controlled dangerous substances to promote a better public understanding of what problems exist and what can be done to combat them.
 - (6) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances.
- B. The Board of Pharmacy is authorized to encourage research on misuse and abuse of controlled dangerous substances. In connection with such research and in furtherance of the enforcement of this Part, it is authorized to:
- (1) Establish methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous 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 Part.
 - (b) Determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof.
 - (c) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled dangerous substances.
 - (3) Enter into contracts with public agencies or institutions of higher education, for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled dangerous substances.
- C. The Board of Pharmacy may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization shall not be compelled, in any civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which authorization was obtained.
- D. The Board of Pharmacy may authorize the possession and distribution of controlled dangerous substances by persons engaged in research in accordance with rules promulgated by the department. Persons who obtained this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the Board of Pharmacy.
- E. The Board of Pharmacy, with the concurrence and under the supervision and control of the chief law enforcement officer of the jurisdiction wherein the program is conducted, may authorize the possession and exhibition for educational purposes only of controlled dangerous substances by persons employed by local and state law enforcement agencies engaged in educational programs in accordance with rules promulgated by the Board of Pharmacy. Persons acting pursuant to this authorization shall be exempt from state and local prosecution for the possession and distribution of dangerous substances to the extent authorized by the Board of Pharmacy. The Board of Pharmacy shall coordinate and evaluate the training programs of the various law enforcement agencies to ensure compliance with the rules promulgated regulating the possession and exhibition of controlled dangerous substances for educational purposes.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978; Act 218 of 1984 Legislature; Act 834 of 2006 Legislature)

§993. Pending proceedings

- A. Prosecutions for any violation of law occurring prior to July 26, 1972 shall not be affected by this Part or abated by reason thereof.

- B. Civil seizures, forfeitures, and injunctive proceedings commenced prior to July 26, 1972 shall not be affected by this Part or abated by reason thereof.
- C. All administrative proceedings pending before the department on July 26, 1972 shall be continued and brought to final determination in accordance with laws and regulations in effect prior to July 26, 1972. Such drugs placed under control prior to enactment of this Part, which are not listed within Schedules I through V, shall automatically be controlled and listed in the appropriate schedule.
- D. The provisions of this Part shall be applicable to violations of law, seizures, and forfeiture, injunctive proceedings, administrative proceedings, and investigations which occur following July 26, 1972.

(Amended by Act 786 of 1978 Legislature, effective July 17, 1978)

§994. Continuation of regulations

Any orders, rules, and regulations which have been promulgated under any law affected by this Part, and which are in effect on the day preceding enactment of this Section, shall continue in effect until modified, superseded or repealed.

(Added by Act 634 of 1972 Legislature; amended by Act 649 of 1997 Legislature; Act 834 of 2006 Legislature)

§995. Short title

This Part may be cited as the Uniform Controlled Dangerous Substances Law.

§996.1 Legislative findings

- A. For more than sixty years, the Louisiana Legislature enacted laws to protect the public from the detrimental effects of misusing substances which are susceptible to abuse or which lead to addiction.
- B. Act No. 634 of the 1972 Regular Session incorporated protections regarding controlled dangerous substances into the Louisiana Uniform Controlled Dangerous Substances Law.
- C. In 2009 and 2010, Louisiana began experiencing increased incidents of individuals consuming synthetic cannabinoids as alternatives to marijuana, as well as increased incidents of individuals consuming substances which mimic the effects of amphetamines and cocaine and which are marketed as bath salts, fertilizer, and insect repellent.
- D. These substances, which have been sold throughout Louisiana in retail establishments, have produced symptoms such as high blood pressure, severe hallucinations, anxiety, vomiting, seizures, delusions, and suicidal thoughts.
- E. The chemical compositions of these substances make them relatively easy to alter by chemists resulting in the rapid production of new substances which circumvent statutes outlawing the production, manufacture, possession, and distribution of controlled dangerous substances having similar abuse potential and pharmacological effects.
- F. These substances have not been approved by the United States Food and Drug Administration as being safe for human consumption, are not subject to any quality control measures in their preparation, and do not have established dosages, making them extremely dangerous and potentially lethal.
- G. These substances have a high potential for abuse and no acceptable medical use in treatment in the United States. There is a lack of accepted safety for use of the substances under medical supervision making these substances highly addictive and potentially lethal.
- H. Article II, Section 1 of the Louisiana Constitution provides that the powers of government are divided into a legislative, executive, and judicial branch. Article II, Section 2 of the Louisiana Constitution provides that not one of these branches shall exercise power belonging to either of the other branches.
- I. The Louisiana Legislature recognizes that the Louisiana Supreme Court, in *State v. All Pro Paint & Body Shop, Inc.*, 639 So. 2d 707 (La. 1994), outlined a three-prong test to evaluate the constitutionality of a statutory delegation of legislative authority. The test provided that a statute delegating authority to an administrative agency is constitutionally valid if the enabling statute contains a clear expression of legislative policy, prescribes sufficient standards to guide the agency in the execution of that policy, and has adequate procedural safeguards to protect against abuse of discretion by that agency.
- J. The Louisiana Legislature has a compelling interest in protecting the health, safety, and welfare of its citizens against the detrimental and deadly effects of these substances.
- K. The options for the legislature to address the imminent hazard to the health, safety, and welfare for the people of the state of Louisiana are limited by the provisions of Article III, Section 2 of the Louisiana Constitution, which mandates an annual legislative session and provides mechanisms for the convening of an extraordinary or emergency session.

- L. The Louisiana Legislature seeks to provide for a limited delegation of legislative authority within the parameters which have been defined by the Louisiana Supreme Court for the express purpose of protecting the health, safety, and welfare of the citizens of the state from imminent harm.
- M. Louisiana law authorizes the secretary of the Department of Health and Hospitals to add a substance to the schedules of controlled dangerous substances based upon certain criteria. The provisions of R.S. 40:996.1 through 996.6 are intended to provide additional options for the secretary of the Department of Health and Hospitals to address imminent hazards to the public health, safety, and welfare caused by dangerous substances.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.2 Definitions

For the purposes of R.S. 40:996.1 through 996.7, the following terms shall have the following meanings:

- (1) "Dangerous substance" means a substance which is not otherwise listed as a controlled dangerous substance and has been determined to be an imminent hazard to the public health, safety, and welfare by the secretary using the criteria and standards prescribed in R.S. 40:996.3.
- (2) "Dangerous substance stop order" is a rule adopted by the Louisiana Department of Health and Hospitals pursuant to the provisions of R.S. 40:996.3 and 996.4, declaring that a substance is a dangerous substance which shall not be sold, distributed, manufactured, or dispensed.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.3 Declaration of a dangerous substance by the Louisiana Department of Health and Hospitals

- A. The secretary may by rule declare that a substance is a dangerous substance. In making a finding that a substance is a dangerous substance, the secretary shall consider the following factors with respect to each substance:
 - (1) Its actual or relative potential for abuse.
 - (2) Scientific evidence of its pharmacological effect, if known.
 - (3) State of current scientific knowledge regarding the substance.
 - (4) Its history and current pattern of abuse.
 - (5) Its scope, duration, and level of abuse.
 - (6) The level of risk to public health.
 - (7) The likelihood of psychic or physiological dependence.
 - (8) Whether the substance is an immediate precursor of a substance already controlled by the Uniform Controlled Substances Law.
 - (9) Whether the substance is an analogue of a substance already controlled by the Uniform Controlled Dangerous Substances Law.
 - (10) Whether there have been any reported fatalities associated with the substance.
 - (11) Whether there have been any cases involving the substance reported to the state poison center.
 - (12) Any other factors or considerations deemed relevant by the secretary.
- B. Prior to the adoption of a rule declaring that a substance is a dangerous substance, the secretary shall make all of the following findings and determinations:
 - (1) The substance has a high potential for abuse.
 - (2) The substance has no current medical use in treatment in the United States.
 - (3) There is a lack of accepted safety for use of the substance under medical supervision.
 - (4) There is an imminent hazard to the health, safety, and welfare of the citizens of Louisiana requiring the substance to be declared a dangerous substance and the issuance of a dangerous substance stop order as authorized by the provisions of this Section.
- C. If the secretary has considered the factors provided for in Subsection A of this Section and has made the determinations required by the provisions of Subsection B of this Section, a rule pursuant to the provisions of R.S. 40:996.5 may be adopted declaring the substance a dangerous substance.
- D. If the secretary determines that a substance shall be classified as a dangerous substance the rule shall also include a dangerous substance stop order prohibiting the sale, distribution, manufacture, or dispensing of the dangerous substance.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.4 Dangerous substance stop order; effects; seizure of dangerous substances; duration of order; validity

- A. A dangerous substance stop order issued by the secretary pursuant to the provisions of R.S. 40:996.3 shall remain in effect upon adoption of the rule and shall extend through the sixtieth day after final adjournment of the succeeding legislative session. Upon the sixtieth day after final adjournment of the succeeding regular legislative session, the dangerous substance stop order shall be null, void, and of no effect.
- B. Upon the adoption of the rule declaring a substance a dangerous substance and the issuance of the dangerous substance stop order, any law enforcement officer may seize any products containing the dangerous substance that are in plain view.
- C. Whenever a law enforcement officer, or an agent of the Department of Health and Hospitals, has probable cause to believe that any dangerous substance is located within the territorial jurisdiction of such officer, the officer may make application pursuant to Louisiana Code of Criminal Procedure Article 162 to a court of competent jurisdiction for a search warrant. The warrant shall be executed pursuant to the provisions of Louisiana Code of Criminal Procedure Articles 163, 164, and 165. In lieu of a return on the warrant, the executing officer shall attach to the search warrant a copy of the receipt required to be provided to the person from whom any such property is seized pursuant to this Section.
- D. Any product containing any quantity of the dangerous substance shall be deemed contraband drugs, which are subject to forfeiture pursuant to the provisions of Article I, Section (4)(D) of the Louisiana Constitution.
- E. The law enforcement officer seizing any dangerous substance pursuant to Subsections B or C of this Section shall appraise the value of the property seized according to his best judgment at its usual and ordinary retail price and shall deliver to the person found in possession thereof, if any, a receipt showing the fact of seizure, the date of the seizure, the name of the person from whom the property is seized, the location of the seizure, the description of the property seized, and the appraised value of such property.
- F. Property seized under this Section shall not be subject to sequestration or attachment but is deemed to be in the custody of the law enforcement agency making the seizure, subject only to the order of the court. The seized property shall be immediately returned to the owner upon the expiration of the dangerous substance stop order unless the legislature has enacted a provision to designate the dangerous substance as a controlled dangerous substance. In the event the legislature provides for the dangerous substance to be designated as a controlled dangerous substance, the property seized shall be considered contraband and destroyed immediately by the seizing law enforcement agency unless the seizing law enforcement agency determines that the property will be needed as evidence in a civil or criminal proceeding. If the property is needed as evidence, the law enforcement agency shall place the seized property in a secure facility designated by the holding of evidence, pending further orders of the court.
- G. The validity of a rule declaring a substance to be a dangerous substance and issuing a dangerous substance stop order may be determined in an action for declaratory judgment in the Nineteenth Judicial District Court. The Department of Health and Hospitals shall be made a party to the action. An action for a declaratory judgment under this Subsection may be brought only by a person to whom such rule is applicable or who would be adversely affected by such rule and only on the grounds that the rule does not meet the criteria for adoption of a dangerous substance stop order as provided for in R.S. 40:996.3. The court shall declare the rule invalid if it finds that there is not sufficient evidence for the adoption of the dangerous substance stop order. Notwithstanding any other provision of law to the contrary, the dangerous substance stop order shall remain in effect until such declaratory judgment is rendered or until it expires as provided for in this Section. The provisions of R.S. 49:963 shall not apply to any action brought pursuant to this Subsection. The provisions of this Subsection are in addition to R.S. 49:963 and shall not limit any action pursuant to R.S. 49:963.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.5 Rulemaking; special provisions; procedural safeguards

- A. Notwithstanding any other provisions of law to the contrary, if the secretary believes that there is an imminent hazard to the public health, safety, and welfare and the adoption of a rule declaring a substance a dangerous substance and the issuance of a dangerous substance stop order is necessary, a rule may be adopted pursuant to the provisions of this Section.
- B. The secretary shall publish a notice of intention to adopt a rule declaring a substance to be a dangerous substance and to issue a dangerous substance stop order regarding the sale, distribution, manufacture, or dispensing of the dangerous substance in the official state journal at least twice within a fifteen day period prior to the adoption of the rule.
- C. The notice shall provide for all of the following:

- (1) An explanation of the basis and rationale for the intended action, a summary of the information, and data supporting the intended action.
 - (2) The time, the location, and the manner in which interested persons may present their views thereon.
 - (3) A statement that the intended action complies with the provisions of R.S. 40:996.1 through 996.7.
 - (4) The text of the proposed rule.
- D. The secretary shall afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. The opportunity for oral presentation or argument shall be granted if requested within five days after the initial publication of the notice as provided for in this Section.
- E. The rule shall provide for all of the following:
- (1) A recitation of the determinations and findings required by the provisions of R.S. 40:996.3(B) and the reasons for those determinations and findings.
 - (2) A specific list of the substances declared to be dangerous substances.
 - (3) A dangerous substance stop order prohibiting the sale, distribution, manufacture, or dispensing of the dangerous substance.
- F. (1) The secretary shall transmit and deliver within seven days after the initial publication of the notice in the official journal of the state as provided for in Subsection B of this Section, a copy of any proposed rules to the speaker of the House of Representatives, the president of the Senate, the chairman of the House of Representatives Committee on Health and Welfare and the chairman of the Senate Committee on Health and Welfare for review. The chairmen of such committees shall review the proposed rules to determine whether to conduct legislative oversight hearings.
- (2) Legislative oversight shall be in accordance with the provisions of R.S. 49:968, except as provided in this Section.
- (3) Any legislative oversight committee hearing approving or finding unacceptable any proposed rules shall be held within fourteen days of receipt of the proposed rules by the presiding officers of each house of the legislature and any action by the governor to disapprove the action of the committee shall be taken within four days of receipt of the report of the committee by the governor.
- G. The rule shall become effective thirty days following the initial publication in the official state journal unless an oversight hearing is conducted and the rule is found unacceptable by the oversight committee and the governor does not disapprove of the action taken by the oversight committee. The rule shall remain in effect through the sixtieth day after final adjournment of the succeeding regular legislative session.
- H. Except as specifically provided for in this Section, the rule shall be adopted pursuant to the provisions of the Administrative Procedure Act.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.6 Violations

- A. It is unlawful for any person to sell, distribute, manufacture, or dispense a dangerous substance following the adoption of a dangerous substance stop order.
- B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or may be imprisoned for not more than two years in the parish jail, or both.
- C. Each day of continued violation shall constitute a separate offense.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§996.7 Pesticide law not affected

The provisions of R.S. 40:996.1 *et seq.* shall not be construed to apply to any substance regulated by the provisions of the Louisiana Pesticide Law.

(Added by Act 347 of 2012 Legislature, effective August 1, 2012)

§1002. *(Added by Act 1051 of 2003 Legislature; repealed by Act 875 of 2004 Legislature)*

(end of Part X of Chapter 4)