

Tennessee Drug Statutes (listed in numerical order)

39-17-405. Criteria for Schedule I.

- The commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall place a substance in Schedule I upon finding that the substance has:
 - (1) High potential for abuse; and
 - (2) No accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

39-17-406. Controlled substances in Schedule I.

- (a) Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- (b) Opiates, unless specifically excepted or unless listed in another schedule, means any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. For the purposes of subdivision (b)(34) only, the term isomer includes the optical and geometric isomers.
 - (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide);
 - (2) Acetylmethadol;
 - (3) Allylprodine;
 - (4) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol; levomethadyl acetate; or LAAM);
 - (5) Alphameprodine;
 - (6) Alphamethadol;
 - (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine);
 - (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidiny]-N-phenylpropanamide);
 - (9) Benzethidine;
 - (10) Betacetylmethadol;
 - (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-phenylpropanamide);
 - (12) Beta-hydroxy-3-methylfentanyl

Other names: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide;

- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;

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- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxadine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacymorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl] propanamide);
- (43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide);
- (54) Tilidine; or
- (55) Trimeperidine.
- (c) Opium derivatives, unless specifically excepted or unless listed in another schedule, means any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Acetorphine;
 - (2) Acetyldihydrocodeine;
 - (3) Benzylmorphine;
 - (4) Codeine methylbromide;
 - (5) Codeine-N-Oxide;
 - (6) Cyprenorphine;
 - (7) Desomorphine;
 - (8) Dihydromorphine;
 - (9) Drotebanol;
 - (10) Etorphine (except hydrochloride salt);
 - (11) Heroin;
 - (12) Hydromorphinol;

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- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine; or
- (23) Thebacon.
- (d) Hallucinogenic substances, unless specifically excepted or unless listed in another schedule, means any material, compound mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible within the specified chemical designation. For purposes of this subsection (d) only, "isomer" includes the optical, positional and geometric isomers:
 - (1) Alpha-ethyltryptamine

Other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; AET;
 - (2) 4-Bromo-2,5-dimethoxyamphetamine

Other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA;
 - (3) 4-Bromo-2,5-dimethoxyphenethylamine

Other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus;
 - (4) 2,5-Dimethoxyamphetamine

Other names: 2,5 dimethoxy-alpha-methylphenethylamine; 2,5-DMA;
 - (5) 2,5-Dimethoxy-4-ethylamphetamine

Other name: DOET;
 - (6) 2,5 Dimethoxy-4-(n)-propylthiophenethylamine

Other name: 2C-T-7;
 - (7) 4-Methoxyamphetamine

Other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine (PMA);
 - (8) 5-Methoxy-3,4-methylenedioxyamphetamine;
 - (9) 4-Methyl-2,5-dimethoxyamphetamine

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Other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM; STP;

- **(10)** 3,4-Methylenedioxyamphetamine;
- **(11)** 3,4-Methylenedioxymethamphetamine

Other name: MDMA;

- **(12)** 3,4-Methylenedioxy-N-ethylamphetamine

Other names: N-ethyl-alpha-methyl 3,4(methylenedioxy)phenethylamine; N-ethyl MDA; MDE; MDEA;

- **(13)** N-hydroxy-3,4-methylenedioxyamphetamine

Other names: N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine; N-hydroxy MDA;

- **(14)** 3,4,5-Trimethoxyamphetamine;
- **(15)** 5-Methoxy-N,N-dimethyltryptamine

Other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT;

- **(16)** Alpha-methyltryptamine

Other name: AMT;

- **(17)** Bufotenine

Other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

- **(18)** Diethyltryptamine

Other names: N, N-Diethyltryptamine; DET;

- **(19)** Dimethyltryptamine

Other names: DMT;

- **(20)** 5-Methoxy-N, N-diisopropyltryptamine

Other name: 5-MeO-DIPT;

- **(21)** Ibogaine

Other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13 octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2': 1,2] azepino [5,4-b] indole; Tabernanthe iboga;

- **(22)** Lysergic acid diethylamide;
- **(23)** Mescaline;
- **(24)** Parahexyl

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Other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d] pyran; Synhexyl;

- **(25)** Peyote: Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts;
- **(26)** N-ethyl-3-piperidyl benzilate;
- **(27)** N-methyl-3-piperidyl benzilate;
- **(28)** Psilocybin;
- **(29)** Psilocyn;
- **(30)** Ethylamine analog of phencyclidine

Other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

- **(31)** Pyrrolidine analog of phencyclidine

Other names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; PHP;

- **(32)** Thiophene analog of phencyclidine

Other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TCPy; TCP; or

- **(33)** 1-[1-(2-Thienyl)cyclohexyl]pyrrolidine

Other names: TCPy.

- **(e)** Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible within the specified chemical designation:

- **(1)** Gamma-hydroxybutyric acid

Other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

- **(2)** Mecloqualone; or
- **(3)** Methaqualone.

- **(f)** Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- **(1)** Aminorex

Other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine;

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- (2) N-benzylpiperazine
Other names: BZP, 1-benzylpiperazine;
- (3) Cathinone
Other names: 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; norphedrone;
- (4) Fenethylamine;
- (5) Methcathinone
Other names: 2-(methylamino)-propionophenone; alpha-(methylamino) propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; UR 1432; its salts, optical isomers and salts of optical isomers;
- (6) (+/-)cis-4-Methylaminorex
Other names: (+/-) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine;
- (7) N-ethylamphetamine; or
- (8) N, N-dimethylamphetamine
Other names: N, N-alpha-trimethyl-benzeneethanamine; N, N-alpha-trimethylphenethylamine.

39-17-407. Criteria for Schedule II.

- The commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall place a substance in Schedule II upon finding that:
 - (1) The substance has high potential for abuse;
 - (2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
 - (3) The abuse of the substance may lead to severe psychic or physical dependence.

39-17-408. Controlled substances in Schedule II.

- (a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- (b) Substances, vegetable origin or chemical synthesis, unless specifically excepted or unless listed in another schedule, means any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived

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butorphanol, dextrophan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

- (A) Codeine;
- (B) Dihydroetorphine;
- (C) Ethylmorphine;
- (D) Etorphine hydrochloride;
- (E) Granulated opium;
- (F) Hydrocodone;
- (G) Hydromorphone;
- (H) Metopon;
- (I) Morphine;
- (J) Opium extracts;
- (K) Opium fluid;
- (L) Oripavine;
- (M) Oxycodone;
- (N) Oxymorphone;
- (O) Powdered opium;
- (P) Raw opium;
- (Q) Thebaine; or
- (R) Tincture of opium.
- (2) Any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subdivision (b)(1), except that these substances shall not include the isoquinoline alkaloids of opium;
- (3) Opium poppy and poppy straw;
- (4) Coca leaves and any salt, compound, derivative or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; or
- (5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form that contains the phenanthrene alkaloids of the opium poppy).
- (c) Opiates, unless specifically excepted or unless listed in another schedule, means any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
 - (1) Alfentanil;
 - (2) Alphaprodine;
 - (3) Anileridine;
 - (4) Bezitramide;
 - (5) Bulk Dextropropoxyphene (non-dosage forms);
 - (6) Carfentanil;
 - (7) Dihydrocodeine;
 - (8) Diphenoxylate;
 - (9) Fentanyl;
 - (10) Isomethadone;
 - (11) Levo-alpha-acetylmethadol

Other names: Levo-alpha-acetylmethadol; levomethadyl; LAAM;

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- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanyl;
- (27) Sufentanyl; or
- (28) Tapentadol.
- (d) Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
 - (2) Methamphetamine, its salts, isomers, and salts of its isomers;
 - (3) Phenmetrazine and its salts;
 - (4) Methylphenidate; or
 - (5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.
- (e) Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Amobarbital;
 - (2) Glutethimide;
 - (3) Pentobarbital;
 - (4) Phencyclidine; or
 - (5) Secobarbital.
- (f) Hallucinogenic substances.
 - (1) Nabilone

Other names: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

- (g) Immediate precursors, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture or preparation which contains any quantity of the following substances:
 - (1) Immediate precursor to amphetamine and methamphetamine:

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- (A) Phenylacetone
Other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;
- (2) Immediate precursors to phencyclidine (PCP):
 - (A) 1-phenylcyclohexylamine;
 - (B) 1-piperidinocyclohexanecarbonitrile (PCC); or
- (3) Immediate precursor to fentanyl:
 - (A) 4-anilino-N-phenethyl-4-piperidine (ANPP).

39-17-409. Criteria for Schedule III.

- The commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall place a substance in Schedule III upon finding that:
 - (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
 - (2) The substance has currently accepted medical use in treatment in the United States; and
 - (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

39-17-410. Controlled substances in Schedule III.

- (a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- (b) Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under [CFR 1308.32](#), and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;
 - (2) Benzphetamine;
 - (3) Chlorphentermine;
 - (4) Clortermine; or
 - (5) Phendimetrazine.
- (c) Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
 - (1) Any compound, mixture, or preparation containing:
 - (A) Amobarbital;
 - (B) Secobarbital;
 - (C) Pentobarbital;

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

- (2) Any suppository dosage form containing:

- (A) Amobarbital;
- (B) Secobarbital;
- (C) Pentobarbital;

or any salt of any of these drugs and approved by the United States food and drug administration for marketing only as a suppository;

- (3) Any substance that contains any quantity of a derivative of barbituric acid or any salt thereof;

- (A) Aprobarbital;
- (B) Butobarbital (secbutobarbital);
- (C) Butalbital;
- (D) Butobarbital (butethal);
- (E) Talbutal;
- (F) Thiomytal;
- (G) Thiopental; or
- (H) Vinbarbital;

- (4) Chlorhexadol;

- (5) Embutramide;

- (6) Gamma hydroxybutyric acid preparations. Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under § 505 of the federal Food, Drug, and Cosmetic Act, [USC § 301](#), et seq.;

- (7) Ketamine, its salts, isomers, and salts

Other name: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

- (8) Lysergic acid;

- (9) Lysergic acid amide;

- (10) Methyprylon;

- (11) Sulfondiethylmethane;

- (12) Sulfonethylmethane;

- (13) Sulfonmethane; or

- (14) Tiletamine and zolazepam or any salt of tiletamine or zolazepam:

- (A) Other name for a tiletamine-zolazepam combination product: Telazol(R);

- (B) Other name for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; and

- (C) Other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one; flupyrazapon.

- (d) Nalorphine.

- (e) Narcotic drugs, unless specifically excepted or unless listed in another schedule, means:

- (1) Any material, 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:

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- (A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (C) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
- (D) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
- (E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
- (F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
- (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than twenty-five (25) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts:
 - (A) Buprenorphine.
- (f) Anabolic steroids, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:
 - (1) Anabolic steroids:
 - (A) 3[beta],17-dihydroxy-5a-androstane;
 - (B) 3[alpha],17[beta]-dihydroxy-5a-androstane;
 - (C) 5[alpha]-androst-3,17-dione;
 - (D) 1-androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene);
 - (E) 1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene);
 - (F) 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene);
 - (G) 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene);
 - (H) 1-androstenedione ([5[alpha]]-androst-1-en-3,17-dione);
 - (I) 4-androstenedione (androst-4-en-3,17-dione);
 - (J) 5-androstenedione (androst-5-en-3,17-dione);
 - (K) Bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);
 - (L) Boldenone (17[beta]-hydroxyandrost-1,4,-diene-3-one);

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- **(M)** Boldione (androsta-1,4-diene-3,17-dione);
- **(N)** Calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);
- **(O)** Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one)

Other name: Chlorotestosterone;

- **(P)** Dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methyl-androst-1,4-dien-3-one);
- **(Q)** [Delta]1-dihydrotestosterone (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
- **(R)** 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one)

Other name: Stanolone;

- **(S)** Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one);
- **(T)** Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);
- **(U)** Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one);
- **(V)** Formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one);
- **(W)** Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furan);
- **(X)** 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;
- **(Y)** 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);
- **(Z)** 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one);
- **(AA)** Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol);
- **(BB)** Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5-androstan-3-one);
- **(CC)** Mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);
- **(DD)** Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);
- **(EE)** Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene);
- **(FF)** Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
- **(GG)** 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5a-androstane;
- **(HH)** 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5a-androstane;
- **(II)** 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene;
- **(JJ)** 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);
- **(KK)** Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one);

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- **(LL)** Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9-11-trien-3-one);
- **(MM)** Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one);
- **(NN)** Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one);
- **(OO)** 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');
- **(PP)** Nandrolone (17[beta]-hydroxyestr-4-en-3-one);
- **(QQ)** 19-nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene);
- **(RR)** 19-nor-4-androstenediol (3[alpha],17[beta]-dihydroxyestr-4-ene);
- **(SS)** 19-nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene);
- **(TT)** 19-nor-5-androstenediol (3[alpha],17[beta]-dihydroxyestr-5-ene);
- **(UU)** 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- **(VV)** 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- **(WW)** 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- **(XX)** Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);
- **(YY)** Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);
- **(ZZ)** Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one);
- **(AAA)** Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);
- **(BBB)** Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]-androstan-3-one);
- **(CCC)** Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one);
- **(DDD)** Oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);
- **(EEE)** Stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-eno[3,2-c]-pyrazole);
- **(FFF)** Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one);
- **(GGG)** Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- **(HHH)** Testosterone (17[beta]-hydroxyandrost-4-en-3-one);
- **(III)** Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one);
- **(JJJ)** Trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one);
- or
- **(KKK)** Methandrostenolone;
- **(2)** Any salt, ester, or ether of a drug or substance described in this subsection (f). Except such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the secretary of health and human services for such administration. If any person prescribes, dispenses,

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

- (3) Anabolic steroids with a combination of estrogens intended for administration to hormone deficient women are exempt from this rule unless such steroids are prescribed, dispensed, or distributed to women who are not hormone deficient.
- (g) Hallucinogenic substances.
 - (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product.

Other names: (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].

39-17-411. Criteria for Schedule IV.

- The commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall place a substance in Schedule IV upon finding that:
 - (1) The substance has a low potential for abuse relative to substances in Schedule III;
 - (2) The substance has currently accepted medical use in treatment in the United States; and
 - (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

39-17-412. Controlled substances in Schedule IV.

- (a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- (b) Narcotic drugs, unless specifically excepted or unless listed in another schedule, means any material, 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:
 - (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; or
 - (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).
- (c) Depressants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Alprazolam;
 - (2) Barbitol;
 - (3) Bromazepam;
 - (4) Camazepam;
 - (5) Carisoprodol;
 - (6) Chloral betaine;

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- (7) Chloral hydrate;
 - (8) Chlordiazepoxide;
 - (9) Clobazam;
 - (10) Clonazepam;
 - (11) Clorazepate;
 - (12) Clotiazepam;
 - (13) Cloxazolam;
 - (14) Delorazepam;
 - (15) Diazepam;
 - (16) Dichloraphenazone;
 - (17) Estazolam;
 - (18) Eszopiclone;
 - (19) Ethchlorvynol;
 - (20) Ethinamate;
 - (21) Ethyl Loflazepate;
 - (22) Fludiazepam;
 - (23) Flunitrazepam;
 - (24) Flurazepam;
 - (25) Fospropofol;
 - (26) Halazepam;
 - (27) Haloxazolam;
 - (28) Ketazolam;
 - (29) Loprazolam;
 - (30) Lorazepam;
 - (31) Lormetazepam;
 - (32) Mebutamate;
 - (33) Medazepam;
 - (34) Meprobamate;
 - (35) Methohexital;
 - (36) Methylphenobarbital (mephobarbital);
 - (37) Midazolam;
 - (38) Nimetazepam;
 - (39) Nitrazepam;
 - (40) Nordiazepam;
 - (41) Oxazepam;
 - (42) Oxazolam;
 - (43) Paraldehyde;
 - (44) Petrichloral;
 - (45) Phenobarbital;
 - (46) Pinazepam;
 - (47) Prazepam;
 - (48) Quazepam;
 - (49) Temazepam;
 - (50) Tetrazepam;
 - (51) Tramadol;
 - (52) Triazolam;
 - (53) Zaleplon;
 - (54) Zolpidem; or
 - (55) Zopiclone.
- (d) Fenfluramine means any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

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- (1) Fenfluramine.
- (e) Stimulants, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:
 - (1) Cathine ((+)-norpseudoephedrine);
 - (2) Diethylpropion;
 - (3) Fencamfamin;
 - (4) Fenproporex;
 - (5) Mazindol;
 - (6) Mefenorex;
 - (7) Modafinil;
 - (8) Pemoline (including organometallic complexes and chelates thereof);
 - (9) Phentermine;
 - (10) Pipradrol;
 - (11) Sibutramine; or
 - (12) SPA ((-)-1-dimethylamino-1,2-diphenylethane).
- (f) Other substances, unless specifically excepted or unless listed in another schedule, means any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:
 - (1) Pentazocine; or
 - (2) Butorphanol (including its optical isomers).

39-17-413. Criteria for Schedule V.

- The commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall place a substance in Schedule V upon finding that:
 - (1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;
 - (2) The substance has currently accepted medical use in treatment in the United States; and
 - (3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

39-17-414. Controlled substances in Schedule V.

- (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- (b) Narcotic drugs containing nonnarcotic active medicinal ingredients means 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 qualities other than those possessed by narcotic drugs alone:
 - (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

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- (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
- (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams; or
- (6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- (c) Stimulants, unless specifically exempted or excluded, or unless listed in another schedule, means any material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
 - (1) Pyrovalerone.
- (d) Depressants, unless specifically exempted or excluded or unless listed in another schedule, means 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-methoxypropionamide]; or
 - (2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

39-17-415. Criteria and controlled substances for Schedule VI.

- (a) There is established a Schedule VI for the classification of substances which the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, upon considering the factors set forth in [§ 39-17-403](#), decides should not be included in Schedules I through V. The controlled substances included in Schedule VI are:
 - (1) Marijuana;
 - (2) Tetrahydrocannabinols; and
 - (3) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis, sp.* and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:
 - (A) 1 cis or trans tetrahydrocannabinol, and its optical isomers;
 - (B) 6 cis or trans tetrahydrocannabinol, and its optical isomers; or
 - (C) 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.
- (b) Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.

39-17-416. Controlled substances in Schedule VII.

There is established a Schedule VII for the classification of substances that should not be included in Schedules I through VI. The controlled substance included in Schedule VII is Butyl nitrite and any isomer of Butyl nitrite.

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39-17-417. Criminal offenses and penalties.

- (a) It is an offense for a defendant to knowingly:
 - (1) Manufacture a controlled substance;
 - (2) Deliver a controlled substance;
 - (3) Sell a controlled substance; or
 - (4) Possess a controlled substance with intent to manufacture, deliver or sell the controlled substance.
- (b) A violation of subsection (a) with respect to a Schedule I controlled substance is a Class B felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).
- (c) A violation of subsection (a) with respect to:
 - (1) Cocaine or methamphetamine is a Class B felony if the amount involved is point five (.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and
 - (2)
 - (A) Any other Schedule II controlled substance, including cocaine or methamphetamine in an amount of less than point five (.5) grams, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); provided, that if the offense involves less than point five (.5) grams of a controlled substance containing cocaine or methamphetamine but the defendant carried or employed a deadly weapon as defined in [§ 39-11-106](#), during commission of the offense or the offense resulted in death or bodily injury to another person, the offense is a Class B felony.
 - (B) As a part of any sentence imposed for a violation of subdivision (a)(1) involving a controlled substance listed in [§ 39-17-408\(d\)\(2\)](#), the court shall require the defendant to make restitution to any governmental entity for the costs reasonably incurred in cleaning the area in which the offense occurred and in rendering the area safe for human use.
 - (C) In addition to the requirement that restitution be made to the governmental entity pursuant to subdivision (c)(2)(B), the court shall also require that restitution be made to any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense. In the case of property that was rented or leased, damages may also include the loss of any revenue that occurred because the property was uninhabitable or a crime scene. The type and amount of restitution permitted pursuant to this subdivision (c)(2)(C) shall be determined by the court using the procedure set out in [§ 40-35-304](#).
- (d)
 - (1) A violation of subsection (a) with respect to a Schedule III controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
 - (2)
 - (A) Notwithstanding any other provision of law to the contrary, a person charged for the first time with delivering an anabolic steroid or possessing an anabolic steroid with the intent to manufacture, deliver or sell the steroid shall be eligible for pretrial diversion pursuant to title 40, chapter 15, and probation pursuant to title 40, chapter 28 and [§ 40-35-313](#).

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- **(B)** The inference permitted by the first sentence of [§ 39-17-419](#) does not apply to a person charged under subdivision (a)(4) with possession of an anabolic steroid with intent to sell or deliver the steroid. Unless the state can prove that an actual sale or delivery occurred, the person may only be convicted of simple possession and punished as provided in [§ 39-17-418](#).
- **(e)** A violation of subsection (a) with respect to:
 - **(1)** Flunitrazepam is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and
 - **(2)** Any other Schedule IV controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
- **(f)** A violation of subsection (a) with respect to a Schedule V controlled substance is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).
- **(g)**
 - **(1)** A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana containing not less than one-half (1/2) ounce (14.175 grams) nor more than ten pounds (10 lbs.) (4535 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds (2 lbs.) (905 grams) of hashish is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).
 - **(2)** A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana and containing not less than ten pounds (10 lbs.), one gram (4536 grams) of marijuana nor more than seventy pounds (70 lbs.) (31,696 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than two pounds (2 lbs.), one gram (906 grams) nor more than four pounds (4 lbs.) (1810 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than ten (10) marijuana plants nor more than nineteen (19) marijuana plants, regardless of weight, is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).
 - **(3)** A violation of subsection (a) with respect to a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than four pounds (4 lbs.), one gram (1811 grams) nor more than eight pounds (8 lbs.) (3620 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than twenty (20) marijuana plants nor more than ninety-nine (99) marijuana plants, regardless of weight, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).
- **(h)** A violation of subsection (a) with respect to a Schedule VII controlled substance is a Class E felony and, in addition, may be fined not more than one thousand dollars (\$1,000).
- **(i)** A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts, is a Class B felony and, in addition, may be fined not more than two hundred thousand dollars (\$200,000):
 - **(1)** Fifteen (15) grams or more of any substance containing heroin;
 - **(2)** Fifteen (15) grams or more of any substance containing morphine;

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- **(3)** Five (5) grams or more of any substance containing hydromorphone;
- **(4)** Five (5) grams or more of any substance containing lysergic acid diethylamide (LSD);
- **(5)** Twenty-six (26) grams or more of any substance containing cocaine;
- **(6)** Five (5) grams or more of any substance containing a combination of pentazocine and tripeleennamine or joint possession of pentazocine and tripeleennamine;
- **(7)** Thirty (30) grams or more of any substance containing phencyclidine;
- **(8)** One hundred (100) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
- **(9)** Fifty (50) grams or more of any substance containing phenmetrazine;
- **(10)** Twenty-six (26) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
- **(11)** One thousand (1,000) grams or more of any substance containing peyote;
- **(12)** Two hundred (200) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(11); or
- **(13)** Not less than seventy pounds (70 lbs.), (31,697 grams) nor more than three hundred pounds (300 lbs.) (136,050 grams) of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than eight pounds (8 lbs.), one gram (3621 grams) nor more than fifteen pounds (15 lbs.) (6,792 grams) of any substance containing hashish, or not less than one hundred (100) marijuana plants nor more than four hundred ninety-nine (499) marijuana plants, regardless of weight.
- **(j)** A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts is a Class A felony and, in addition, may be fined not more than five hundred thousand dollars (\$500,000):
 - **(1)** One hundred fifty (150) grams or more of any substance containing heroin;
 - **(2)** One hundred fifty (150) grams or more of any substance containing morphine;
 - **(3)** Fifty (50) grams or more of any substance containing hydromorphone;
 - **(4)** Fifty (50) grams or more of any substance containing lysergic acid diethylamide (LSD);
 - **(5)** Three hundred (300) grams or more of any substance containing cocaine;
 - **(6)** Fifty (50) grams or more of any substance containing a combination of pentazocine and tripeleennamine or joint possession of pentazocine and tripeleennamine;
 - **(7)** Three hundred (300) grams or more of any substance containing phencyclidine;

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- **(8)** One thousand (1,000) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
- **(9)** Five hundred (500) grams or more of any substance containing phenmetrazine;
- **(10)** Three hundred (300) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;
- **(11)** Ten thousand (10,000) grams or more of any substance containing peyote;
- **(12)** Two thousand (2,000) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(11); or
- **(13)**
 - **(A)** Three hundred pounds (300 lbs.) (136,050 grams) or more of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.), one gram (6,793 grams) of any substance containing hashish, or five hundred (500) or more marijuana plants, regardless of weight.
 - **(B)** [Deleted by 2012 amendment.]
- **(k)** A violation of this section or a conspiracy to violate this section where the recipient or the intended recipient of the controlled substance is under eighteen (18) years of age shall be punished one (1) classification higher than provided in subsections (b)-(i).
- **(l)**
 - **(1)** If the district attorney general believes that a defendant should be sentenced as a habitual drug offender, the district attorney general shall file notice of the defendant's record of prior convictions for violations specified in this subsection (l) in conformity with the provisions of [§ 40-35-202](#).
 - **(2)** The trial court, upon the request of the district attorney general, shall enter injunctions, restraining orders, directions or prohibitions, or take other actions, including the acceptance of satisfactory performance bonds, liens on real property, security interests in personal property, for the purpose of collecting any fine imposed pursuant to this entire section.
 - **(3)** Any person found guilty of a violation of this section that constitutes a Class A or Class B felony or attempts to commit a Class A or Class B violation of this section or conspiracy to commit a Class A or Class B violation of this section and who has at least three (3) prior Class A or Class B felony convictions or any combination thereof under the provisions of this section or § 39-6-417 [repealed] or under the laws of any other state or jurisdiction, which if committed in this state would have constituted a Class A or Class B felony violation under this section or § 39-6-417 [repealed]; provided, that the prior convictions were for violations committed at different times and on separate occasions at least twenty-four (24) hours apart, shall be found to be an habitual drug offender and shall be sentenced to one range of punishment higher than the range of punishment otherwise provided for in [§ 40-35-105](#), and, in addition, shall be fined not more than two hundred thousand dollars (\$200,000).
- **(m)** The offense described in subdivision (a)(1) with respect to any substance defined in [§ 39-17-408\(d\)\(2\)](#) shall include the preparation or

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compounding of a controlled substance by an individual for the individual's own use.

39-17-418. Simple possession or casual exchange.

- (a) It is an offense for a person to knowingly possess or casually exchange a controlled substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice.
- (b) It is an offense for a person to distribute a small amount of marijuana not in excess of one-half (1/2) ounce (14.175 grams).
- (c) Except as provided in subsections (d) and (e), a violation of this section is a Class A misdemeanor.
- (d) A violation of subsections (a) or (b), where there is casual exchange to a minor from an adult who is at least two (2) years the minor's senior, and who knows that the person is a minor, is punished as a felony as provided in [§ 39-17-417](#).
- (e) A violation under this section is a Class E felony where the person has two (2) or more prior convictions under this section.
- (f)
 - (1) In addition to the other penalties provided in this section, any person convicted of violating this section for possession of a controlled substance may be required to attend a drug offender school, if available, or may be required to perform community service work at a drug or alcohol rehabilitation or treatment center.
 - (2) Any person required to attend a drug offender school pursuant to this subsection (f) shall also be required to pay a fee for attending the school. If the court determines that the person, by reason of indigency, cannot afford to pay a fee to attend the school, the court shall waive the fee and the person shall attend the school without charge. The amount of fee shall be established by the local governmental authority operating the school, but the fee shall not exceed the fee charged for attending an alcohol safety DUI school program if such a program is available in the jurisdiction. All fees collected pursuant to this subsection (f) shall be used by the governmental authority responsible for administering the school for operation of the school.

39-17-421. Substitution of drugs in filling prescriptions prohibited.

- (a) Except as provided in title 53, chapter 10, part 2, it shall be unlawful for any pharmacist, or any pharmacy technician or pharmacy intern under the supervision of a pharmacist who dispenses prescriptions, drugs, and medicines, to substitute any drug or device different from the one ordered, or deviate in any manner from the requirements of an order or prescription, without the approval of the prescriber, as defined in [§ 63-10-204](#).
- (b) A violation of this section is a Class C misdemeanor.

39-17-422. Inhaling, selling, giving or possessing glue, paint, gasoline, aerosol, gases, etc., for unlawful purposes.

- (a) No person shall, for the purpose of causing a condition of intoxication, inebriation, elation, dizziness, excitement, stupefaction, paralysis, or the dulling of the brain or nervous system, or disturbing or distorting of the audio or visual processes, intentionally smell or inhale the fumes from any glue, paint, gasoline,

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aerosol, chlorofluorocarbon gas or other substance containing a solvent having the property of releasing toxic vapors or fumes; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes, or to the use of nitrous oxide to implement the distribution of beverages or other foodstuffs for commercial purposes.

- **(b)** No person shall, for the purpose of violating subsection (a), use, or possess for the purpose of so using, any glue containing a solvent having the property of releasing toxic vapors or fumes.
- **(c)** No person shall sell, or offer to sell, or deliver or give away, to any person any tube or other container of glue, paint, gasoline, aerosol, chlorofluorocarbon gas or any other substance containing a solvent having the property of releasing toxic vapors or fumes, if the person has reasonable cause to suspect that the product sold or offered for sale, or delivered or given away, will be used for the purpose set forth in subsection (a).
- **(d)** As used in this section, "glue, paint, gasoline, aerosol, chlorofluorocarbon gas or other substance containing a solvent having the property of releasing toxic vapors or fumes" means and includes any glue, cement, paint, gasoline, aerosol, or any other substance of whatever kind containing one (1) or more of the following chemical compounds: acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, pentachlorophenol, petroleum ether, toluene or any group of polyhalogenated hydrocarbons containing fluorine and chlorine.
- **(e)** Nothing contained in this section shall be considered applicable to the sale of a hobby or model kit containing as a part of the kit a tube or other container of glue, nor shall this section be considered applicable to the sale of a tube or other container of glue immediately in conjunction with the sale of a hobby or model kit requiring the use of approximately the quantity of glue for the assembly of a model. Nothing contained in this section shall be applicable to the transfer of a tube or other container of glue from a parent to the parent's own child, or from a guardian to the guardian's own ward.
- **(f)**
 - **(1)** A violation of subsection (a), (b) or (d) is a Class A misdemeanor.
 - **(2)** A violation of subsection (c) is a Class E felony.

39-17-423. Counterfeit controlled substances.

- **(a)** It is an offense for a person to:
 - **(1)** Sell;
 - **(2)** Deliver; or
 - **(3)** Distribute a substance that is represented to be a controlled substance and which is substantially similar in color, shape, size, and markings or lack thereof, to a Schedule I, II, III or IV controlled substance as classified in [§§ 39-17-406 -- -17-412](#), in order that the substance may be sold as a controlled substance.
- **(b)** It is an offense for a person to manufacture for sale or exchange any substance with the intent that the substance substantially imitate in color, shape, size, and markings or lack of markings, the physical appearance of a Schedule I, II, III or IV controlled substance, as classified in [§§ 39-17-406 -- -17-412](#), in order that the substance may be sold as a controlled substance.
- **(c)** A violation of subsection (a) or (b) is a Class E felony.
- **(d)** It is an offense for a person to be the recipient of a sale or exchange of a substance set forth in this section. A violation of this subsection (d) is a Class A

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misdemeanor. In addition to the penalties set forth in this section, the court may impose a mandatory drug rehabilitation program.

- (e) The provisions of this section shall not apply to:
 - (1) Any person who manufactures or sells a substance for use as a placebo by a licensed physician, dentist, pharmacist or registered nurse acting under the direction of a physician, dentist, or pharmacist;
 - (2) A licensed physician, dentist, pharmacist or registered nurse who sells, dispenses, administers or otherwise distributes a placebo to a patient of the physician or dentist for purposes of the medical care or treatment of the patient;
 - (3) A noncontrolled substance that was introduced into commerce prior to the introduction into commerce of the controlled substance that it is alleged to imitate;
 - (4) A substance that may be legally purchased at a drug or grocery store without a prescription; provided, that the substance is not represented by the seller to be a controlled substance; and
 - (5) A substance that is packaged and labeled in accordance with appropriate rules and regulations of the United States food and drug administration shall create a rebuttable presumption that the manufacturer or wholesaler of the substance is exempted from the provisions of this section.

39-17-424. Determination whether object is drug paraphernalia.

- In determining whether a particular object is drug paraphernalia as defined by [§ 39-17-402](#), the court or other authority making that determination shall, in addition to all other logically relevant factors, consider the following:
 - (1) Statements by the owner or anyone in control of the object concerning its use;
 - (2) Prior convictions, if any, of the owner or of anyone in control of the object for violation of any state or federal law relating to controlled substances or controlled substance analogues;
 - (3) The existence of any residue of controlled substances or controlled substance analogues on the object;
 - (4) Instructions, oral or written, provided with the object concerning its use;
 - (5) Descriptive materials accompanying the object that explain or depict its use;
 - (6) The manner in which the object is displayed for sale;
 - (7) The existence and scope of legitimate uses for the object in the community; and
 - (8) Expert testimony concerning its use.

39-17-425. Unlawful drug paraphernalia uses and activities.

- (a)
 - (1) Except when used or possessed with the intent to use by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analogue in violation of this part.

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- (2) Any person who violates this subsection (a) commits a Class A misdemeanor.
- (b)
 - (1) Except when delivered, possessed with the intent to deliver, or manufactured with the intent to deliver by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, it is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analogue in violation of this part.
 - (2) Any person who violates subdivision (b)(1) commits a Class E felony.
 - (3) Except when delivered by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess a controlled substance, any person eighteen (18) years of age or over who violates this subsection (b) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than that person commits a Class E felony.
- (c)
 - (1) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
 - (2) Any person who violates the provisions of subdivision (c)(1) commits a Class A misdemeanor.

39-17-428. Mandatory minimum fines -- Allocation of proceeds.

- (a) Notwithstanding any other provision of this part to the contrary, any person convicted of violating any provision of this part shall be fined no less than the amount set out in the schedule in subsection (b). The fines set out in the schedule shall be the minimum mandatory fine for each type of offense and offender and shall not be construed to be a separate fine or in addition to the fines currently authorized by law for the offense committed. Nothing in this section shall prohibit the court from imposing a fine in excess of the minimum set out in such schedule; provided, that the amount is authorized by law.
- (b) In determining the minimum fine to impose upon any person convicted of violating any provision of this part, the court shall first determine whether the person was convicted of a misdemeanor or felony violation of this part and then shall determine if the person has any previous convictions for violations of this part. Having determined the category of offense and offender, the judge shall impose a minimum mandatory fine based upon the following:
 - (1) First conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish \$250
 - (2) Second conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish 500

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(3) Third or subsequent conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish, enhanced as a felony under [§ 39-17-418\(e\)](#) 1,000

(4) First conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI 750

(5) Second conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI 850

(6) Third or subsequent conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI, enhanced as a felony under [§ 39-17-418\(e\)](#)..... 1,000

(7) First conviction for possession of drug paraphernalia under [§ 39-17-425\(a\)\(1\)](#)..... 150

(8) Second or subsequent conviction for possession of drug paraphernalia under [§ 39-17-425\(a\)\(1\)](#) and conviction for all other misdemeanor drug offenses 250

(9) First conviction for all felony drug offenses involving a scheduled controlled substance 2,000

(10) Second conviction for all felony drug offenses involving a scheduled controlled substance 3,000

(11) Third or subsequent conviction for all felony drug offenses involving a scheduled controlled substance 5,000

(12) First conviction for all other felony drug offenses including [§ 39-17-423\(a\)](#) and (b) and [§ 39-17-425\(b\)\(1\)](#) 1,000

(13) Second or subsequent conviction for all other felony drug offenses including [§ 39-17-423\(a\)](#) and (b) and [§ 39-17-425\(b\)\(1\)](#) 1,500

(14) First conviction for an offense under [§ 39-17-431\(m\)](#).....1,000.

(15) Second or subsequent conviction for an offense under [§ 39-17-431\(m\)](#).....2,000.

- (c)
 - (1) Fifty percent (50%) of any fine collected pursuant to subsection (b) shall be allocated in the manner set out in [§ 39-17-420](#). The remaining fifty percent (50%) shall be paid to the general fund of the governing body of the law enforcement agency responsible for the investigation and arrest which resulted in the drug conviction; provided, that if a drug task force is responsible for the investigation and arrest, the amount above the minimum fine shall be paid to the general fund of the governing body of one (1) or more counties and cities within the judicial district as directed by the court. Notwithstanding the provisions of [§ 39-17-420\(a\)\(1\)](#) or any other law to the contrary, a portion of any fine collected pursuant to subsection (b) may be expended to fund programs and services for infants and children who are afflicted by HIV or AIDS.
 - (2) Nothing in this section shall be construed as prohibiting the use of proceeds from fines imposed pursuant to this section for the purpose of drug education.
- (d)
 - (1) Unless the judge, using the applicable criteria set out in [§ 40-14-202\(c\)](#), determines that a person convicted of violating this section is indigent, or that payment of the minimum fine would result in a severe economic hardship, or such fine would otherwise not be in the interests of justice, the minimum fines imposed by this section shall be mandatory and shall not be reduced, suspended, waived or otherwise released by the court. No plea agreement shall be accepted by a court if the agreement attempts to

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reduce or suspend all or any portion of the mandatory fines imposed by this section unless the judge determines that one (1) of the conditions set out in the first sentence of this subdivision (d)(1) exists.

- (2) If the judge of a court of general sessions determines that it is necessary to reduce, suspend, waive or otherwise release the minimum fines imposed by this section, the judge shall assess the fine, and write on the warrant the amount of the fine, the fact that it is reduced, suspended, waived or released and the reasons for the reduction, suspension, waiver or release. If done by the judge of a court of record, the judge shall assess the fine and make a specific finding of fact on the record relative to the reduction, suspension, waiver or release and the reasons for the reduction, suspension, waiver or release.

39-17-430. Anabolic steroids -- Prohibited activities.

- (a) It is unlawful for a practitioner to prescribe, order, distribute, supply or sell an anabolic steroid for:
 - (1) Enhancing performance in an exercise, sport or game without medical necessity; or
 - (2) Hormonal manipulation intended to increase muscle mass, strength or weight without medical necessity.
- (b) (1) It is unlawful for any person who is not a practitioner or lawful manufacturer of anabolic steroids to:
 - (A) Knowingly or intentionally manufacture or deliver an anabolic steroid, pure or adulterated; or
 - (B) Possess, with intent to manufacture or deliver, an anabolic steroid.
 - (2) As used in this subsection (b), "practitioner" means a physician, dentist or veterinarian.
- (c) A person who knowingly violates this section shall be punished as provided in [§ 39-17-417\(d\)](#) for a violation of a Schedule III controlled substance.

39-17-431. Immediate methamphetamine precursor -- Prohibitions.

- (a) Except as provided in this section, any product that contains any immediate methamphetamine precursor may be dispensed only by a licensed pharmacy.
- (b)
 - (1) A product or category of products that contains any immediate methamphetamine precursor shall be exempt from the requirements of this section if the ingredients are not in a form that can be used in the manufacture of methamphetamine.
 - (2) The board of pharmacy, in consultation with the Tennessee bureau of investigation (TBI), shall determine whether a product or category of products that contain any immediate methamphetamine precursor is not in a form that can be used in the manufacture of methamphetamine. In making such a determination, the board shall solicit the written opinion of the bureau and work with the bureau to develop procedures that consider, among other factors:
 - (A) The ease with which the product can be converted to methamphetamine, including the presence or absence of a "molecular lock" completely preventing a product's use in methamphetamine manufacture;

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- (B) The ease with which pseudoephedrine can be extracted from a product and whether it forms a salt, emulsion, or other form; and
- (C) Any other pertinent data that can be used to determine the risk of a product being viable in the illegal manufacture of methamphetamine.
- (3) The board of pharmacy shall maintain a public list of the exempted products or categories of products. Any person may request that a product or category of products be included on the exemption list.
- (c)
 - (1) A pharmacy shall not sell to the same person products containing more than three and six tenths (3.6) grams per day, or more than nine (9) grams per thirty-day period, of ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products, and not the overall weight of the products. The prohibition contained in this subsection (c) shall not apply to a person who obtains the product or products pursuant to a valid prescription issued by a licensed healthcare practitioner authorized to prescribe by the law of this state.
 - (2) A person shall not purchase products containing more than three and six tenths (3.6) grams per day, or more than nine (9) grams per thirty-day period, of ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers. The limits in this subsection (c) apply whether one form of ID is used to make the purchase or if two (2) or more are used to purchase the products. The limits shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products, and not the overall weight of the products. The prohibition contained in this subsection (c) shall not apply to a person who obtains the product or products pursuant to a valid prescription issued by a licensed healthcare practitioner authorized to prescribe by the law of the state.
 - (3) This subsection (c) also shall apply to pharmacist-generated prescription orders of the product pursuant to [§ 63-10-206](#). The provision of the patient education and counseling as a part of the practice of pharmacy shall be required when product is issued under this subsection (c).
 - (4) There shall be no protocol or procedure mandated by any individual or corporate entity that interferes with the pharmacist's professional duty to counsel and evaluate the patient's appropriate pharmaceutical needs and the exercise of the pharmacist's professional judgment as to whether it is appropriate to dispense medication as set forth in subsection (d) or otherwise.
- (d) The pharmacist or pharmacy intern under the supervision of the pharmacist shall require any person purchasing an over-the-counter product containing pseudoephedrine or ephedrine to present valid government issued photo identification at the point of sale. The pharmacist or pharmacy intern shall counsel with the person seeking to purchase the product as to the reasons for needing the product and may decline the sale if the pharmacist or pharmacy intern believes the sale is not for a legitimate medical purpose. The pharmacist, pharmacy technician, or pharmacy intern shall maintain an electronic record of the sale under this subsection (d) and the record may be maintained in the form of a pharmacist prescription order as provided by [§ 63-10-206\(c\)](#). The electronic record shall include the name and address of purchaser; name and quantity of product purchased; date and time purchased; purchaser identification type and number, such as driver license state and number; and the identity, such as name, initials or identification code, of the dispensing pharmacist or pharmacy

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intern. If a system is not able to record the identification type and number, the pharmacist, pharmacy technician, or pharmacy intern shall write the identification type and number on the prescription order. The electronic record shall also be maintained in a manner that allows for the determination of the equivalent number of packages purchased and total quantity of base ephedrine or pseudoephedrine purchased.

- **(e)**
 - **(1)** By January 1, 2012, each pharmacy in this state shall have in place and operational all equipment necessary to access and use the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI). The NPLEx system shall be available for access and use free of charge to the pharmacies and this state.
 - **(2)** Beginning January 1, 2012, before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine not otherwise excluded from the record keeping requirement, a pharmacy shall electronically submit the required information to the NPLEx administered by the NADDI. Except as provided in subsection (j), the seller shall not complete the sale if the system generates a stop sale alert.
 - **(3)** Absent negligence, wantonness, recklessness, or deliberate misconduct, any pharmacy utilizing the electronic sales tracking system in accordance with this subsection (e) shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection (e) and shall be immune from liability to any third party unless the retailer has violated this subsection (e) in relation to a claim brought for such violation. This subsection (e) shall not apply to a person who obtains the product or products pursuant to a valid prescription.
 - **(4)** The data entered into, stored and maintained by the NPLEx may only be used by law enforcement officials, healthcare professionals and pharmacists and only for controlling the sale of methamphetamine precursors.
 - **(5)** If, for any reason, the NPLEx administered by the NADDI is no longer the system used in this state to track the sale of methamphetamine precursors, whether because the system no longer functions, is no longer in existence, is no longer offered to the state without cost, or is otherwise no longer available, each pharmacy shall switch to and commence using the Tennessee Methamphetamine Information System (TMIS), as soon as the equipment necessary to access and use the system is made available at no charge to the pharmacy. TMIS shall be available for access and use free of charge to the pharmacies.
- **(f)** If a pharmacy selling an over-the-counter product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the tracking system and is unable to comply with the electronic sales tracking requirement, the pharmacy or retail establishment shall maintain a written log until such time as the pharmacy or retail establishment is able to comply with the electronic sales tracking requirement.
- **(g)** A pharmacy selling an over-the-counter product containing pseudoephedrine or ephedrine may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the board of pharmacy stating the reasons therefore. The board of pharmacy may grant an exemption for good cause shown, but in no event shall such exemption exceed one hundred eighty (180) days. Any pharmacy or retail establishment that receives an exemption shall maintain a hardcopy logbook and must still require the purchaser to provide the information required under this section before completion of any sale. The logbook shall be maintained as a record of each sale

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for inspection by any law enforcement officer or inspector of the board of pharmacy during normal business hours.

- **(h)** Nonexempt products containing an immediate methamphetamine precursor shall be maintained behind-the-counter of the pharmacy or in a locked case within view of and within twenty-five feet (25') of the counter.
- **(i)** All data that is collected from Tennessee pharmacies and stored in the NPLeX will be downloaded and exported by electronic means to the TMIS at least every twenty-four (24) hours. This export of data will be in a version in compliance with the National Information Exchange Standard and agreed to by both the TBI and the NADDI. The export will be executed without a charge to TMIS or any agency of this state. Any and all data exported to, obtained by, gathered by, transmitted to and/or stored by TMIS or its designee, once received from NADDI, is the property of this state. TMIS has the authority to control, administer, and disseminate, at its discretion, this transaction data for the purpose of enforcing federal and state laws. In addition to the exporting of data to TMIS, real time access to NPLeX information through the NPLeX online portal shall be provided to law enforcement in the state free of charge.
- **(j)** The NPLeX shall generate a stop sale alert, if completion of a sale would result in the seller or purchaser violating the quantity limits set forth in this section. The system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if the sale is not completed. Each instance in which the override function is utilized shall be logged by the system.
- **(k)** A violation of subsections (a)-(j) is a Class A misdemeanor, punishable by fine only. If the person in violation is a licensed pharmacy or pharmacist, the violation shall be reported to the board of pharmacy for review and appropriate action. If a product is dispensed in violation of subsection (a), the owner or operator of the wholesale or retail establishment dispensing the product shall be in violation of subsection (a).
- **(l)**
 - **(1)** [Deleted by 2012 amendment.]
 - **(2)** The TBI, in cooperation with the NADDI which administers the NPLeX, shall devise a method to electronically notify NADDI at least every seven (7) days of any person placed on the methamphetamine registry pursuant to [§ 39-17-436\(b\)](#). The notification shall include the first, middle and last names of the person, the person's date of birth and the person's driver license number or any other state or federal identification number. The NPLeX shall be designed to generate a stop-sale alert for any purchaser whose name has been submitted to the registry. Such person shall be prohibited from purchasing nonexempt products at the point-of-sale using the NPLeX.
 - **(3)** The bureau shall also notify NADDI when a person is removed from the methamphetamine registry pursuant to [§ 39-17-436\(e\)](#). When notified, the person shall be removed from NPLeX and is permitted to purchase nonexempt products.
 - **(4)**
 - **(A)** Any person who sells or delivers a nonexempt substance to a person known to be on the methamphetamine registry commits a Class A misdemeanor.
 - **(B)** Any person who purchases or attempts to purchase a nonexempt substance while such person is on the methamphetamine registry commits a Class A misdemeanor.

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- **(m) (1)** It is an offense for a person not authorized to do so to knowingly engage in any of the following conduct with respect to a nonexempt product containing an immediate methamphetamine precursor and required to be maintained behind-the-counter of the pharmacy as specified in subsection (h):
 - **(A)** Attempt to sell the product knowing that it will be used to produce methamphetamine, or with reckless disregard of its intended use;
 - **(B)** Attempt to purchase the product with the intent to manufacture methamphetamine or deliver the product to another person whom they know intends to manufacture methamphetamine, or with reckless disregard of the other person's intent;
 - **(C)** Purchase the product at different times or locations for the purpose of circumventing the maximum allowable quantity of the product that may lawfully be purchased during a one-day or thirty-day period; or
 - **(D)** Use a false identification to purchase the product for the purpose of circumventing the maximum allowable quantity of the product that may lawfully be purchased during a one-day period or thirty-day period.
- **(2)**
 - **(A)** A violation of this subsection (m) shall be a Class A misdemeanor. All proceeds from fines imposed pursuant to this subsection (m) shall be used by the jurisdiction making the arrest for methamphetamine clean-up activities in that jurisdiction.
 - **(B)** [Deleted by 2012 amendment.]
- **(n)** This section shall supersede any local laws or ordinances currently regulating sales of products containing any immediate methamphetamine precursor.
- **(o)**
 - **(1)** The office of the comptroller of the treasury shall conduct a study of methamphetamine use in this state. The study shall include: a review of existing literature; a review of available information on programs in other states, particularly those states that require a prescription for methamphetamine precursor purchase; and analysis of data and information from the Tennessee methamphetamine task force, the TBI, and other state or local agencies.
 - **(2)** The comptroller shall complete its study by no later than January 1, 2013, and report the findings to the house of representatives health and human resources committee and the senate general welfare, health and human resources committee.
- **(p)** For the purposes of this section, "pharmacy" means only a pharmacy operating under title 63, chapter 10, which sells any immediate methamphetamine precursor at retail to the public.

39-17-432. Drug-Free School Zone -- Enhanced criminal penalties for violations within zone.

- **(a)** It is the intent of this section to create drug-free zones for the purpose of providing vulnerable persons in this state an environment in which they can learn, play and enjoy themselves without the distractions and dangers that are incident to the occurrence of illegal drug activities. The enhanced and mandatory minimum sentences required by this section for drug offenses occurring in a drug-free zone are necessary to serve as a deterrent to such unacceptable conduct.
- **(b)**

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- (1) A violation of [§ 39-17-417](#), or a conspiracy to violate the section, that occurs on the grounds or facilities of any school or within one thousand feet (1,000') of the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, or public library, recreational center or park shall be punished one (1) classification higher than is provided in [§ 39-17-417\(b\)](#)-(i) for such violation.
- (2) In addition to any other penalty imposed by this section, a person convicted of violating this subsection (b) shall also be subject to the following:
 - (A) Upon conviction of a Class E felony, a fine of not more than ten thousand dollars (\$10,000);
 - (B) Upon conviction of a Class D felony, a fine of not more than twenty thousand dollars (\$20,000);
 - (C) Upon conviction of a Class C felony, a fine of not more than forty thousand dollars (\$40,000);
 - (D) Upon conviction of a Class B felony, a fine of not more than sixty thousand dollars (\$60,000); and
 - (E) Upon conviction of a Class A felony, a fine of not more than one hundred thousand dollars (\$100,000).
- (3) A person convicted of violating this subsection (b), who is within the prohibited zone of a preschool, childcare center, public library, recreational center or park shall not be subject to additional incarceration as a result of this subsection (b) but shall be subject to the additional fines imposed by this section.
- (c) Notwithstanding any other provision of law or the sentence imposed by the court to the contrary, a defendant sentenced for a violation of subsection (b) shall be required to serve at least the minimum sentence for the defendant's appropriate range of sentence. Any sentence reduction credits the defendant may be eligible for or earn shall not operate to permit or allow the release of the defendant prior to full service of the minimum sentence.
- (d) Notwithstanding the sentence imposed by the court, the provisions of title 40, chapter 35, part 5, relative to release eligibility status and parole, shall not apply to or authorize the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.
- (e) Nothing in the provisions of title 41, chapter 1, part 5 shall give either the governor or the board of probation and parole the authority to release or cause the release of a defendant sentenced for a violation of subsection (b) prior to service of the entire minimum sentence for the defendant's appropriate range of sentence.
- (f) Nothing in this section shall be construed as prohibiting the judge from sentencing a defendant who violated subsection (b) to any authorized term of incarceration in excess of the minimum sentence for the defendant's appropriate range of sentence.
- (g) The sentence of a defendant who, as the result of a single act, violates both subsection (b) and [§ 39-17-417\(k\)](#), may only be enhanced one (1) time under those sections for each act. The state must elect under which section it intends to seek enhancement of the defendant's sentence and shall provide notice of the election pursuant to [§ 40-35-202](#).

39-17-433. Promotion of methamphetamine manufacture.

- (a) It is an offense for a person to promote methamphetamine manufacture. A person promotes methamphetamine manufacture who:

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- (1) Sells, purchases, acquires, or delivers any chemical, drug, ingredient, or apparatus that can be used to produce methamphetamine, knowing that it will be used to produce methamphetamine, or with reckless disregard of its intended use;
- (2) Purchases or possesses more than nine (9) grams of an immediate methamphetamine precursor with the intent to manufacture methamphetamine or deliver the precursor to another person whom they know intends to manufacture methamphetamine, or with reckless disregard of the person's intent; or
- (3) Permits a person to use any structure or real property that the defendant owns or has control of, knowing that the person intends to use the structure to manufacture methamphetamine, or with reckless disregard of the person's intent.
- (b) Expert testimony of a qualified law enforcement officer shall be admissible to establish that a particular chemical, drug, ingredient, or apparatus can be used to produce methamphetamine. For purposes of this testimony, a rebuttable presumption is created that any commercially sold product contains or contained the product that it is represented to contain on its packaging or labels.
- (c) Possession of more than fifteen (15) grams of an immediate methamphetamine precursor shall be prima facie evidence of intent to violate this section. This subsection (c) shall not apply to the following persons or entities that lawfully possess drug products in the course of legitimate business activities:
 - (1) A pharmacy or pharmacist licensed by the board of pharmacy;
 - (2) A wholesale drug distributor, or its agents, licensed by the board of pharmacy;
 - (3) A manufacturer of drug products, or its agents, licensed by the board of pharmacy; and
 - (4) A licensed health care professional possessing the drug products in the course of carrying out the health care provider's profession.
- (d) For purposes of this section, "structure" means any house, apartment building, shop, barn, warehouse, building, vessel, railroad car, cargo container, motor vehicle, housecar, trailer, trailer coach, camper, mine, floating home, watercraft, or any other structure capable of holding a clandestine laboratory.
- (e)
 - (1) If the chemical, drug, ingredient, or apparatus to produce methamphetamine is purchased in violation of subdivision (a)(1) in more than one (1) county, venue for purposes of prosecution under this section is proper in any county in which such an item was purchased.
 - (2) If immediate methamphetamine precursors are purchased in violation of subdivision (a)(2) in more than one (1) county, venue for purposes of prosecution under this section is proper in any county in which a precursor was purchased.
- (f) A violation of this section is a Class D felony.

39-17-435. Initiation of a process intended to result in the manufacture of methamphetamine.

- (a) It is an offense for a person to knowingly initiate a process intended to result in the manufacture of any amount of methamphetamine.
- (b) It shall not be a defense to a violation of this section that the chemical reaction is not complete, that no methamphetamine was actually created, or that the process would not actually create methamphetamine if completed.

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- (c) For purposes of this section, "initiates" means to begin the extraction of an immediate methamphetamine precursor from a commercial product, to begin the active modification of a commercial product for use in methamphetamine creation, or to heat or combine any substance or substances that can be used in methamphetamine creation.
- (d) Expert testimony of a qualified law enforcement officer shall be admissible for the proposition that a particular process can be used to manufacture methamphetamine. For purposes of this testimony, a rebuttable presumption is created that any commercially sold product contains or contained the product that it is represented to contain on its packaging or labels.
- (e) A person may not be prosecuted for a violation of this section and of manufacturing a controlled substance in violation of [§ 39-17-417](#) based upon the same set of facts.
- (f) A violation of this section is a Class B felony.

39-17-437. Falsification of the results of a drug test.

- (a)
 - (1) It is an offense for a person to intentionally use, or possess with the intent to use, any substance or device designed to falsify the results of a drug test of that person.
 - (2) Except as provided in subdivision (a)(3), it is an offense for a person to sell synthetic urine.
 - (3) It is not an offense for a person to sell synthetic urine to an individual for bona fide educational, medical or scientific purposes. Any person selling synthetic urine for such purposes shall maintain documentation as to the educational, medical or scientific purpose for each individual sale of such urine for a period not less than five (5) years.
- (b) As used in this section:
 - (1) "Drug test" means a lawfully administered test designed to detect the presence of a controlled substance or a controlled substance analogue; and
 - (2) "Synthetic urine" means any product or substance which is designed to falsify the results of a drug test for a human being.
- (c)
 - (1) A violation of subdivision (a)(1) is a Class A misdemeanor.
 - (2) A violation of subdivision (a)(2) is a Class C misdemeanor.

39-17-438. Production, manufacture, distribution or possession of salvia divinorum A.

- (a) (1) It is an offense to knowingly produce, manufacture, distribute, possess or possess with intent to produce, manufacture, or distribute the active chemical ingredient in the hallucinogenic plant salvia divinorum or the following synthetic cannabinoids:
 - (A) (6a,10a)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; including, but not limited to HU 210 or HU 211;
 - (B) Naphthoylindoles being any compound structurally derived from 3-(1-naphthoyl) indole with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted

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- in the naphthyl ring to any extent; including, but not limited to JWH-018, JWH-019, JWH-073, or JWH-200;
- **(C)** Naphthylmethylindoles being any compound structurally derived from a 1 H-indole-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-175, JWH-184, or JWH-199;
 - **(D)** Naphthoylpyrroles, being any compound structurally derived from 3-(1-naphthoyl) pyrrole with substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl 1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-307;
 - **(E)** Naphthylmethylindenes, being any compound structurally derived from 1-(1-naphthylmethyl) indene with substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl ,1-(N-methyl-2-piperidiny)lmethyl, or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent; including, but not limited to JWH-176;
 - **(F)** Phenylacetylindoles, being any compound structurally derived from 3-phenylacetylindole with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)lmethyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent; including, but not limited to JWH-250, JWH-251, or RCS-8;
 - **(G)** Cyclohexylphenols, being any compound structurally derived from 2-(3-hydroxycyclohexyl) phenol with substitution at the 5-position of the phenolic ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)lmethyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the whether or not substituted in the cyclohexyl ring to any extent; including, but not limited to CP 47,497, or the dimethylhexyl, dimethyloctyl or dimethylnonyl homologues of CP 47,497;
 - **(H)** Tetrahydro derivatives of cannabiniol and 3-alkyl homologues of cannabiniol or of its tetrahydro derivatives, except where contained in cannabis or cannabis resin;
 - **(I)** Benzoylindoles, being any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring with a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent; including, but not limited to AM-694, Pravadoline (WIN 48, 098) or RCS-4; or
 - **(J)** WIN-55,212-2 or 2,3-Dihydro-5-methyl-3-(4 Morpholinylmethyl) pyrrolo [1,2,3-de]-1,4--benzoxazin-6-yl]-1-napthalenylmethanone.
 - **(2)** Subdivision (a)(1) concerning synthetic cannabinoids shall not apply to drugs or substances lawfully prescribed or to drugs or substances which have been approved by the federal food and drug administration.

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- (b) This section shall not apply to the possession, planting, cultivation, growing, or harvesting of the hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes.
- (c) This section shall not apply to any dosage form that is legally obtainable from a retail establishment without a prescription and is recognized by the federal food and drug administration as a homeopathic drug.
- (d)
 - (1) A first violation of this section is a Class D felony.
 - (2) A second or subsequent violation of this section is a Class C felony.
 - (3) If the violation of this section involved the delivery, dispensing or sale of a controlled substance analogue to a minor, the person shall be punished one (1) classification higher than the punishment provided by this subsection (d) for delivering, dispensing or selling to an adult.

39-17-452. Synthetic derivatives or analogues of methcathinone.

- (a) (1) It is an offense to knowingly produce, manufacture, distribute, sell, offer for sale or possess any capsule, pill, or other product composed of or containing any amount of any compound, other than bupropion, that is structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:
 - (A) Substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
 - (B) Substitution at the 3-position with an alkyl substituent; or
 - (C) Substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.
 - (2) Compounds recognized under subdivision (a)(1) include, but are not limited to:
 - (A) 3,4-methylenedioxy-methcathinone (Methylone);
 - (B) 3,4-methylenedioxy-pyrovalerone (MDPV);
 - (C) 4-methylmethcathinone (Mephedrone, Methpadrone, 4-MMC);
 - (D) 4-methoxymethcathinone (Methedrone);
 - (E) 3-methoxymethcathinone (HMMC);
 - (F) 2-(methylamino)-propiophenone; OR alpha-(methylamino) propiophenone;
 - (G) 4-fluoromethcathinone (Flephedrone);
 - (H) 3-fluoromethcathinone (3-FMC);
 - (I) 4-methyl-alpha-pyrrolidinobutyrophenone (MPBP);
 - (J) 2-(methylamino)-1-phenylpropan-1-one (Ephedrone);
 - (K) 4-ethylmethcathinone (4-EMC);
 - (L) 3,4-Dimethylmethcathinone (3,4-DMMC);
 - (M) alpha-Pyrrolidinopentiophenone (alpha-PVP);
 - (N) Naphthylpyrovalerone (Naphyrone);
 - (O) beta-Keto-N-methylbenzodioxolylpropylamine (Butylone);
 - (P) beta-Keto-N-methylbenzodioxolylpentanamine (Pentylone);
 - (Q) beta-Keto-Ethylbenzodioxolylbutanamine (Eutylone); and

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- (R) 3,4-methylenedioxy-N-ethylcathinone (Ethylone).
- (b) Subsection (a) shall not apply to drugs or substances lawfully prescribed or to drugs or substances which have been approved by the federal food and drug administration.
- (c) A violation of subsection (a) is a Class A misdemeanor.

39-17-453. Imitation controlled substances.

- (a) It is an offense to knowingly manufacture, deliver, sell, or possess with the intent to sell, deliver or manufacture an imitation controlled substance.
- (b) No person shall, for the purpose of causing a condition of intoxication, inebriation, elation, dizziness, excitement, stupefaction, paralysis, or the dulling of the brain or nervous system, or disturbing or distorting of the audio or visual processes, intentionally smell, inhale, inject, ingest or consume in any manner whatsoever an imitation controlled substance.
- (c) No person shall, for the purpose of violating subsection (b), use, or possess for the purpose of so using, an imitation controlled substance.
- (d) For purposes of this section, "imitation controlled substance" means a pill, capsule, tablet, or substance in any form whatsoever:
 - (1) Which is not a controlled substance enumerated in this part, which is subject to abuse, and which by express or implied representations, purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the United States food and drug administration; and
 - (2) The chemical structure of which is a derivative of, or substantially similar to, the chemical structure of a controlled substance.
- (e)
 - (1) In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an imitation controlled substance, there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.
 - (2) In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, it may be inferred from, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell. Such inference shall be transmitted to the jury by the trial judge's charge.
- (f)

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- (1) A violation of subsection (a) is a Class E felony. In addition to any period of incarceration imposed, there shall be imposed a fine of not less than two thousand dollars (\$2,000) and not more than five thousand dollars (\$5,000).
- (2) A violation of subsection (b) or (c) is a Class A misdemeanor. In addition to any period of incarceration imposed, there shall be imposed a fine of not less than two hundred fifty dollars (\$250) and not more than two thousand five hundred dollars (\$2,500).
- (g) The building and premises of any business in or upon which a violation of this section is committed by an employee, agent or owner of such business is declared to be a public nuisance and shall be subject to abatement as provided in title 29, chapter 3.

39-17-454. Controlled substance analogues.

- (a) (1) As used in this section, "controlled substance analogue" means a capsule, pill, powder, product or other substance, however constituted:
 - (A) That has the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance; and
 - (B) The chemical structure of which is a derivative of, or substantially similar to, the chemical structure of a controlled substance; or
 - (C) That is prohibited by [§ 39-17-452](#).
- (2) "Controlled substance analogue" does not include:
 - (A) A controlled substance;
 - (B) Any substance for which there is an approved use or new drug application by the federal food and drug administration;
 - (C) Any compound, mixture, or preparation that contains any controlled substance that is not for administration to a human being or animal, and that is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or
 - (D) Any substance to which an investigational exemption applies under § 505 of the Food, Drug and Cosmetic Act, codified in [U.S.C. § 355](#), but only to the extent that conduct with respect to the substance is pursuant to such exemption.
- (b) (1) In determining whether a substance is a controlled substance analogue, the following factors shall be considered, along with any other relevant factors:
 - (A) The difference between the price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold;
 - (B) Its diversion from legitimate channels, and its clandestine importation, manufacture, or distribution;
 - (C) The defendant's prior convictions, if any, for a violation of any state or federal statute prohibiting controlled substances or controlled substance analogues; and
 - (D) Comparisons with accepted methods of marketing a legitimate nonprescription drug for medicinal purposes rather than for the purpose of drug abuse or any similar nonmedical use, including:
 - (i) The packaging of the substance and its appearance in overall finished dosage form;
 - (ii) Oral or written statements or representations concerning the substance;

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- (iii) The methods by which the substance is distributed; and
- (iv) The manner in which the substance is sold to the public.
- (2) In determining whether a substance is a controlled substance analogue, the following scientific or pharmacological factors may be considered, along with any other relevant factors:
 - (A) Its actual or relative potential for abuse;
 - (B) Scientific evidence of its pharmacological effect, if known;
 - (C) The state of current scientific knowledge regarding the substance;
 - (D) The history of the substance and its current pattern of abuse;
 - (E) The scope, duration and significance of abuse;
 - (F) What, if any, risk there is to the public health;
 - (G) Its psychic or physiological dependence liability; and
 - (H) Whether the substance is an immediate precursor of a substance already controlled under this chapter.
- (c) It is an offense to knowingly manufacture, deliver, dispense or sell a controlled substance analogue or to possess a controlled substance analogue with the intent to manufacture, deliver, dispense or sell such substance.
- (d) It is an offense to knowingly possess or casually exchange a small amount of a controlled substance analogue not in excess of one (1) gram.
- (e) It may be inferred from the amount of controlled substance analogue possessed by an offender, along with other relevant facts surrounding the arrest, that the controlled substance analogue was possessed with the purpose of selling or otherwise dispensing in violation of subsection (c). It may be inferred from circumstances indicating a casual exchange among individuals of a controlled substance analogue that the controlled substance analogue so exchanged was possessed not with the purpose of selling or otherwise dispensing in violation of subsection (c). The inferences shall be transmitted to the jury by the trial judge's charge, and the jury will consider the inferences along with the nature of the substance possessed when affixing the penalty.
- (f) (1) It is an offense for a person to represent, orally or in writing, advertise, infer or intend that a controlled substance analogue:
 - (A) Is a derivative of, or substantially similar to, the chemical structure of a controlled substance;
 - (B) Has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance;
 - (C) Is a substance listed in [§ 39-17-452](#).
- (2) It is not a defense to prosecution under this subsection (f) that the controlled substance analogue:
 - (A) Is not a derivative of a controlled substance;
 - (B) Does not have a chemical structure that is substantially similar to that of a controlled substance;
 - (C) Does not have a stimulant, depressant, hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance; or

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- (D) Is not listed in [§ 39-17-452](#).
- (g)
 - (1) A first violation of subsection (c) is a Class D felony.
 - (2) A second or subsequent violation of subsection (c) is a Class C felony.
 - (3) If the violation of subsection (c) involved the delivery, dispensing or sale of a controlled substance analogue to a minor, the person shall be punished one (1) classification higher than the punishment provided by this subsection (g) for delivering, dispensing or selling to an adult.
 - (4) A violation of subsection (d) or (f) is a Class A misdemeanor.
- (h)
 - (1) Nothing in this section shall preclude a violation of [§ 39-17-453](#), involving an imitation controlled substance, or [§ 39-17-452](#) from being prosecuted and punished as a violation of this section if the substance in question meets the definition of an analogue controlled substance under subsection (a).
 - (2) Nothing in this section shall preclude a violation of this section involving a controlled substance analogue from being prosecuted and punished under [§ 39-17-452](#) or [§ 39-17-453](#) if the controlled substance analogue in question also meets the definitions found in such sections.
- (i) Any disability, disqualification, forfeiture, suspension, revocation, prohibition, tax or other adverse consequence provided by law that may result from a conviction for an offense involving a controlled substance shall also apply if the conviction involves a controlled substance analogue in violation of subsection (c).
- (j) The building and premises of any business in or upon which a violation of subsection (c) or (f) is committed by an employee, agent or owner of such business is declared to be a public nuisance and shall be subject to abatement as provided in title 29, chapter 3.

40-35-104. Sentencing alternatives.

- (a) A defendant convicted of a felony or a misdemeanor in this state shall be sentenced in accordance with this chapter.
- (b)
 - (1) A defendant who is convicted of a felony after November 1, 1989, and who is sentenced to a total sentence of at least one (1) year but not more than three (3) years, shall not be sentenced to serve the sentence in the department of correction, if the legislative body for the county from which the defendant is being sentenced has either contracted with the department, or has passed a resolution that expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, the defendant must be sentenced to the local jail or workhouse and not to the department.
 - (2) A defendant who is convicted of a felony after November 1, 1989, and who is sentenced to at least one (1) year but not more than six (6) years, shall not be sentenced to serve the sentence in the department of correction

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- if the defendant is being sentenced from a county with a population of not less than four hundred seventy-seven thousand eight hundred eleven (477,811), according to the 1980 federal census or any subsequent federal census, and the legislative body for the county has contracted with the department or has passed a resolution that expresses an intent to contract for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, the defendant must be sentenced to the local jail or workhouse and not to the department.
- (c) The following sentencing alternatives in any appropriate combination are authorized for defendants otherwise eligible under this chapter:
 - (1) Payment of a fine either alone or in addition to any other sentence authorized by this subsection (c);
 - (2) Payment of restitution to the victim or victims either alone or in addition to any other sentence authorized by this subsection (c);
 - (3) A sentence of confinement that is suspended upon a term of probation supervision that may include community service or restitution, or both;
 - (4) A sentence of periodic confinement that may be served in a local jail or workhouse in conjunction with a term of probation;
 - (5) A sentence of continuous confinement to be served in a local jail or workhouse in conjunction with a term of probation;
 - (6) A sentence of continuous confinement in a local jail or workhouse;
 - (7) Work release in accordance with [§ 40-35-315](#);
 - (8) A sentence of continuous confinement in the department of correction if the conviction is for a felony and the sentence is at least one (1) year, unless:
 - (A) The sentence is prohibited by subsection (b); or
 - (B) The defendant is convicted of a violation of [§ 39-14-103](#), involving property valued at less than one thousand dollars (\$1,000), and the defendant is sentenced as an especially mitigated offender as defined in [§ 40-35-109](#) or a standard offender as defined in [§ 40-35-105](#); or
 - (9) A sentence to a community based alternative to incarceration in accordance with the provisions, including eligibility requirements, of chapter 36 of this title.
 - (d) This chapter does not deprive a court of any authority conferred by law, including, but not limited to, [§ 40-35-313](#), to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose costs and other monetary obligations if specifically authorized by law.
 - (e) This chapter does not prevent a court from imposing a sentence of death specifically authorized by law.

40-35-105. Standard offender.

- (a) A standard offender is a defendant not sentenced as:
 - (1) A multiple offender, as defined by [§ 40-35-106](#);
 - (2) A persistent offender, as defined by [§ 40-35-107](#);
 - (3) A career offender, as defined by [§ 40-35-108](#);
 - (4) An especially mitigated offender, as defined by [§ 40-35-109](#); or
 - (5) A repeat violent offender, as defined by [§ 40-35-120](#).
- (b) The sentence for a standard offender is within Range I.
- (c) If the judgment of conviction does not include a sentence range, it shall be returned to the sentencing court to be completed.

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40-35-106. Multiple offender.

- (a) A multiple offender is a defendant who has received:
 - (1) A minimum of two (2) but not more than four (4) prior felony convictions within the conviction class, a higher class, or within the next two (2) lower felony classes, where applicable; or
 - (2) One (1) Class A prior felony conviction if the defendant's conviction offense is a Class A or B felony.
- (b) In determining the number of prior convictions a defendant has received:
 - (1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
 - (2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;
 - (3)
 - (A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions, shall not be considered as a prior conviction for the purposes of this section unless the juvenile was convicted of a felony in a criminal court;
 - (B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions;
 - (4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims, or convictions for the offense of aggravated burglary under [§ 39-14-403](#), convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and
 - (5) Prior convictions include convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- (c) A defendant who is found by the court beyond a reasonable doubt to be a multiple offender shall receive a sentence within Range II.
- (d) The finding that a defendant is or is not a multiple offender is appealable by either party.

40-35-107. Persistent offender.

- (a) A persistent offender is a defendant who has received:
 - (1) Any combination of five (5) or more prior felony convictions within the conviction class or higher or within the next two (2) lower felony classes, where applicable; or
 - (2) At least two (2) Class A or any combination of three (3) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony.
- (b) In determining the number of prior convictions a defendant has received:

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- (1) Prior conviction means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
- (2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;
- (3)
 - (A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult and that resulted in a transfer of the juvenile to criminal court pursuant to [§ 37-1-134](#) or similar statutes of other states or jurisdictions shall not be considered as a prior conviction for the purposes of this section unless the juvenile was convicted of a felony in a criminal court;
 - (B) Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions;
- (4) Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims or convictions for the offense of aggravated burglary under [§ 39-14-403](#), convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and
- (5) Prior convictions includes convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- (c) A defendant who is found by the court beyond a reasonable doubt to be a persistent offender shall receive a sentence within Range III.
- (d) The finding that a defendant is or is not a persistent offender is appealable by either party.

40-35-108. Career offender.

- (a) A career offender is a defendant who has received:
 - (1) Any combination of six (6) or more Class A, B or C prior felony convictions, and the defendant's conviction offense is a Class A, B or C felony;
 - (2) At least three (3) Class A or any combination of four (4) Class A or Class B felony convictions if the defendant's conviction offense is a Class A or B felony; or
 - (3) At least six (6) prior felony convictions of any classification if the defendant's conviction offense is a Class D or E felony.
- (b) In determining the number of prior convictions a defendant has received:
 - (1) "Prior conviction" means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
 - (2) All prior felony convictions, including those occurring prior to November 1, 1989, are included;
 - (3)
 - (A) A finding or adjudication that a defendant committed an act as a juvenile that would constitute a felony if committed by an adult

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and that resulted in a transfer of the juvenile to criminal court pursuant to [§ 37-1-134](#) or similar statutes of other states or jurisdictions shall not be considered as a prior conviction for the purposes of this section, unless the juvenile was convicted of a felony in a criminal court;

- **(B)** Notwithstanding subdivision (b)(3)(A), a finding or adjudication that a defendant committed an act as a juvenile that would constitute a Class A or Class B felony if committed by an adult shall be considered as a prior conviction for the purposes of this section, regardless of whether the juvenile was transferred to criminal court pursuant to [§ 37-1-134](#), or similar statutes of other states or jurisdictions;
- **(4)** Except for convictions for which the statutory elements include serious bodily injury, bodily injury, threatened serious bodily injury or threatened bodily injury to the victim or victims or convictions for the offense of aggravated burglary under [§ 39-14-403](#), convictions for multiple felonies committed within the same twenty-four-hour period constitute one (1) conviction for the purpose of determining prior convictions; and
- **(5)** "Prior convictions" includes convictions under the laws of any other state, government or country that, if committed in this state, would have constituted an offense cognizable by the laws of this state. In the event that a felony from a jurisdiction other than Tennessee is not a named felony in this state, the elements of the offense shall be used by the Tennessee court to determine what classification the offense is given.
- **(c)** A defendant who is found by the court beyond a reasonable doubt to be a career offender shall receive the maximum sentence within the applicable Range III.
- **(d)** The finding that a defendant is or is not a career offender is appealable by either party.

40-35-109. Especially mitigated offender.

- **(a)** The court may find the defendant is an especially mitigated offender, if:
 - **(1)** The defendant has no prior felony convictions; and
 - **(2)** The court finds mitigating, but no enhancement factors.
- **(b)** If the court finds the defendant an especially mitigated offender, the court shall reduce the defendant's statutory Range I minimum sentence by ten percent (10%) or reduce the release eligibility date to twenty percent (20%) of the sentence, or both reductions. If the court employs both reductions, the calculation for release eligibility shall be made by first reducing the sentence and then reducing the release eligibility to twenty percent (20%).
- **(c)** If the defendant is found to be an especially mitigated offender, the judgment of conviction shall so reflect.
- **(d)** The finding that a defendant is or is not an especially mitigated offender is appealable by either party.

40-35-110. Classification of offenses.

- **(a)** Felonies are classified for the purpose of sentencing into five (5) categories:
 - **(1)** Class A felonies;
 - **(2)** Class B felonies;
 - **(3)** Class C felonies;
 - **(4)** Class D felonies; and
 - **(5)** Class E felonies.

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- (b) An offense designated a felony without specification as to category is a Class E felony.
- (c) Misdemeanors are classified for the purpose of sentencing into three (3) categories:
 - (1) Class A misdemeanors;
 - (2) Class B misdemeanors; and
 - (3) Class C misdemeanors.
- (d) An offense designated as a misdemeanor without specification as to category is a Class A misdemeanor.

40-35-111. Authorized terms of imprisonment and fines for felonies and misdemeanors.

- (a) A sentence for a felony is a determinate sentence.
- (b) The authorized terms of imprisonment and fines for felonies are:
 - (1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;
 - (2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;
 - (3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;
 - (4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and
 - (5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.
- (c) (1) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:
 - (A) Three hundred fifty thousand dollars (\$350,000) for a Class A felony;
 - (B) Three hundred thousand dollars (\$300,000) for a Class B felony;
 - (C) Two hundred fifty thousand dollars (\$250,000) for a Class C felony;
 - (D) One hundred twenty-five thousand dollars (\$125,000) for a Class D felony; and
 - (E) Fifty thousand dollars (\$50,000) for a Class E felony.
 - (2) If a special fine for a corporation is expressly specified in the statute that defines an offense, the fine fixed shall be within the limits specified in the statute.
- (d) A sentence for a misdemeanor is a determinate sentence.
- (e) The authorized terms of imprisonment and fines for misdemeanors are:
 - (1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;

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- (2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and
- (3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.
- (f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and the house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

40-35-112. Sentence ranges.

- (a) A Range I sentence is as follows:
 - (1) For a Class A felony, not less than fifteen (15) nor more than twenty-five (25) years;
 - (2) For a Class B felony, not less than eight (8) nor more than twelve (12) years;
 - (3) For a Class C felony, not less than three (3) nor more than six (6) years;
 - (4) For a Class D felony, not less than two (2) nor more than four (4) years; and
 - (5) For a Class E felony, not less than one (1) nor more than two (2) years.
- (b) A Range II sentence is as follows:
 - (1) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years;
 - (2) For a Class B felony, not less than twelve (12) nor more than twenty (20) years;
 - (3) For a Class C felony, not less than six (6) nor more than ten (10) years;
 - (4) For a Class D felony, not less than four (4) nor more than eight (8) years; and
 - (5) For a Class E felony, not less than two (2) nor more than four (4) years.
- (c) A Range III sentence is as follows:
 - (1) For a Class A felony, not less than forty (40) nor more than sixty (60) years;
 - (2) For a Class B felony, not less than twenty (20) nor more than thirty (30) years;
 - (3) For a Class C felony, not less than ten (10) nor more than fifteen (15) years;
 - (4) For a Class D felony, not less than eight (8) nor more than twelve (12) years; and

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- (5) For a Class E felony, not less than four (4) nor more than six (6) years.

40-35-113. Mitigating factors.

- If appropriate for the offense, mitigating factors may include, but are not limited to:
 - (1) The defendant's criminal conduct neither caused nor threatened serious bodily injury;
 - (2) The defendant acted under strong provocation;
 - (3) Substantial grounds exist tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
 - (4) The defendant played a minor role in the commission of the offense;
 - (5) Before detection, the defendant compensated or made a good faith attempt to compensate the victim of criminal conduct for the damage or injury the victim sustained;
 - (6) The defendant, because of youth or old age, lacked substantial judgment in committing the offense;
 - (7) The defendant was motivated by a desire to provide necessities for the defendant's family or the defendant's self;
 - (8) The defendant was suffering from a mental or physical condition that significantly reduced the defendant's culpability for the offense; however, the voluntary use of intoxicants does not fall within the purview of this factor;
 - (9) The defendant assisted the authorities in uncovering offenses committed by other persons or in detecting or apprehending other persons who had committed the offenses;
 - (10) The defendant assisted the authorities in locating or recovering any property or person involved in the crime;
 - (11) The defendant, although guilty of the crime, committed the offense under such unusual circumstances that it is unlikely that a sustained intent to violate the law motivated the criminal conduct;
 - (12) The defendant acted under duress or under the domination of another person, even though the duress or the domination of another person is not sufficient to constitute a defense to the crime; and
 - (13) Any other factor consistent with the purposes of this chapter.

40-35-114. Enhancement factors.

- If appropriate for the offense and if not already an essential element of the offense, the court shall consider, but is not bound by, the following advisory factors in determining whether to enhance a defendant's sentence:
 - (1) The defendant has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range;
 - (2) The defendant was a leader in the commission of an offense involving two (2) or more criminal actors;
 - (3) The offense involved more than one (1) victim;
 - (4) A victim of the offense was particularly vulnerable because of age or physical or mental disability;
 - (5) The defendant treated, or allowed a victim to be treated, with exceptional cruelty during the commission of the offense;

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- (6) The personal injuries inflicted upon, or the amount of damage to property sustained by or taken from, the victim was particularly great;
- (7) The offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement;
- (8) The defendant, before trial or sentencing, failed to comply with the conditions of a sentence involving release into the community;
- (9) The defendant possessed or employed a firearm, explosive device or other deadly weapon during the commission of the offense;
- (10) The defendant had no hesitation about committing a crime when the risk to human life was high;
- (11) The felony resulted in death or serious bodily injury, or involved the threat of death or serious bodily injury, to another person, and the defendant has previously been convicted of a felony that resulted in death or serious bodily injury;
- (12) During the commission of the felony, the defendant intentionally inflicted serious bodily injury upon another person, or the actions of the defendant resulted in the death of, or serious bodily injury to, a victim or a person other than the intended victim;
- (13) At the time the felony was committed, one (1) of the following classifications was applicable to the defendant:
 - (A) Released on bail or pretrial release, if the defendant is ultimately convicted of the prior misdemeanor or felony;
 - (B) Released on parole;
 - (C) Released on probation;
 - (D) On work release;
 - (E) On community corrections;
 - (F) On some form of judicially ordered release;
 - (G) On any other type of release into the community under the direct or indirect supervision of any state or local governmental authority or a private entity contracting with the state or a local government;
 - (H) On escape status; or
 - (I) Incarcerated in any penal institution on a misdemeanor or felony charge or a misdemeanor or felony conviction;
- (14) The defendant abused a position of public or private trust, or used a professional license in a manner that significantly facilitated the commission or the fulfillment of the offense;
- (15) The defendant committed the offense on the grounds or facilities of a pre-kindergarten through grade twelve (pre-K-12) public or private institution of learning when minors were present;
- (16) The defendant was adjudicated to have committed a delinquent act or acts as a juvenile that would constitute a felony if committed by an adult;
- (17) The defendant intentionally selected the person against whom the crime was committed or selected the property that was damaged or otherwise affected by the crime, in whole or in part, because of the defendant's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, ancestry or gender of that person or the owner or occupant of that property; however, this subdivision (17) should not be construed to permit the enhancement of a sexual offense on the basis of gender selection alone;
- (18) The offense was an act of terrorism or was related to an act of terrorism;

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- (19) If the defendant is convicted of the offense of aggravated assault pursuant to [§ 39-13-102](#), the victim of the aggravated assault was a law enforcement officer, firefighter, correctional officer, youth services officer, probation and parole officer, a state registered security officer/guard, an employee of the department of correction or the department of children's services, an emergency medical or rescue worker, emergency medical technician or paramedic, whether compensated or acting as a volunteer; provided, that the victim was performing an official duty and the defendant knew or should have known that the victim was such an officer or employee;
- (20) If the defendant is convicted of the offenses of rape pursuant to [§ 39-13-503](#), sexual battery pursuant to [§ 39-13-505](#) or rape of a child pursuant to [§ 39-13-522](#), the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance or controlled substance analogue;
- (21) If the defendant is convicted of the offenses of aggravated rape pursuant to [§ 39-13-502](#), rape pursuant to [§ 39-13-503](#), rape of a child pursuant to [§ 39-13-522](#) or statutory rape pursuant to [§ 39-13-506](#), the defendant knew or should have known that, at the time of the offense, the defendant was HIV positive;
- (22)
 - (A) If the defendant is convicted of the offenses of aggravated arson pursuant to [§ 39-14-302](#) or vandalism pursuant to [§ 39-14-408](#), the damage or destruction was caused to a structure, whether temporary or permanent in nature, used as a place of worship and the defendant knew or should have known that it was a place of worship;
 - (B) As used in subdivision (22)(A), "place of worship" means any structure that is:
 - (i) Approved, or qualified to be approved, by the state board of equalization for property tax exemption pursuant to [§ 67-5-212](#), based on ownership and use of the structure by a religious institution; and
 - (ii) Utilized on a regular basis by a religious institution as the site of congregational services, rites or activities communally undertaken for the purpose of worship;
- (23) The defendant is an adult and sells to or gives or exchanges a controlled substance, controlled substance analogue or other illegal drug with a minor; and
- (24) The offense involved the theft of property and, as a result of the manner in which the offense was committed, the victim suffered significant damage to other property belonging to the victim or for which the victim was responsible.

40-35-115. Multiple convictions.

- (a) If a defendant is convicted of more than one (1) criminal offense, the court shall order sentences to run consecutively or concurrently as provided by the criteria in this section.
- (b) The court may order sentences to run consecutively if the court finds by a preponderance of the evidence that:
 - (1) The defendant is a professional criminal who has knowingly devoted the defendant's life to criminal acts as a major source of livelihood;
 - (2) The defendant is an offender whose record of criminal activity is extensive;

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- (3) The defendant is a dangerous mentally abnormal person so declared by a competent psychiatrist who concludes as a result of an investigation prior to sentencing that the defendant's criminal conduct has been characterized by a pattern of repetitive or compulsive behavior with heedless indifference to consequences;
- (4) The defendant is a dangerous offender whose behavior indicates little or no regard for human life and no hesitation about committing a crime in which the risk to human life is high;
- (5) The defendant is convicted of two (2) or more statutory offenses involving sexual abuse of a minor with consideration of the aggravating circumstances arising from the relationship between the defendant and victim or victims, the time span of defendant's undetected sexual activity, the nature and scope of the sexual acts and the extent of the residual, physical and mental damage to the victim or victims;
- (6) The defendant is sentenced for an offense committed while on probation; or
- (7) The defendant is sentenced for criminal contempt.
- (c) The finding concerning the imposition of consecutive or concurrent sentences is appealable by either party.
- (d) Sentences shall be ordered to run concurrently if the criteria noted in subsection (b) are not met, unless consecutive sentences are specifically required by statute or the Tennessee Rules of Criminal Procedure.

40-36-106. Eligible offenders.

- (a) (1) An offender who meets all of the following minimum criteria shall be considered eligible for punishment in the community under the provisions of this chapter:
 - (A) Persons who, without this option, would be incarcerated in a correctional institution;
 - (B) Persons who are convicted of property-related or drug- or alcohol-related felony offenses or other felony offenses not involving crimes against the person as provided in title 39, chapter 13, parts 1-5;
 - (C) Persons who are convicted of nonviolent felony offenses;
 - (D) Persons who are convicted of felony offenses in which the use or possession of a weapon was not involved;
 - (E) Persons who do not demonstrate a present or past pattern of behavior indicating violence; and
 - (F) Persons who do not demonstrate a pattern of committing violent offenses.
 - (2) Persons who are sentenced to incarceration or are on escape at the time of consideration will not be eligible for punishment in the community.
- (b) Offenders shall not be excluded from the program on the basis of prior convictions for nonviolent felony offenses, but may, at the discretion of the court and local community corrections advisory board, be excluded on the basis of prior convictions for felony offenses that would not meet the eligibility criteria provided in subsection (a).
- (c) Felony offenders not otherwise eligible under subsection (a), and who would be usually considered unfit for probation due to histories of chronic alcohol or drug abuse or mental health problems, but whose special needs are treatable and could be served best in the community rather than in a correctional

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institution, may be considered eligible for punishment in the community under the provisions of this chapter.

- **(d)** The eligibility criteria established in this section shall be interpreted as minimum state standards, guiding the determination of eligibility of offenders under this chapter.
- **(e)**
 - **(1)** Notwithstanding any other provision of the law to the contrary, the court is authorized to sentence an eligible defendant as defined in this section to any appropriate community-based alternative to incarceration provided in accordance with the terms of this chapter, and under the additional terms and conditions as the court may prescribe, in lieu of incarceration in a state penal institution or local jail or workhouse.
 - **(2)** In sentencing an eligible defendant to any community-based alternative to incarceration, the court shall possess the power to set the duration of the sentence for the offense committed at any period of time up to the maximum sentence within the appropriate sentence range and shall retain the authority to alter or amend at any time the length, terms or conditions of the sentence imposed.
 - **(3)**
 - **(A)** The court also has the power to terminate an offender from the program and to place the offender on supervised or unsupervised probation upon a showing that the offender did abide by the conditions imposed on the original sentence and that the offender's placement on probation presents no substantial risk to public safety. This authority of the court extends to offenders not originally eligible for probation after service of at least one (1) year.
 - **(B)** Failure to comply with the terms of probation subjects the offender to revocation proceedings conducted by the court pursuant to [§ 40-35-311](#). If incarcerated, the offender receives credit only for actual time served in the community-based alternative program.
 - **(4)** The court shall also possess the power to revoke the sentence imposed at any time due to the conduct of the defendant or the termination or modification of the program to which the defendant has been sentenced, and the court may resentence the defendant to any appropriate sentencing alternative, including incarceration, for any period of time up to the maximum sentence provided for the offense committed, less any time actually served in any community-based alternative to incarceration. The resentencing shall be conducted in compliance with [§ 40-35-210](#).
 - **(5)** The district attorney general, victim, defense attorney and probation and parole officer should be consulted regarding potential referrals to the program; however, the court shall have the final decision.
- **(f)** Nothing in this section shall prevent a court from permitting an eligible defendant to participate in a community-based alternative to incarceration as a condition of probation in conjunction with a suspended sentence, split confinement or periodic confinement as provided in chapter 35 of this title.