

4460

2011-2012 Regular Sessions

I N S E N A T E

April 6, 2011

Introduced by Sen. HANNON -- (at request of the Department of Health) --
read twice and ordered printed, and when printed to be committed to
the Committee on Health

AN ACT to amend the public health law, in relation to the sale, delivery,
dispensing and distribution of controlled substances; and to
repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY,
DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 3371 of the public health law, as
2 amended by chapter 178 of the laws of 2010, is amended to read as
3 follows:
4 1. No person, who has knowledge by virtue of his or her office of the
5 identity of a particular patient or research subject, a manufacturing
6 process, a trade secret or a formula shall disclose such knowledge, or
7 any report or record thereof, except:
8 (a) to another person employed by the department, for purposes of
9 executing provisions of this article;
10 (b) pursuant to judicial subpoena or court order in a criminal investigation
11 or proceeding;
12 (c) to an agency, [department of government, or] official board, OR
13 OTHER GOVERNMENTAL ENTITY, WHETHER INSIDE OR OUTSIDE THE DEPARTMENT,
14 authorized to regulate, license, REVIEW, or otherwise supervise a person
15 who is authorized by this article to POSSESS, ADMINISTER, DISPENSE, OR
16 deal in controlled substances, [or] in the course of any investigation,
17 AUDIT, or proceeding by or before such agency, [department or] board, OR
18 OTHER GOVERNMENTAL ENTITY, WHETHER INSIDE OR OUTSIDE THE DEPARTMENT;
19 (d) to a central registry established pursuant to this article; [and]
20 (e) to a practitioner to inform him or her that a patient may be under
21 treatment with a controlled substance by another practitioner[.]; OR
22 (F) TO A PHARMACY TO INFORM THE PHARMACY THAT A PERSON WHO PRESENTS OR
23 HAS PRESENTED A PRESCRIPTION FOR ONE OR MORE CONTROLLED SUBSTANCES AT

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 THE PHARMACY MAY HAVE ALSO OBTAINED ONE OR MORE CONTROLLED SUBSTANCES
2 FROM ANOTHER PHARMACY, WHERE THE CIRCUMSTANCES INDICATE A POSSIBILITY OF
3 DRUG ABUSE OR DIVERSION, POTENTIAL HARM TO THE PERSON, OR SIMILAR
4 GROUNDS.

5 S 2. Subdivision (d) of schedule I of section 3306 of the public
6 health law is amended by adding a new paragraph 33 to read as follows:

7 (33) 5-METHOXY-N,N-DIMETHYLTRYPTAMINE. SOME TRADE OR OTHER NAMES:
8 5-METHOXY-3-{2-(DIMETHYLAMINO)ETHYL}INDOLE; 5-MEO-DMT.

9 S 3. Subdivision (f) of schedule I of section 3306 of the public
10 health law is amended by adding two new paragraphs 9 and 10 to read as
11 follows:

12 (9) 4-METHYLMETHCATHINONE, ALSO KNOWN AS MEPHEDRONE.

13 (10) METHYLENEDIOXYPYROVALERONE SOME OTHER NAMES {(MDPV)
14 (1-(1,3-BENZODIOXOL-5-YL)-2-(1-PYRROLIDINYL)-1-PENTANONE)}.

15 S 4. Paragraph 6 of subdivision (b) of schedule II of section 3306 of
16 the public health law is REPEALED.

17 S 5. Paragraph 1 of subdivision (b) of schedule II of section 3306 of
18 the public health law is amended by adding a new subparagraph 18 to read
19 as follows:

20 18. ORIPAVINE.

21 S 6. Subdivision (c) of schedule II of section 3306 of the public
22 health law is amended by adding a new paragraph 28 to read as follows:

23 (28) TAPENTADOL.

24 S 7. Paragraph 5 of subdivision (d) of schedule II of section 3306 of
25 the public health law, as added by chapter 178 of the laws of 2010, is
26 amended to read as follows:

27 (5) Lisdexamfetamine, ITS SALTS, ISOMERS, AND SALTS OF ITS ISOMERS.

28 S 8. Subdivision (g) of schedule II of section 3306 of the public
29 health law is amended by adding a new paragraph 3 to read as follows:

30 (3) IMMEDIATE PRECURSOR TO FENTANYL:

31 (I) 4-ANILINO-N-PHENETHYL-4-PIPERIDINE (ANPP).

32 S 9. Subdivision (h) of schedule II of section 3306 of the public
33 health law, as amended by chapter 178 of the laws of 2010, is amended to
34 read as follows:

35 (h) Anabolic steroids. Unless specifically excepted or unless listed
36 in another schedule, "anabolic steroid" shall mean any drug or hormonal
37 substance, chemically and pharmacologically related to testosterone
38 (other than estrogens, progestins, corticosteroids and dehydroepiandrosterone)
39 [that promotes muscle growth, or any material, compound,
40 mixture, or preparation which contains any amount of the following
41 substances] AND INCLUDES:

42 (1) 3{beta}, 17-dihydroxy-5a-androstane.

43 (2) 3{alpha}, 17{beta}-dihydroxy-5a-androstane.

44 (3) 5{alpha}-androstane-3,17-dione.

45 (4) 1-androstenediol (3{beta},17{beta}-dihydroxy-5{alpha}-androst-1-
46 ene).

47 (5) 1-androstenediol (3{alpha},17{beta}-dihydroxy-5{alpha}-androst-1-
48 ene).

49 (6) 4-androstenediol (3{beta}, 17{beta}-dihydroxy-androst-4-ene).

50 (7) 5-androstenediol (3{beta}, 17{beta}-dihydroxy-androst-5-ene).

51 (8) 1-androstenedione ({5{alpha}}-androst-1-en-3,17-dione).

52 (9) 4-androstenedione (androst-4-en-3,17-dione).

53 (10) 5-androstenedione (androst-5-en-3,17-dione).

54 (11) Bolasterone (7{alpha},17{alpha}-dimethyl-17{beta}-hydroxyandrost-4-
55 en-3-one).

56 (12) Boldenone (17{beta}-hydroxyandrost-1, 4,-diene-3-one).

1 (13) BOLDIONE (ANDROSTA-1,4-DIENE-3,17-DIONE).
 2 (14) Calusterone (7{beta}, 17{alpha}-dimethyl-17{beta}-hydroxyandrost-
 3 4-en-3-one).
 4 [(14)] (15) Clostebol (4-chloro-17{beta}-hydroxyandrost-4-en-3-one).
 5 [(15)] (16) Dehydrochloromethyltestosterone [(4-chloro-17{beta}-
 6 hydroxy-17{alpha}-methyl-androst-1] (4-CHLORO-17{BETA}-HYDROXY-17
 7 {ALPHA}-METHYL-ANDROST-1, 4-dien-3-one).
 8 [(16)] (17) {Delta} 1-dihydrotestosterone (a.k.a. '1-testosterone')
 9 (17 {beta}-hydroxy-5{alpha}-androst-1-en-3-one).
 10 [(17)] (18) 4-dihydrotestosterone (17{beta}-hydroxy-androstan-3-one).
 11 [(18)] (19) Drostanolone (17{beta}-hydroxy-2{alpha}-methyl-5{alpha}
 12 -androstan-3-one).
 13 [(19)] (20) Ethylestrenol (17{alpha}-ethyl-17{beta}-hydroxyestr-
 14 4-ene).
 15 [(20)] (21) Fluoxymesterone (9-fluoro-17{alpha}-methyl-11{beta}, 17
 16 {beta}-dihydroxyandrost-4-en-3-one).
 17 [(21)] (22) Formebolone (2-formyl-17{alpha}-methyl-11{alpha},
 18 17{beta}-dihydroxyandrost-1, 4-dien-3-one).
 19 [(22)] (23) Furazabol (17{alpha}-methyl-17{beta}-hydroxyandrostan-
 20 {2, 3-c}-furan).
 21 [(23)] 13{beta}-ethyl-17[{alpha}-hydroxygon-4-en-3-one] (24)
 22 13{BETA}-ETHYL-17{BETA}-HYROXYGON-4-EN-3-ONE.
 23 [(24)] (25) 4-hydroxytestosterone [(4,17 {beta}-dihydroxyandrost-4-
 24 en-3-one)] (4, 17{BETA}-DIHYDROXY-ANDROST-4-EN-3-ONE).
 25 [(25)] (26) 4-hydroxy-19-nortestosterone (4,17{beta}-dihydroxy
 26 -estr-4-en-3-one).
 27 (27) DESOXYMETHYLTESTOSTERONE (17{ALPHA}-METHYL-5{ALPHA}-ANDROST-2-EN-
 28 17{BETA}-OL) (A.K.A., MADOL).
 29 [(26)] (28) Mestanolone (17{alpha}-methyl-17{beta}-hydroxy-
 30 5-androstan-3-one).
 31 [(27)] (29) Mesterolone (1{alpha}-methyl-17{beta}-hydroxy-{5{alpha}}-
 32 androstan-3-one).
 33 [(28)] (30) Methandienone (17{alpha}-methyl-17{beta}-hydroxyandrost-1,
 34 4-dien-3-one).
 35 [(29)] (31) Methandriol (17{alpha}-methyl-3{beta},
 36 17{beta}-dihydroxyandrost-5-ene).
 37 [(30)] (32) Methenolone (1-methyl-17{beta}-hydroxy-5{alpha}-androst-
 38 1-en-3-one).
 39 [(31)] (33) 17{alpha}-methyl-3{beta},17{beta}-dihydroxy-5a-androstane.
 40 [(32)] (34) 17{alpha}-methyl-3{alpha}, 17{beta}-dihydroxy-
 41 5a-androstane.
 42 [(33)] (35) 17{alpha}-methyl-3{beta}, 17{beta}-dihydroxyandrost-4-ene.
 43 [(34)] (36) 17{alpha}-methyl-4-hydroxynandrolone (17{alpha}-methyl-4-
 44 hydroxy-17{beta}-hydroxyestr-4-en-3-one).
 45 [(35)] (37) Methyldienolone (17{alpha}-methyl-17{beta}-hydroxyestra-
 46 4,9(10)-dien-3-one).
 47 [(36)] (38) Methyltrienolone (17{alpha}-methyl-17{beta}-hydroxyestra
 48 -4,9-11-trien-3-one).
 49 [(37)] (39) Methyltestosterone
 50 (17{alpha}-methyl-17{beta}-hydroxyandrost-4-en-3-one).
 51 [(38)] (40) Mibolerone
 52 (7{alpha},17{alpha}-dimethyl-17{beta}-hydroxyestr-4-en-3-one).
 53 [(39)] (41) 17{alpha}-methyl-{Delta} 1-dihydrotestosterone(17b{beta}-
 54 hydroxy-17{alpha}-methyl-5{alpha}-androst-1-en-3-one)(a.k.a. '17-{alpha}
 55 -methyl-1-testosterone').
 56 [(40)] (42) Nandrolone (17{beta}-hydroxyestr-4-en-3-one).

1 [(41)] (43) 19-nor-4-androstenediol (3{beta},17{beta}-dihydroxyestr
 2 -4-ene).
 3 [(42)] (44) 19-nor-4-androstenediol (3{alpha},17{beta}-dihydroxyestr-
 4 4-ene).
 5 [(43)] (45) 19-nor-5-androstenediol (3{beta},17{beta}-dihydroxyestr
 6 -5-ene).
 7 [(44)] (46) 19-nor-5-androstenediol (3{alpha},17{beta}-dihydroxyestr-
 8 5-ene).
 9 (47) 19-NOR-4,9(10)-ANDROSTADIENEDIONE (ESTRA-4,9(10)-DIENE-3,17-
 10 DIONE).
 11 [(45)] (48) 19-nor-4-androstenedione (estr-4-en-3,17-dione).
 12 [(46)] (49) 19-nor-5-androstenedione (estr-5-en-3,17-dione).
 13 [(47)] (50) Norbolethone (13{beta}, 17{alpha}-diethyl-17{beta}
 14 -hydroxygon-4-en-3-one).
 15 [(48)] (51) Norclostebol (4-chloro-17{beta}-hydroxyestr-4-en-3-one).
 16 [(49)] (52) Norethandrolone (17{alpha}-ethyl-17{beta}-hydroxyestr-
 17 4-en-3-one).
 18 [(50)] (53) Normethandrolone (17{alpha}-methyl-17{beta}
 19 -hydroxyestr-4-en-3-one).
 20 [(51)] (54) Oxandrolone (17{alpha}-methyl-17{beta}-hydroxy-2-oxa-
 21 {5{alpha}}-androstan-3-one).
 22 [(52)] (55) Oxymesterone (17{alpha}-methyl-4, 17{beta}-dihydroxy-
 23 androst-4-en-3-one).
 24 [(53)] (56) Oxymetholone (17 {alpha}-methyl-2-hydroxymethylene-17
 25 {beta}-hydroxy-{5{alpha}}- androstan-3-one).
 26 [(54)] (57) Stanozolol (17{alpha}-methyl-17{beta}-hydroxy-{5{alpha}}-
 27 androst-2-eno{3, 2-c}-pyrazole).
 28 [(55)] (58) Stenbolone (17{beta}-hydroxy-2-methyl-{5{alpha}}-androst-
 29 1-en-3-one).
 30 [(56)] (59) Testolactone (13-hydroxy-3-oxo-13, 17-secoandrosta-1,
 31 4-dien-17-oic acid lactone).
 32 [(57)] (60) Testosterone (17{beta}-hydroxyandrost-4-en-3-one).
 33 [(58)] (61) Tetrahydrogestrinone (13{beta}, 17{alpha}-diethyl
 34 -17{beta}-hydroxygon-4, 9, 11-trien-3-one).
 35 [(59)] (62) Trenbolone (17{beta}-hydroxyestr-4, 9, 11-trien-3-one).
 36 [(60)] (63) Any salt, ester or ether of a drug or substance described
 37 or listed in this subdivision.

38 S 10. Subdivision (i) of schedule II of section 3306 of the public
 39 health law, as added by chapter 418 of the laws of 1989, is amended to
 40 read as follows:

41 (i) Subdivision (h) of this section shall not include [any substance
 42 containing] AN anabolic [steroids] STEROID THAT IS expressly intended
 43 for administration through implants to cattle or other nonhuman species
 44 and that [are] HAS BEEN approved by the federal [food and drug
 45 administration solely] SECRETARY OF HEALTH AND HUMAN SERVICES for such
 46 [use] ADMINISTRATION. [Any individual who knowingly and willfully
 47 administers to himself or another] IF ANY person[,] prescribes,
 48 dispenses or distributes such [substances for other than implantation to
 49 cattle or nonhuman species shall be subject to the same penalties as a
 50 practitioner who violates the provisions of this section or any other
 51 penalties prescribed by law] STEROID FOR HUMAN USE, THE PERSON SHALL BE
 52 CONSIDERED TO HAVE PRESCRIBED, DISPENSED, OR DISTRIBUTED AN ANABOLIC
 53 STEROID WITHIN THE MEANING OF THIS SUBDIVISION.

54 S 11. Subdivision (f) of schedule III of section 3306 of the public
 55 health law, as amended by chapter 178 of the laws of 2010, is amended to
 56 read as follows:

(f) (i) Dronabinol [in sesame oil and encapsulated in a soft gelatin capsule] in a [drug product approved for marketing by the] U.S. Food and Drug Administration [(FDA)] APPROVED PRODUCT.

(ii) Any drug product [in tablet or capsule form] containing natural dronabinol derived from the cannabis (plant) or synthetic dronabinol (produced from synthetic materials) for which an abbreviated new drug application (ANDA) has been approved by the FDA under section 505(j) of the Federal Food, Drug, and Cosmetic Act which references as its listed drug the drug product referred to in paragraph (i) of this subdivision. Some other names for dronabinol include: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo{b,d} pyran-1-ol, or (-) delta-9-(trans) - tetrahydrocannabinol.

S 12. Subdivision (c) of schedule IV of section 3306 of the public health law is amended by adding two new paragraphs 52 and 53 to read as follows:

(52) FOSPROPOFOL.

(53) CARISOPRODOL.

S 13. Subdivision (b) of schedule V of section 3306 of the public health law, as added by chapter 664 of the laws of 1985, is amended to read as follows:

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal [qualitites] QUALITIES other than those possessed by narcotic drugs alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams.

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

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

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

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

(6) Not more than 0.5 milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

S 14. Subdivision (d) of schedule V of section 3306 of the public health law, as added by chapter 178 of the laws of 2010, is amended to read as follows:

(d) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) LACOSAMIDE ((R)-2-ACETOAMIDO-N-BENZYL-3-METHOXY-PROPIONAMIDE).

(2) Pregabalin ((S)-3-(aminomethyl)-5-methylhexanoic acid).

S 15. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that section one of this act shall take effect on the one hundred eightieth day after it shall have become a law; and provided, further, that effective immediately, the commissioner of health is authorized to add, amend or repeal any rule or regulation necessary for the implementation of this act on its effective date.