S T A T E O F N E W Y O R K

7917--A

2011-2012 Regular Sessions

I N A S S E M B L Y

May 24, 2011

Introduced by M. of A. CUSICK -- Multi-Sponsored by -- M. of A. CYMBROWITZ, GOTTFRIED -- (at request of the Department of Health) -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivision 1 of section 3371 of the public health law, as amended by chapter 178 of the laws of 2010, is amended to read as follows:

1. No person, who has knowledge by virtue of his or her office of the identity of a particular patient or research subject, a manufacturing process, a trade secret or a formula shall disclose such knowledge, or any report or record thereof, except:

(a) to another person employed by the department, for purposes of executing provisions of this article;

(b) pursuant to judicial subpoena or court order in a criminal investigation or proceeding;

(c) to an agency, [department of government, or] official board, OR OTHER GOVERNMENTAL ENTITY, INCLUDING BUT NOT LIMITED TO THE DEPARTMENT, THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, THE OFFICE OF THE MEDICAID INSPECTOR GENERAL, AND THE OFFICE OF PROFESSIONAL DISCIPLINE IN THE DEPARTMENT OF EDUCATION authorized to regulate, license or otherwise supervise a person who is authorized by this article to ADMINISTER, DISPENSE, PRESCRIBE OR deal in controlled substances, [or] in the course of any investigation, AUDIT, or proceeding by or before such agency, [department or] board, OR GOVERNMENTAL ENTITY;

(d) to a central registry established pursuant to this article; [and]

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

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(e) to a practitioner to inform him or her that a patient may be under treatment with a controlled substance by another practitioner[.]; OR

(F) TO A PHARMACIST TO INFORM THE PHARMACIST THAT A PERSON WHO PRESENTS OR HAS PRESENTED A PRESCRIPTION FOR ONE OR MORE CONTROLLED SUBSTANCES AT THE PHARMACIST MAY HAVE ALSO OBTAINED ONE OR MORE CONTROLLED SUBSTANCES FROM ANOTHER PHARMACIST, WHERE THE CIRCUMSTANCES INDICATE A POSSIBILITY OF DRUG ABUSE OR DIVERSION, POTENTIAL HARM TO THE PERSON, OR SIMILAR GROUNDS.

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

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

S 3. Paragraph 6 of subdivision (b) of schedule II of section 3306 of the public health law is REPEALED.

S 4. Paragraph 1 of subdivision (b) of schedule II of section 3306 of the public health law is amended by adding a new subparagraph 18 to read as follows:

18. ORIPAVINE.

S 5. Subdivision (c) of schedule II of section 3306 of the public health law is amended by adding a new paragraph 28 to read as follows:

(28) TAPENTADOL.

S 6. Paragraph 5 of subdivision (d) of schedule II of section 3306 of the public health law, as added by chapter 178 of the laws of 2010, is amended to read as follows:

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

S 7. Subdivision (g) of schedule II of section 3306 of the public health law is amended by adding a new paragraph 3 to read as follows:

(3) IMMEDIATE PRECURSOR TO FENTANYL:

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

S 8. Subdivision (h) of schedule II of section 3306 of the public health law, as amended by chapter 178 of the laws of 2010, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) BOLDIONE (ANDROSTA-1,4-DIENE-3,17-DIONE).

(14) Calusterone (7{beta}, 17{alpha}-dimethyl-17{beta}-hydroxyandrost-4-en-3-one).

[(14)] (15) Clostebol (4-chloro-17{beta}-hydroxyandrost-4-en-3-one).

[(15)] (16) Dehydrochloromethyltestosterone [(4-chloro-17{beta}-hydroxy-17{alpha}-methyl-androst-1] (4-CHLORO-17{BETA}-HYDROXY-17{ALPHA}-METHYL-ANDROST-1, 4-dien-3-one).

[(16)] (17) {Delta} 1-dihydrotestosterone (a.k.a. '1-testosterone') (17 {beta}-hydroxy-5{alpha}-androst-1-en-3-one).

[(17)] (18) 4-dihydrotestosterone (17{beta}-hydroxy-androstan-3-one).

[(18)] (19) Drostanolone (17{beta}-hydroxy-2{alpha}-methyl-5{alpha}-androstan-3-one).

[(19)] (20) Ethylestrenol (17{alpha}-ethyl-17{beta}-hydroxyestr-4-ene).

[(20)] (21) Fluoxymesterone (9-fluoro-17{alpha}-methyl-11{beta}, 17{beta}-dihydroxandrost-4-en-3-one).

[(21)] (22) Formebolone (2-formyl-17{alpha}-methyl-11{alpha}, 17{beta}-dihydroxyandrost-1, 4-dien-3-one).

[(22)] (23) Furazabol (17{alpha}-methyl-17{beta}-hydroxyandrostano{2, 3-c}-furazan).

[(23)] 13{beta}-ethyl-17[{alpha}-hydroxygon-4-en-3-one] (24) 13{BETA}-ETHYL-17{BETA}-HYROXYGON-4-EN-3-ONE.

[(24)] (25) 4-hydroxytestosterone [(4,17 {beta}-dihydroxyandrost-4-en-3-one)] (4, 17{BETA}-DIHYDROXY-ANDROST-4-EN-3-ONE).

[(25)] (26) 4-hydroxy-19-nortestosterone (4,17{beta}-dihydroxy-estr-4-en-3-one).

(27) DESOXYMETHYLTESTOSTERONE (17{ALPHA}-METHYL-5{ALPHA}-ANDROST-2-EN-17{BETA}-OL) (A.K.A., MADOL).

[(26)] (28) Mestanolone (17{alpha}-methyl-17{beta}-hydroxy-5-androstan-3-one).

[(27)] (29) Mesterolone (1{alpha}-methyl-17{beta}-hydroxy-{5{alpha}}-androstan-3-one).

[(28)] (30) Methandienone (17{alpha}-methyl-17{beta}-hydroxyandrost-1, 4-dien-3-one).

[(29)] (31) Methandriol (17{alpha}-methyl-3{beta}, 17{beta}-dihydroxyandrost-5-ene).

[(30)] (32) Methenolone (1-methyl-17{beta}-hydroxy-5{alpha}-androst-1-en-3-one).

[(31)] (33) 17{alpha}-methyl-3{beta},17{beta}-dihydroxy-5a-androstane.

[(32)] (34) 17{alpha}-methyl-3{alpha}, 17{beta}-dihydroxy-5a-androstane.

[(33)] (35) 17{alpha}-methyl-3{beta}, 17{beta}-dihydroxyandrost-4-ene.

[(34)] (36) 17{alpha}-methyl-4-hydroxynandrolone (17{alpha}-methyl-4-hydroxy-17{beta}-hydroxyestr-4-en-3-one).

[(35)] (37) Methyldienolone (17{alpha}-methyl-17{beta}-hydroxyestra-4,9(10)-dien-3-one).

[(36)] (38) Methyltrienolone (17{alpha}-methyl-17{beta}-hydroxyestra-4,9-11-trien-3-one).

[(37)] (39) Methyltestosterone (17{alpha}-methyl-17{beta}-hydroxyandrost-4-en-3-one).

[(38)] (40) Mibolerone (7{alpha},17{alpha}-dimethyl-17{beta}-hydroxyestr-4-en-3-one).

[(39)] (41) 17{alpha}-methyl-{Delta} 1-dihydrotestosterone(17b{beta}-hydroxy-17{alpha}-methyl-5{alpha}-androst-1-en-3-one)(a.k.a. '17-{alpha}-methyl-1-testosterone').

[(40)] (42) Nandrolone (17{beta}-hydroxyestr-4-en-3-one).

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

S 9. Subdivision (i) of schedule II of section 3306 of the public health law, as added by chapter 418 of the laws of 1989, is amended to read as follows:

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

S 10. Subdivision (f) of schedule III of section 3306 of the public health law, as amended by chapter 178 of the laws of 2010, is amended to 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-o1, or (-) delta-9-(trans) - tetrahydrocannabinol.

S 11. 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 12. 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 13. 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 14. 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.