



**HO-CHUNK NATION CODE (HCC)  
TITLE 9 – CRIMINAL CODE  
SECTION 961 – CONTROLLED SUBSTANCES ACT**

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### **961.001 Declaration of intent.**

The Ho-Chunk Nation finds that the abuse of controlled substances constitutes a serious threat to the well-being and safety of the Ho-Chunk Nation communities and a large problem for Ho-Chunk society as a whole. As a partial solution, the Ho-Chunk Nation enacts this law regulating the use of controlled substances on HCN land with penalties.

It shall be the policy of the Nation to treat individuals who illicitly traffic commercially in controlled substances on HCN lands as a substantial menace and threat to the public health and safety of Ho-Chunk Nation citizens. Such individuals shall be subject to the highest possible sentencing as well as being subject to the Nations (Exclusion and Removal Act 3 HCC § 10) to protect the public from their activities and predatory acts.

It shall be the policy of the Nation that upon conviction, individuals addicted to, dependent upon, or those who casually use or experiment with controlled substances should receive special treatment geared towards rehabilitation. The sentencing of such users should be such as will best induce them to shun further contact with controlled substances and to develop acceptable and healthy alternatives to drug abuse.

## **SUBCHAPTER I: DEFINITIONS**

**961.01 Definitions.** As used in this chapter:

**(1g)** “1,4–butanediol” means 1,4–butanediol as packaged, marketed, manufactured, or promoted for human consumption, but does not include 1,4–butanediol intended for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes.

**(1r)** “Administer”, unless the context otherwise requires, means to apply a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

- (a) A practitioner or, in the practitioner’s presence, by the practitioner’s authorized agent;
- or
- (b) The patient or research subject at the direction and in the presence of the practitioner.

**(2)** “Agent”, unless the context otherwise requires, means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. “Agent” does not include a

common or contract carrier, public warehouse keeper or employee of the carrier or warehouse keeper while acting in the usual and lawful course of the carrier's or warehouse keeper's business.

**(2m)** (a) "Anabolic steroid" means any drug or hormonal substance, chemically or pharmacologically related to testosterone, except estrogens, progestin, and corticosteroids that promotes muscle growth. The term includes all of the substances included in s. 961.18 (7), and any of their esters, isomers, esters of isomers, salts and salts of esters, isomers and esters of isomers, that are theoretically possible within the specific chemical designation, and if such esters, isomers, esters of isomers, salts and salts of esters, isomers and esters of isomers promote muscle growth.

(b) Except as provided in par. (c), the term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States Secretary of Health and Human Services for such administration.

(c) If a person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of par. (a).

**(4)** "Controlled substance" means a drug, substance or immediate precursor included in schedules I to V of subch. II.

**(4m)** (a) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance included in schedule I or II and:

1. Which has a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II; or
2. With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, narcotic or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) "Controlled substance analog" does not include:

1. A controlled substance;
2. A substance for which there is an approved new drug application;
3. A substance with respect to which an exemption is in effect for investigational use by a particular person under 21 USC 355 to the extent that conduct with respect to the substance is permitted by the exemption; or

4. Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(5) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(6) “Deliver” or “delivery”, unless the context otherwise requires, means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is any agency relationship.

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

(8) “Dispenser” means a practitioner who dispenses.

(9) “Distribute” means to deliver other than by administering or dispensing a controlled substance or controlled substance analog.

(10) “Distributor” means a person who distributes.

(10m) “Diversion” means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

(11) (a) “Drug” means any of the following:

1. A substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary or any supplement to any of them.
2. A substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals.
3. A substance, other than food, intended to affect the structure or any function of the body of humans or animals.
4. A substance intended for use as a component of any article specified in subd. 1., 2. or 3.

(b) “Drug” does not include devices or their components, parts or accessories.

(11m) “Drug enforcement administration” means the Drug Enforcement Administration of the U.S. Department of Justice or its successor agency.

**(11s)** “Gamma–butyrolactone” means gamma–butyrolactone as packaged, marketed, manufactured, or promoted for human consumption, but does not include gamma– butyrolactone intended for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes.

**(11t)** “Ephedrine product” means any material, compound, mixture, or preparation that contains any quantity of ephedrine or any of its salts, isomers, and salts of isomers.

**(12)** “Immediate precursor” means a substance which the controlled substances board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

**(12g)** “Isomer” means an optical isomer, but in ss. 961.14 (2) (er) and (qs) and 961.16 (2) (b) 1. “isomer” includes any geometric isomer; in ss. 961.14 (2) (cg), (tg) and (xm) and 961.20 (4) (am) “isomer” includes any positional isomer; and in ss. 961.14 (2) (rj) and (4) and 961.18 (2m) “isomer” includes any positional or geometric isomer.

**(12m)** “Jail or correctional facility” means any of the following:

(a) A Type 1 prison, as defined in Wisconsin Statutes § 301.01 (5).

(b) A jail means a municipal prison and rehabilitation facility by whatever name they are known excluding a lockup facility.

(c) A house of correction.

(d) A Huber facility.

(e) A lockup facility means those facilities of a temporary place of detention at a police station which are used exclusively to hold persons under arrest until they can be brought before a court, and are not used to hold persons pending trial who have appeared in court or have been committed to imprisonment for nonpayment of fines or forfeitures..

(f) A work camp.

**(12t)** “Liquid–filled pseudoephedrine gelcap” means a soft, liquid–filled gelatin capsule that is intended to be sold at retail and that contains pseudoephedrine or any of its salts, isomers, or salts of isomers.

**(13)** “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of, or to produce, prepare, propagate, compound, convert or process, a controlled substance or controlled substance analog, directly or indirectly, by extraction from substances of natural origin, chemical synthesis or a combination of extraction and chemical synthesis, including

to package or repack or the packaging or repackaging of the substance, or to label or to relabel or the labeling or relabeling of its container. "Manufacture" does not mean to prepare, compound, package, repack, label or relabel or the preparation, compounding, packaging, repackaging, labeling or relabeling of a controlled substance:

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

**(14)** "Marijuana" means all parts of the plants of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. "Marijuana" does include the mature stalks if mixed with other parts of the plant, but does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

**(14m)** "Multiunit public housing project" means a public housing project that includes 4 or more dwelling units in a single parcel or in contiguous parcels.

**(15)** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) Opium and substances derived from opium, and any compound, derivative or preparation of opium or substances derived from opium, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.
- (bm) Synthetic opiate, and any derivative of synthetic opiate, including any of their isomers, esters, ethers, esters and ethers of isomers, salts and salts of isomers, esters, ethers and esters and ethers of isomers that are theoretically possible within the specific chemical designation.
- (c) Opium poppy, poppy straw and concentrate of poppy straw.
- (d) Any compound, mixture or preparation containing any quantity of any substance included in pars. (a) to (c).

**(16)** "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" includes opium, substances derived from opium and

synthetic opiates. “Opiate” does not include, unless specifically scheduled as a controlled substance under s. 961.11, the dextrorotatory isomer of 3-methoxy-N-methylmorphinan and its salts (dextromethorphan). “Opiate” does include the racemic and levorotatory forms of dextromethorphan.

**(17)** “Opium poppy” means any plant of the species *Papaver somniferum* L., except its seeds.

**(18)** “Poppy straw” means all parts, except the seeds, of the opium poppy, after mowing.

**(19)** “Practitioner” means:

(a) A physician, advanced practice nurse, dentist, veterinarian, podiatrist, optometrist, scientific investigator, or a physician assistant with prescriptive authority, or other person licensed, registered, certified or otherwise permitted to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research.

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

**(20)** “Production”, unless the context otherwise requires, includes the manufacturing of a controlled substance or controlled substance analog and the planting, cultivating, growing or harvesting of a plant from which a controlled substance or controlled substance analog is derived.

**(20b)** “Pseudoephedrine liquid” means a product that is intended to be sold at retail, that is a liquid at room temperature, and that contains pseudoephedrine or any of its salts, isomers, or salts of isomers.

**(20c)** “Pseudoephedrine product” means a material, compound, mixture, or preparation containing any quantity of pseudoephedrine or any of its salts, isomers, or salts of isomers but does not include such a product if any of the following applies:

(a) The product is a pseudoephedrine liquid or a liquid-filled pseudoephedrine gelcap. This paragraph does not apply if the controlled substances board has determined, by rule, that the product can be readily used in the manufacture of methamphetamine.

(b) The Wisconsin Controlled Substances Board has determined, by rule, that the product cannot be readily used in the manufacture of methamphetamine.

**(20g)** “Public housing project” means any housing project or development administered by a housing authority.

**(20h)** “Public transit vehicle” means any vehicle used for providing transportation service to the general public.



(20i) “Scattered–site public housing project” means a public housing project that does not include 4 or more dwelling units in a single parcel or in contiguous parcels.

(21) “Ultimate user” means an individual who lawfully possesses a controlled substance for that individual’s own use or for the use of a member of that individual’s household or for administering to an animal owned by that individual or by a member of that individual’s household.

(21m) “Vehicle” has the meaning given in s. 939.22 (44).

(22) “Youth center” means any center that provides, on a regular basis, recreational, vocational, academic or social services activities for persons younger than 21 years old or for those persons and their families.

## **SUBCHAPTER II: STANDARDS AND SCHEDULES**

### **961.11 Wisconsin Controlled Substances Board.**

(a) The Ho-Chunk Nation hereby adopts the findings, designations and determinations of the State of Wisconsin Controlled Substances Board with regards to the standards and scheduling of controlled substances.

(b) The Ho-Chunk Nation Law Enforcement Department shall be responsible for notifying the Ho-Chunk Nation Legislature of any actions taken by the Wisconsin Controlled Substances Board affecting the standards and scheduling included in this Code which should be amended.

### **961.115 Native American Church exemption.**

This chapter does not apply to the nondrug use of peyote and mescaline in the bona fide religious ceremonies of the Native American Church.

### **961.12 Nomenclature.**

The controlled substances listed in or added to the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 may be listed or added by any official, common, usual, chemical or trade name used for the substance.

### **961.14 Schedule I.**

Unless specifically excepted by tribal, state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in schedule I:

(2) SYNTHETIC OPIATES. Any material, compound, mixture or preparation which contains any quantity of any of the following synthetic opiates, including any of their isomers, esters, ethers, esters and ethers of isomers, salts and salts of isomers, esters, ethers and esters and ethers of isomers that are theoretically possible within the specific chemical designation:

- (a) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenylethyl)-4-piperidinyl]-N-phenylacetamide);
- (ag) Acetylmethadol;
- (am) Allylprodine;
- (b) Alphacetylmethadol (except levo-alpha-cetylmethadol (LAAM));
- (bm) Alphameprodine;
- (c) Alphamethadol;
- (cd) Alpha-methylfentanyl (N-[1-(1-methyl-2-phenylethyl)-4-piperidinyl]-N-phenylpropanamide);
- (cg) Alpha-methylthiofentanyl (N-{1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide);
- (cm) Benzethidine;
- (d) Betacetylmethadol;
- (dg) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenylethyl)-4-piperidinyl]-N-phenylpropanamide);
- (dm) Betameprodine;
- (e) Betamethadol;
- (em) Betaprodine;
- (er) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenylethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
- (f) Clonitazene;
- (fm) Dextromoramide;
- (gm) Diampromide;
- (h) Diethylthiambutene;
- (hg) Difenoxin;
- (hm) Dimenoxadol;

- (j) Dimepheptanol;
- (jm) Dimethylthiambutene;
- (k) Dioxaphetyl butyrate;
- (km) Dipipanone;
- (m) Ethylmethylthiambutene;
- (mm) Etonitazene;
- (n) Etoxeridine;
- (nm) Furethidine;
- (p) Hydroxypethidine;
- (pm) Ketobemidone;
- (q) Levomoramide;
- (qm) Levophenacilmorphan;
- (qs) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidinyl]-N-phenylpropanamide);
- (r) Morpheridine;
- (rg) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (rj) 3-methylthiofentanyl (N-{3-methyl-1-[2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide);
- (rm) Noracymethadol;
- (s) Norlevorphanol;
- (sm) Normethadone;
- (t) Norpipanone;
- (tg) Para-fluorofentanyl (N-[1-(2-phenylethyl)-4-piperidinyl]-N-(4-fluorophenyl)propanamide);

- (tm) Phenadoxone;
- (u) Phenampromide;
- (um) Phenomorphan;
- (v) Phenoperidine;
- (vg) PEPAP (1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine);
- (vm) Piritramide;
- (w) Proheptazine;
- (wm) Properidine;
- (wn) Propiram;
- (x) Racemoramide;
- (xm) Thiofentanyl (N-{1-[2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide);
- (xr) Tilidine;
- (y) Trimeperidine.

**(3) SUBSTANCES DERIVED FROM OPIUM.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances derived from opium, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-oxide;
- (f) Cyprenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;

- (hm) Drotebanol;
- (j) Etorphine, except its hydrochloride salts;
- (k) Heroin;
- (m) Hydromorphenol;
- (n) Methyldesorphine;
- (p) Methyldihydromorphine;
- (q) Morphine methylbromide;
- (r) Morphine methylsulfonate;
- (s) Morphine-N-oxide;
- (t) Myrophine;
- (u) Nicocodeine;
- (v) Nicomorphine;
- (w) Normorphine;
- (x) Pholcodine;
- (y) Thebacon.

**(4) HALLUCINOGENIC SUBSTANCES.** Any material, compound, mixture or preparation which contains any quantity of any of the following hallucinogenic substances, including any of their salts, isomers, esters, ethers, and salts of isomers, esters, or ethers that are theoretically possible within the specific chemical designation, in any form contained in a plant, obtained from a plant, or chemically synthesized:

- (a) 3,4-methylenedioxyamphetamine, commonly known as “MDA”;
- (ag) 3,4-methylenedioxyethylamphetamine, commonly known as “MDE”;
- (am) 3,4-methylenedioxymethamphetamine, commonly known as “MDMA”;
- (ar) N-hydroxy-3,4-methylenedioxyamphetamine;
- (b) 5-methoxy-3,4-methylenedioxyamphetamine;

- (bm) 4-ethyl-2,5-dimethoxyamphetamine, commonly known as “DOET”;
- (c) 3,4,5-trimethoxyamphetamine;
- (cm) Alpha-ethyltryptamine;
- (d) Bufotenine;
- (e) Diethyltryptamine;
- (f) Dimethyltryptamine;
- (g) 4-methyl-2,5-dimethoxyamphetamine, commonly known as “STP”;
- (h) Ibogaine;
- (j) Lysergic acid diethylamide, commonly known as “LSD”;
- (m) Mescaline, in any form, including mescaline contained in peyote, obtained from peyote or chemically synthesized;
- (mn) Parahexyl (3-hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro- 6, 6, 9-trimethyl-6H-dibenzo(b, d)pyran);
- (n) Phencyclidine, commonly known as “PCP”;
- (p) N-ethyl-3-piperidyl benzilate;
- (q) N-methyl-3-piperidyl benzilate;
- (r) Psilocybin;
- (s) Psilocin;
- (sm) Salvinorin A;
- (t) Tetrahydrocannabinols, commonly known as “THC”, in any form including tetrahydrocannabinols contained in marijuana, obtained from marijuana, or chemically synthesized, except that tetrahydrocannabinols do not include cannabidiol in a form without a psychoactive effect that is dispensed or documented as provided in s. 961.38 (1n);
- (tb) Synthetic cannabinoids, including:

1. Any compound structurally derived from 3-(1-naphthoyl) indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl) methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-2-methyl-3-(1-naphthoyl)indole, commonly known as JWH-007;
- b. 1-propyl-2-methyl-3-(1-naphthoyl)indole, commonly known as JWH-015;
- c. 1-pentyl-3-(1-naphthoyl)indole, commonly known as JWH-018 or AM-678;
- d. 1-hexyl-3-(1-naphthoyl)indole, commonly known as JWH-019;
- e. 1-butyl-3-(1-naphthoyl)indole, commonly known as JWH-073;
- f. 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, commonly known as JWH-081;
- g. 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole, commonly known as JWH-098;
- h. 1-pentyl-3-(4-methyl-1-naphthoyl)indole, commonly known as JWH-122;
- i. 1-pentyl-3-(7-methoxy-1-naphthoyl)indole, commonly known as JWH-164;
- j. 1-[2-(4-(morpholinyl)ethyl)]-3-(1-naphthoyl)indole, commonly known as JWH-200;
- k. 1-pentyl-3-(4-ethyl-1-naphthoyl)indole, commonly known as JWH-210;
- L. 1-pentyl-3-(4-chloro-1-naphthoyl)indole, commonly known as JWH-398;
- m. 1-pentyl-3-(4-fluoro-1-naphthoyl)indole, commonly known as JWH-412;

- n. 1-[1-(N-methyl-2-piperidinyl)methyl]-3-(1-naphthoyl) indole, commonly known as AM-1220;
- o. 1-(5-fluoropentyl)-3-(1-naphthoyl)indole, commonly known as AM-2201;
- p. 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole, commonly known as MAM-2201;
- q. 1-(5-chloropentyl)-3-(1-naphthoyl)indole, commonly known as AM-2201 (5-chloropentyl);
- r. 1-(5-bromopentyl)-3-(1-naphthoyl)indole, commonly known as AM-2201 (5-bromopentyl);
- s. 1-(4-cyanobutyl)-3-(1-naphthoyl)indole, commonly known as AM-2232;
- t. (R)-(+)-[2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenyl- methanone, commonly known as WIN 55,212-2;

2. Any compound structurally derived from 3-(1-naphthoyl) pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-5-(2-fluorophenyl)-3-(1-naphthoyl)pyrrole, commonly known as JWH-307;
- b. 1-pentyl-5-(2-methylphenyl)-3-(1-naphthoyl)pyrrole, commonly known as JWH-370;
- c. 1-pentyl-3-(1-naphthoyl)pyrrole, commonly known as JWH-030;
- d. 1-hexyl-5-phenyl-3-(1-naphthoyl)pyrrole, commonly known as JWH-147;

3. Any compound structurally derived from 3-naphthylmethylindene by substitution at the 1-position of the indene ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl,



1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Substances specified under this subdivision include 1-pentyl-3-(1-naphthylmethyl)indene, commonly known as JWH-176;

4. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-3-(4-methoxyphenylacetyl)indole, commonly known as JWH-201;
- b. 1-pentyl-3-(3-methoxyphenylacetyl)indole, commonly known as JWH-302;
- c. 1-pentyl-3-(2-methoxyphenylacetyl)indole, commonly known as JWH-250;
- d. 1-pentyl-3-(2-chlorophenylacetyl)indole, commonly known as JWH-203;
- e. 1-pentyl-3-(3-chlorophenylacetyl)indole, or 3-chloro isomer of JWH-203;
- f. 1-pentyl-3-(4-chlorophenylacetyl)indole, or 4-chloro isomer of JWH-203;
- g. 1-pentyl-3-(2-methylphenylacetyl)indole, commonly known as JWH-251;
- h. 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl) indole, commonly known as RCS-8;
- i. 1-[1-(N-methyl-2-piperidinyl)methyl]-3-(2-methoxyphenylacetyl) indole, commonly known as cannabipiperidiethanone;

5. Any compound structurally derived from 2-(3-hydroxycyclohexyl) phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl,

1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not substituted in the cyclohexyl ring to any extent. Substances specified under this subdivision include:

- a. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, commonly known as CP 47,497;
- b. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol, commonly known as CP 47,497 C8 homologue, or cannabicyclohexanol;

6. Any compound structurally derived from 3-(benzoyl) indole by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl 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. Substances specified under this subdivision include:

- a. 1-pentyl-3-(2-iodobenzoyl)indole, commonly known as AM-679;
- b. 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole, commonly known as AM-694;
- c. 1-pentyl-3-(4-methoxybenzoyl)indole, commonly known as RCS-4;
- d. 1-butyl-3-(4-methoxybenzoyl)indole, commonly known as RCS-4-C4 homologue;
- e. 1-pentyl-3-(2-methoxybenzoyl)indole, commonly known as RCS-4 2-methoxy isomer;
- f. 1-butyl-3-(2-methoxybenzoyl)indole, a C4 homologue, 2-methoxy isomer of RCS-4;
- g. 1-[2-(4-(morpholinyl)ethyl)-2-methyl-3-(4-methoxybenzoyl) indole, commonly known as pravadoline, or WIN 48,098;
- h. 1-[2-(4-(morpholinyl)ethyl)-2-methyl-3-(4-methoxybenzoyl)-6-iodo-indole, commonly known as 6-iodopravadoline, or AM-630;
- i. 1-[1-(N-methyl-2-piperidinyl) methyl]-3-(2-iodo-5-nitrobenzoyl)indole, commonly known as AM-1241;

- j. 1-[1-(N-methyl-2-piperidinyl)methyl]-3-(2-iodobenzoyl) indole, commonly known as AM-2233;

7. Any compound structurally derived from 3-adamantoylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the adamantyl ring to any extent. Substances specified under this subdivision include:

- a. 1-[1-(N-methyl-2-piperidinyl)methyl]-3-(1-adamantoyl) indole, commonly known as AM-1248;
- b. 1-pentyl-3-(1-adamantoyl)indole, commonly known as AB-001;

8. Any compound structurally derived from 3-(cyclopropoyl) indole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the cyclopropyl ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole, commonly known as UR-144;
- b. 1-(5-chloropentyl)-3-(2,2,3,3-tetramethylcyclopropoyl) indole, commonly known as 5Cl-UR-144;
- c. 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropoyl) indole, commonly known as XLR-11;
- d. 1-[2-(4-morpholinyl)ethyl]-3-(2,2,3,3-tetramethylcyclopropoyl) indole, commonly known as A-796,260;
- e. 1-[(tetrahydropyran-4-yl)methyl]-3-(2,2,3,3-tetramethylcyclopropoyl) indole, commonly known as A-834,735;

9. Any compound structurally derived from N-adamantyl-1H-indole-3-carboxamide by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,

1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl) methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the adamantyl ring to any extent. Substances specified under this subdivision include:

- a. N-(1-adamantyl)-1-pentyl-1H-indole-3-carboxamide, commonly known as 2NE1;
- b. N-(1-adamantyl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide, commonly known as STS-135;

10. Any compound structurally derived from N-adamantyl-H-indazole-3-carboxamide by substitution at either nitrogen atom of the indazole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl) methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indazole ring to any extent, whether or not substituted in the adamantyl ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-N-(1-adamantyl)-1H-indazole-3-carboxamide, commonly known as AKB48;
- b. 1-(5-fluoropentyl)-N-(1-adamantyl)-1H-indazole-3-carboxamide, commonly known as 5F-AKB48.

11. Any compound structurally derived from N-naphthyl-1H-indazole-3-carboxamide by substitution at either nitrogen atom of the indazole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl) methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indazole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

12. [1,1'-biphenyl]-3-yl-carbamic acid, cyclohexyl ester, commonly known as URB-602;

13. [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate, commonly known as CP 50,556-1;

14. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, commonly known as HU-210;

15. (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, commonly known as HU-211;
16. 3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione, commonly known as HU-331;
17. ((6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl)methanol, commonly known as JWH-051;
18. (6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran, commonly known as JWH-133;
19. (6aR,10aR)-1-methoxy-6,6,9-trimethyl-3-[(2R)-1,1,2-trimethylbutyl]-6a,7,10,10a-tetrahydrobenzo[c]chromene, commonly known as JWH-359;
20. Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone, commonly known as CB-13;
21. N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-undecamide, commonly known as CB-25;
22. N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-undecamide, commonly known as CB-52;
23. N-(benzo[1,3]dioxol-5-ylmethyl)-7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide, commonly known as JTE-907;
24. N-[3-(2-methoxyethyl)-4,5-dimethyl-1,3-thiazol-2-ylidene]-2,2,3,3-tetramethylcyclopropane-1-carboxamide, commonly known as A-836,339;
25. Anthracen-9-yl{2-methyl-1-[2-(morpholin-4-yl)ethyl]-1H-indol-3-yl}methanone, commonly known as WIN 56,098;
26. 6-methyl-2-[(4-methylphenyl)amino]-4H-3,1-benzoxazin-4-one, commonly known as URB-754;
27. [3-(3-carbamoylphenyl)phenyl] N-cyclohexylcarbamate, commonly known as URB-597;

28. (-)-(R)-3-(2-Hydroxymethylindanyl-4-oxy)phenyl-4,4,4-trifluorobutyl-1-sulfonate, commonly known as BAY 38-7271.

29. Any compound structurally derived from 1H-indole-3-carboxylic acid quinolinyl ester by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl) methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the quinoline ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester, commonly known as PB-22;
- b. 1-(5-fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester, commonly known as 5F-PB-22;
- c. 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester, commonly known as BB-22.

30. Any compound structurally derived from N-naphthyl-1H-indole-3-carboxamide by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl) methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-N-(1-naphthyl)-1H-indole-3-carboxamide, commonly known as NNEI or MN-24;
- b. 1-(5-fluoropentyl)-N-(1-naphthyl)-1H-indole-3-carboxamide, commonly known as 5F-NNEI or 5F-MN-24.

31. Any compound structurally derived from 3-(pyridinoyl) indole by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the pyridine ring to any extent. Substances specified under this subdivision include:

- a. 1-pentyl-3-(3-pyridinoyl)indole;
- b. 1-(5-fluoropentyl)-3-(3-pyridinoyl)indole.
- (u) 1-[1-(2-thienyl)cyclohexyl]piperidine, which is the thiophene analog of phencyclidine;
- (ud) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, which is the thiophene pyrrolidine analog of phencyclidine;
- (ug) N-ethyl-1-phenylcyclohexylamine, which is the ethylamine analog of phencyclidine;
- (ur) 1-(1-phenylcyclohexyl)pyrrolidine, which is the pyrrolidine analog of phencyclidine;
- (uv) 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone, commonly known as methoxetamine.
- (v) 2,5-dimethoxyamphetamine;
- (w) 4-bromo-2,5-dimethoxyamphetamine, commonly known as “DOB”;
- (wa) 4-iodo-2,5-dimethoxyamphetamine, commonly known as DOI.
- (wb) 4-chloro-2,5-dimethoxyamphetamine, commonly known as DOC.
- (wg) 4-bromo-2,5-dimethoxy-beta-phenylethylamine, commonly known as “2C-B” or “Nexus”;
- (wgm) 4-iodo-2,5-dimethoxy-beta-phenylethylamine, commonly known as “2C-I”.
- (wh) 2,5 dimethoxy-4-(n)-propylthiophenethylamine, commonly known as “2C-T-7”;
- (wi) Alpha-methyltryptamine, commonly known as “AMT”;
- (wj) 5-methoxy-N, N-diisopropyltryptamine, commonly known as “5-MeO-DIPT”;
- (wk) 2,5-dimethoxy-4-ethylphenethylamine, commonly known as 2C-E.
- (wL) 2,5-dimethoxy-4-methylphenethylamine, commonly known as 2C-D.

- (wm) 2,5-dimethoxy-4-chlorophenethylamine, commonly known as 2C-C.
- (wn) 2,5-dimethoxy-4-ethylthiophenethylamine, commonly known as 2C-T-2.
- (wo) 2,5-dimethoxy-4-isopropylthiophenethylamine, commonly known as 2C-T-4.
- (wp) 2,5-dimethoxyphenethylamine, commonly known as 2C-H.
- (wq) 2,5-dimethoxy-4-nitrophenethylamine, commonly known as 2C-N.
- (wr) 2,5-dimethoxy-4-(n)-propylphenethylamine, commonly known as 2C-P.
- (ws) Any compound structurally derived from N-benzyl-2-(2,5-dimethoxyphenyl)ethanamine by substitution at the nitrogen atom, or on either ring, with alkyl, alkoxy, alkylendioxy, haloalkyl, hydroxyl, halide or nitro substituents, or by any combination of these modifications. Substances specified under this paragraph include:
1. 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, commonly known as 25I-NBOMe.
  2. 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, commonly known as 25C-NBOMe.
  3. 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, commonly known as 25B-NBOMe.
  4. 2-(4-ethyl-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, commonly known as 25E-NBOMe.
- (wv) N,N-diallyl-5-methoxytryptamine, commonly known as 5-MeO-DALT.
- (ww) 5-(2-aminopropyl)benzofuran, commonly known as 5-APB.
- (wx) 6-(2-aminopropyl)benzofuran, commonly known as 6-APB.
- (wy) 5-(2-aminopropyl)-2,3-dihydrobenzofuran, commonly known as 5-APDB.



(wz) 6-(2-aminopropyl)-2,3-dihydrobenzofuran, commonly known as 6-APDB.

(x) 4-methoxyamphetamine, commonly known as "PMA."

(xa) 5-iodo-2-aminoindane, commonly known as 5-IAI.

(xb) 4-methoxymethamphetamine, commonly known as PMMA.

**(5) DEPRESSANTS.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

(ag) Gamma-hydroxybutyric acid (commonly known as gamma hydroxybutyrate or "GHB"), gamma-butyrolactone, and 1,4-butanediol.

(am) Mecloqualone.

(b) Methaqualone.

**(6) IMMEDIATE PRECURSORS.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances or their salts:

(a) Immediate precursors to phencyclidine:

1. 1-phenylcyclohexylamine.

2. 1-piperidinocyclohexanecarbonitrile.

**(7) STIMULANTS.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

(ag) Cathinone.

(am) Aminorex.

(b) Fenethylamine.

(c) N-ethylamphetamine.

(d) 4-methylaminorex.

(e) N,N-dimethylamphetamine.

(L) *Substituted cathinones.* Any compound, except bupropion or compounds scheduled elsewhere in this chapter, that is structurally derived from 2-amino-propan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways: by substitution in the ring system to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents; by substitution at the 3-position with an acyclic alkyl substituent; by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; by inclusion of the 2-amino nitrogen atom in a cyclic structure; or by any combination of these modifications. Substances specified under this subdivision include:

1. Methcathinone.
2. Methylenedioxypropylvalerone, commonly known as MDPV.
3. 4-methylmethcathinone, commonly known as mephedrone or 4-MMC.
4. 4-methylethcathinone, commonly known as 4-MEC.
5. 4-methoxy-alpha-pyrrolidinopropiophenone, commonly known as MOPPP.
6. 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone, commonly known as MDPPP.
7. Alpha-pyrrolidinovalerophenone, commonly known as alpha-PVP.
8. 2-fluoromethcathinone, commonly known as 2-FMC.
9. 3-fluoromethcathinone, commonly known as 3-FMC.
10. 4-fluoromethcathinone, commonly known as 4-FMC or flephedrone.
11. 3,4-methylenedioxymethcathinone, commonly known as methylone or bk-MDMA.
12. Naphthylpyrovalerone, commonly known as naphyrone.
13. 4-methyl-alpha-pyrrolidinobutiophenone, commonly known as MPBP.
14. 4-methoxymethcathinone, commonly known as methedrone or bk-PMMA.
15. Ethcathinone.

16. 3,4-methylenedioxyethcathinone, commonly known as ethylone or bk-MDEA.
  17. beta-Keto-N-methylbenzodioxolylbutanamine, commonly known as butylone or bk-MBDB.
  18. N,N-dimethylcathinone, commonly known as metamfepramone.
  19. Alpha-pyrrolidinopropiophenone, commonly known as alpha-PPP.
  20. 3-methoxymethcathinone, commonly known as 3-MMC.
  21. 4-ethylmethcathinone, commonly known as 4-EMC.
  22. 3,4-dimethylmethcathinone, commonly known as 3,4-DMMC.
  23. beta-Keto-N-methylbenzodioxolylpentanamine, commonly known as pentylone or bk-MBDP.
  24. beta-Keto-ethylbenzodioxolylbutanamine, commonly known as eutylone or bk-EBDB.
  25. 4-bromomethcathinone, commonly known as 4-BMC.
  26. Alpha-methylamino-butyrophenone, commonly known as buphedrone or MABP.
  27. 3,4-methylenedioxy-alpha-pyrrolidinobutiophenone, commonly known as MDPBP.
  28. 4-methyl-alpha-pyrrolidinohexiophenone, commonly known as MPHP.
  29. N,N-dimethyl-3,4-methylenedioxcathinone.
  30. N,N-diethyl-3,4-methylenedioxcathinone.
  31. Alpha-methylamino-valerophenone, commonly known as pentedrone.
- (mk) Mitragynine.
- (mL) 7-hydroxymitragynine.
- (mm) 5,6-methylenedioxy-2-aminoindane, commonly known as MDAI.
- (mn) Benzothiophenylcyclohexylpiperidine, commonly known as BTCP.

(p) 4-methylthioamphetamine, commonly known as “4-MTA.”

(q) N- benzylpiperazine, commonly known as “BZP.”

### **961.16 Schedule II.**

Unless specifically excepted by tribal, state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in schedule II:

**(2) SUBSTANCES OF PLANT ORIGIN.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances in any form, including a substance contained in a plant, obtained from a plant, chemically synthesized or obtained by a combination of extraction from a plant and chemical synthesis:

(a) Opium and substances derived from opium, and any salt, compound, derivative or preparation of opium or substances derived from opium. Apomorphine, dextrorphan, nalbuphine, butorphanol, nalmefene, naloxone and naltrexone and their respective salts and the isoquinoline alkaloids of opium and their respective salts are excluded from this paragraph. The following substances, and any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation, are included in this paragraph:

1. Opium, including raw opium, opium extracts, opium fluid extracts, powdered opium, granulated opium and tincture of opium.
2. Opium poppy and poppy straw.
3. Concentrate of poppy straw, which is the crude extract of poppy straw in either liquid, solid or powder form containing the phenanthrene alkaloids of the opium poppy.
4. Codeine.
- 4m. Dihydrocodeine.
- 4r. Dihydroetorphine.
5. Ethylmorphine.
6. Etorphine hydrochloride.
7. Hydrocodone, also known as dihydrocodeinone.
8. Hydromorphone, also known as dihydromorphinone.
9. Metopon.

10. Morphine.

11. Oxycodone.

12. Oxymorphone.

13. Thebaine.

(b) Coca leaves and any salt, compound, derivative or preparation of coca leaves. Decocainized coca leaves or extractions which do not contain cocaine or ecgonine are excluded from this paragraph. The following substances and any of their salts, esters, isomers and salts of esters and isomers that are theoretically possible within the specific chemical designation, are included in this paragraph:

1. Cocaine.

2. Ecgonine.

**(3) SYNTHETIC OPIATES.** Any material, compound, mixture or preparation which contains any quantity of any of the following synthetic opiates, including any of their isomers, esters, ethers, esters and ethers of isomers, salts and salts of isomers, esters, ethers and esters and ethers of isomers that are theoretically possible within the specific chemical designation:

(a) Alfentanil;

(am) Alphaprodine;

(b) Anileridine;

(c) Bezitramide;

(cm) Carfentanil;

(e) Diphenoxylate;

(f) Fentanyl;

(g) Isomethadone;

(gm) Levo–alphacetylmethadol (LAAM);

(h) Levomethorphan;

(j) Levorphanol;

(k) Meperidine, also known as pethidine;

- (m) Meperidine — Intermediate — A, 4-cyano-1-methyl-4-phenylpiperidine;
- (n) Meperidine — Intermediate — B, ethyl-4-phenylpiperidine-4-carboxylate;
- (p) Meperidine — Intermediate — C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (q) Metazocine;
- (r) Methadone;
- (s) Methadone — Intermediate, 4-cyano-2-dimethylamino-4,4-diphenylbutane;
- (t) Moramide — Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropanecarboxylic acid;
- (tb) Oripavine;
- (u) Phenazocine;
- (v) Piminodine;
- (w) Racemethorphan;
- (x) Racemorphan;
- (xm) Remifentanil;
- (y) Sufentanil;
- (zt) Tapentadol.

**(5) STIMULANTS.** Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

- (a) Amphetamine.
- (b) Methamphetamine.
- (c) Phenmetrazine.
- (d) Methylphenidate.
- (e) Lisdexamfetamine.

**(7) DEPRESSANTS.** Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

- (a) Amobarbital;
- (am) Glutethimide;
- (b) Pentobarbital;
- (c) Secobarbital.

**(8) IMMEDIATE PRECURSORS.** Any material, compound, mixture or preparation which contains any quantity of the following substances:

- (a) An immediate precursor to amphetamine or methamphetamine:

1. Phenylacetone, commonly known as “P2P”.

- (b) An immediate precursor to fentanyl, including 4-anilino-N-phenethyl-4-piperidine, commonly known as ANPP.

**(10) HALLUCINOGENIC SUBSTANCES.** (b) Nabilone (another name for nabilone is (+)-trans-3-(1,1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one).

### **961.18 Schedule III.**

Unless specifically excepted by tribal, state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in schedule III:

**(2m) STIMULANTS.** Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

- (a) Benzphetamine;
- (b) Chlorphentermine;
- (c) Clortermine;
- (e) Phendimetrazine.

(3) DEPRESSANTS. Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

(a) Any substance which contains a derivative of barbituric acid;

(b) Chlorhexadol;

(d) Lysergic acid;

(e) Lysergic acid amide;

(f) Methypylon;

(h) Sulfondiethylmethane;

(j) Sulfonethylmethane;

(k) Sulfonmethane;

(km) Tiletamine and Zolazepam in combination;

(m) Any compound, mixture, or preparation containing any of the following drugs and one or more other active medicinal ingredients not included in any schedule:

1. Amobarbital.

2. Secobarbital.

3. Pentobarbital.

(n) Any of the following drugs in suppository dosage form approved by the federal food and drug administration for marketing only as a suppository:

1. Amobarbital.

2. Secobarbital.

3. Pentobarbital.

(o) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug and cosmetic act:

1. Gamma-hydroxybutyric acid.



**(4) OTHER SUBSTANCES.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

(ak) Ketamine.

(an) Nalorphine.

**(4m) HALLUCINOGENIC SUBSTANCES.** Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. food and drug administration approved drug product. (Other names for dronabinol are (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-ol, and (-)-delta-9-(trans)-tetrahydrocannabinol.)

**(5) NARCOTIC DRUGS.** Any material, compound, mixture or preparation containing any of the following narcotic drugs or their salts, isomers or salts of isomers, calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(a) Not more than 1.8 grams of codeine per 100 milliliters or per 100 grams 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 per 100 grams 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 hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.

(d) Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams 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 per 100 grams 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 per 100 grams or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, 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.

**(5m) NARCOTIC DRUGS NOT LIMITED BY QUANTITY.** Any material, compound, mixture, or preparation containing any of the following narcotic drugs, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

(a) Buprenorphine

**(7) ANABOLIC STEROIDS.** Any material, compound, mixture, or preparation containing any quantity of any of the following anabolic steroids, including any of their esters, isomers, esters of isomers, salts and salts of esters, isomers and esters of isomers that are theoretically possible within the specific chemical designation:

(a) Boldenone;

(am) 19-Nor-4,9(10)-androstadienedione;

(az) Boldione;

(b) 4-chlorotestosterone, which is also called clostebol;

(c) Dehydrochloromethyltestosterone;

(d) 4-dihydrotestosterone, which is also called stanolone;

(e) Drostanolone;

(em) Desoxymethyltestosterone;

(f) Ethylestrenol;

(g) Fluoxymesterone;

(h) Formebolone, which is also called fromebolone;

(i) Mesterolone;

(j) Methandienone, which is also called methandrostenolone;

(k) Methandriol;

- (L) Methenolone;
- (m) Methyltestosterone;
- (n) Mibolerone;
- (o) Nandrolone;
- (p) Norethandrolone;
- (q) Oxandrolone;
- (r) Oxymesterone;
- (s) Oxymetholone;
- (t) Stanozolol;
- (u) Testolactone;
- (v) Testosterone;
- (w) Trenbolone.

**961.20 Schedule IV.**

Unless specifically excepted by tribal, state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in schedule IV:

**(2) DEPRESSANTS.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

- (a) Alprazolam;
- (am) Barbital;
- (ar) Bromazepam;
- (av) Camazepam;
- (ax) Carisoprodol;
- (b) Chloral betaine;

- (c) Chloral hydrate;
- (cd) Clobazam;
- (cg) Clotiazepam;
- (cm) Chlordiazepoxide;
- (cn) Clonazepam;
- (co) Cloxazolam;
- (cp) Clorazepate;
- (cq) Delorazepam;
- (cr) Diazepam;
- (cs) Dichloralphenazone;
- (cu) Estazolam;
- (d) Ethchlorvynol;
- (e) Ethinamate;
- (ed) Ethyl loflazepate;
- (eg) Fludiazepam;
- (ej) Flunitrazepam;
- (em) Flurazepam;
- (eo) Halazepam;
- (ep) Haloxazolam;
- (eq) Ketazolam;
- (er) Lorazepam;
- (es) Loprazolam;
- (eu) Lormetazepam;

- (ew) Mebutamate;
- (ey) Medazepam;
- (f) Methohexital;
- (g) Meprobamate;
- (h) Methylphenobarbital, which is also called mephobarbital;
- (hg) Midazolam;
- (hh) Nimetazepam;
- (hj) Nitrazepam;
- (hk) Nordiazepam;
- (hm) Oxazepam;
- (hr) Oxazolam;
- (j) Paraldehyde;
- (k) Petrichloral;
- (m) Phenobarbital;
- (md) Pinazepam;
- (mg) Prazepam;
- (mm) Quazepam;
- (n) Temazepam;
- (ng) Tetrazepam;
- (nm) Triazolam;
- (o) Zaleplon;
- (p) Zolpidem;
- (q) Zopiclone.

**(2m) STIMULANTS.** Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

(a) Diethylpropion.

(ad) Cathine.

(ag) N,N-dimethyl-1,2-diphenylethylamine, commonly known as "SPA".

(ak) Ephedrine, if ephedrine is the only active medicinal ingredient or if there are only therapeutically insignificant quantities of another active medicinal ingredient.

(ar) Fencamfamine.

(at) Fenproporex.

(bm) Mazindol.

(br) Mefenorex.

(bu) Modafinil.

(c) Pemoline, including its organometallic complexes and chelates.

(d) Phentermine.

(e) Pipradrol.

(f) Sibutramine.

**(3) NARCOTIC DRUGS CONTAINING NONNARCOTIC ACTIVE MEDICINAL INGREDIENTS.** Any compound, mixture or preparation containing any of the following narcotic drugs or their salts, isomers or salts of isomers, in limited quantities as set forth below, calculated as the free anhydrous base or alkaloid, which also contains 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 the narcotic drug alone:

(a) Not more than 1.0 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

**(4) OTHER SUBSTANCES.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances or their salts:

- (a) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).
- (am) Fenfluramine, including any of its isomers and salts of isomers.
- (b) Pentazocine, including any of its isomers and salts of isomers.
- (c) Butorphanol, including any of its isomers and salts of isomers.
- (d) Lorcaserin, including any of its isomers and salts of isomers.
- (e) Tramadol, including any of its isomers and salts of isomers.

**961.22 Schedule V.**

Unless specifically excepted by tribal, state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in schedule V:

**(2) NARCOTIC DRUGS CONTAINING NONNARCOTIC ACTIVE MEDICINAL INGREDIENTS.** Any compound, mixture or preparation containing any of the following narcotic drugs or their salts, isomers or salts of isomers, in limited quantities as set forth below, calculated as the free anhydrous base or alkaloid, which also contains 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 the narcotic drug alone:

- (a) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
- (b) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
- (c) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
- (d) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
- (e) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
- (f) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

**(2m) PSEUDOEPHEDRINE.** Pseudoephedrine or any of its salts, isomers, or salts of isomers.

**(3) OTHER STIMULANTS.** Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

(a) Pyrovalerone.

(4) EZOGABINE. Ezogabine or any of its salts, isomers, or salts of isomers.

(5) PREGABALIN. Pregabalin or any of its salts, isomers, or salts of isomers.

**961.23 Dispensing of schedule V substances.**

The dispensing of schedule V substances is subject to the following conditions:

(1) They may be dispensed and sold only in good faith as a medicine and not for the purpose of evading this chapter.

(2) They may be sold at retail only by a registered pharmacist or, if the substance is a pseudoephedrine product, by a person who is working under the direction of a registered pharmacist when sold in a retail establishment.

(3) When sold in a retail establishment, they shall bear the name and address of the establishment on the immediate container of said preparation.

(4) Any person purchasing such a substance shall, at the time of purchase, present to the seller that person's correct name, address, and, if the person is purchasing a pseudoephedrine product, an identification card containing the person's photograph. The seller shall record the name and address and the name and quantity of the product sold. The purchaser and either the seller or, if the substance is a pseudoephedrine product and is being sold by a person who is not a registered pharmacist, the pharmacist supervising the seller shall sign the record of this transaction. The giving of a false name or false address by the purchaser shall be prima facie evidence of a violation of s. 961.43 (1) (a).

(5) No person may purchase more than 227 grams of a product containing opium or more than 113 grams of a product containing any other schedule V substance within a 48-hour period without the authorization of a physician, dentist, or veterinarian. This subsection does not apply to a pseudoephedrine product unless it contains another schedule V substance.

(6) No person other than a physician, dentist, veterinarian, or pharmacist may purchase more than 7.5 grams of pseudoephedrine contained in a pseudoephedrine product within a 30-day period without the authorization of a physician, dentist, or veterinarian.

(7) No person other than a physician, dentist, veterinarian, or pharmacist may possess more than 227 grams of a product containing opium or more than 113 grams of a product containing any other schedule V substance at any time without the authorization of a physician, dentist, or veterinarian. This subsection does not apply to a pseudoephedrine product unless it contains another schedule V substance.

(8) No person may sell a pseudoephedrine product to a person under 18 years of age, and no person under 18 years of age may purchase a pseudoephedrine product.



**961.235 Records relating to sales of pseudoephedrine products.**

(1) In this section, “records of pseudoephedrine sales” means records required under s. 961.23 (4) with respect to the sale of a pseudoephedrine product.

(2) Records of pseudoephedrine sales may be kept in either a paper or electronic format and shall be maintained by the pharmacy for at least 2 years. Except as provided in sub. (3), only a pharmacist may have access to records of pseudoephedrine sales and information contained in those records.

(3) A pharmacist shall make records required under s. 961.23 (4) available to a law enforcement officer who requests them. Law enforcement officers may make those records available to other persons or re-disclose information from those records to other persons only in connection with a criminal investigation or prosecution under this chapter.

**961.24 Publishing of updated schedules.**

The controlled substances board shall publish updated schedules annually. The failure of the controlled substances board to publish an updated schedule under this section is not a defense in any administrative or judicial proceeding under this chapter.

**961.25 Controlled substance analog treated as a schedule I substance.**

A controlled substance analog, to the extent it is intended for human consumption, shall be treated, for the purposes of this chapter, as a substance included in schedule I, unless a different treatment is specifically provided. No later than 60 days after the commencement of a prosecution concerning a controlled substance analog, the prosecutor shall provide the Wisconsin Controlled Substances Board with information relevant to emergency scheduling in accordance with Wisconsin Statute § 961.11 (4m). After a final determination by the Wisconsin Controlled Substances Board that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may be commenced or continued.

**SUBCHAPTER III: REGULATION OF MANUFACTURE, DISTRIBUTION,  
DISPENSING, AND POSSESSION OF CONTROLLED SUBSTANCES**

**961.32 Possession authorization.**

(1) Persons registered under federal law to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances in this Nation to the extent authorized by their federal registration and in conformity with the other provisions of this chapter.

(2) The following persons need not be registered under federal law to lawfully possess controlled substances in this Nation:

- (a) An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if the agent or employee is acting in the usual course of the agent's or employee's business or employment;
- (b) A common or contract carrier or warehouse keeper, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;
- (c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.
- (d) Any person exempted under federal law, or for whom federal registration requirements have been waived.
- (e) A person actively engaged in the direct operation or implementation of a drug disposal program that is authorized under State or Federal law.

**961.335 Special use authorization.**

(1) Special Use Permits issued by a State shall be recognized and individuals possessing such a permit are exempt from prosecution to the extent that the permit allows.

**961.337 Drug disposal programs.**

Nothing in this chapter, or rules promulgated under this chapter, prohibits any of the following:

- (1) The direct operation or implementation of a drug disposal program that is authorized under State or Federal law.
- (2) The transfer by the ultimate user, or by another person that lawfully possesses the controlled substance or controlled substance analog, of a controlled substance or controlled substance analog to a drug disposal program that has been authorized under State or Federal law and that accepts the controlled substance or controlled substance analog.

**961.34 Controlled substances therapeutic research.**

(1) Investigational Drug Permits for marijuana issued in accordance with 21 USC 355 by a State shall be recognized.

**961.38 Prescriptions.**

(1g) In this section, "medical treatment" includes dispensing or administering a narcotic drug for pain, including intractable pain.

(1n) A pharmacy or physician approved under s. 961.34 (2) (a) or (b) may dispense cannabidiol in a form without a psychoactive effect as a treatment for a seizure disorder or any physician may provide an individual with a hard copy of a letter or other official documentation stating that the

individual possesses cannabidiol to treat a seizure disorder if the cannabidiol is in a form without a psychoactive effect.

(1r) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance included in schedule II may be dispensed without the written hard copy or electronic prescription of a practitioner.

(2) In emergency situations, as defined by rule of the pharmacy examining board, schedule II drugs may be dispensed upon an oral prescription of a practitioner, reduced promptly to a written hard copy or electronic record and filed by the pharmacy. Prescriptions shall be retained in conformity with rules of the pharmacy examining board promulgated under s. 961.31. No prescription for a schedule II substance may be refilled.

(3) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug, shall not be dispensed without a written, oral or electronic prescription of a practitioner. The prescription shall not be filled or refilled except as designated on the prescription and in any case not more than 6 months after the date thereof, nor may it be refilled more than 5 times, unless renewed by the practitioner.

(4) A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.

(4g) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession.

(4r) A pharmacist is immune from any civil or criminal liability for any act taken by the pharmacist in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(5) No practitioner shall prescribe, orally, electronically or in writing, or take without a prescription a controlled substance included in schedule I, II, III or IV for the practitioner's own personal use.

**961.39 Limitations on optometrists.** An optometrist who is authorized by State law to use therapeutic pharmaceutical agents and to dispense a contact lens that delivers a therapeutic pharmaceutical agent:

(1) May not prescribe, dispense, or administer a controlled substance included in schedule I or II.

(2) May prescribe, dispense, or administer only those controlled substances included in schedules III, IV, and V that are permitted for prescription or administration under applicable State rules.

(3) Shall include with each prescription order all of the following:

(a) A statement that he or she is allowed under applicable State law to use therapeutic pharmaceutical agents.

(b) The indicated use of the controlled substance included in schedule III, IV or V so prescribed.

(4) May not dispense other than as provided under applicable State law.

**961.395 Limitation on advanced practice nurses.**

(1) An advanced practice nurse who is certified under applicable State law may prescribe controlled substances only as permitted by the rules promulgated under applicable State law.

(2) An advanced practice nurse certified under applicable State law shall include with each prescription order the advanced practice nurse prescriber certification number issued to him or her by the board of nursing.

(3) An advanced practice nurse certified under applicable State law may dispense a controlled substance only by prescribing or administering the controlled substance or as otherwise permitted by the rules promulgated under applicable State law.

**SUBCHAPTER IV: OFFENSES AND PENALTIES**

**961.41 Prohibited acts A — penalties.**

(1) MANUFACTURE, DISTRIBUTION OR DELIVERY. Except as authorized by this chapter, it is unlawful for any person to manufacture, distribute or deliver a controlled substance or controlled substance analog. Any person who violates this subsection is guilty of a felony.

(1m) POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER. Except as authorized by this chapter, it is unlawful for any person to possess, with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog. Intent under this subsection may be demonstrated by, without limitation because of enumeration, evidence of the quantity and monetary value of the substances possessed, the possession of manufacturing implements or paraphernalia, and the activities or statements of the person in possession of the controlled substance or a controlled substance analog prior to and after the alleged violation. Any person who violates this subsection is guilty of a felony

(1n) PIPERIDINE POSSESSION.

(a) No person may possess any quantity of piperidine or its salts with the intent to use the piperidine or its salts to manufacture a controlled substance or controlled substance analog in violation of this chapter.

(b) No person may possess any quantity of piperidine or its salts if he or she knows or has reason to know that the piperidine or its salts will be used to manufacture a controlled substance or controlled substance analog in violation of this chapter.

(c) A person who violates par. (a) or (b) is guilty of a felony.

**(1x) CONSPIRACY.** Any person who conspires, as specified in s. 939.31, to commit a crime under sub. (1) (cm) to (h) or (1m) (cm) to (h) is subject to the applicable penalties under sub. (1) (cm) to (h) or (1m) (cm) to (h).

**(2) COUNTERFEIT SUBSTANCES.** Except as authorized by this chapter, it is unlawful for any person to create, manufacture, distribute, deliver or possess with intent to distribute or deliver, a counterfeit substance. Any person who violates this subsection is guilty of a felony

**(3g) POSSESSION.** No person may possess or attempt to possess a controlled substance or a controlled substance analog unless the person obtains the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice, or unless the person is otherwise authorized by this chapter to possess the substance or the analog. Any person who violates this subsection is subject to the following penalties:

(am) *Schedule I and II narcotic drugs.* If a person possesses or attempts to possess a controlled substance included in schedule I or II which is a narcotic drug, or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, the person is guilty of a felony.

(b) *Other drugs generally.* Except as provided in pars. (c) to (g), if the person possesses or attempts to possess a controlled substance or controlled substance analog, other than a controlled substance included in schedule I or II that is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II that is a narcotic drug, the person is guilty of a misdemeanor, punishable under s. 939.61.

(c) *Cocaine and cocaine base.* If a person possesses or attempts to possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base, the person shall be guilty of a misdemeanor and shall be fined not more than \$5,000 and may be imprisoned for not more than one year in jail upon a first conviction and is guilty of a felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

(d) *Certain hallucinogenic and stimulant drugs.* If a person possesses or attempts to possess lysergic acid diethylamide, phencyclidine, amphetamine, 3,4-methylenedioxymethamphetamine, methcathinone, cathinone, N-benzylpiperazine, a

substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm), (u) to (xb), or (7) (L), psilocin, or psilocybin, or a controlled substance analog of lysergic acid diethylamide, phencyclidine, amphetamine, 3,4-methylenedioxymethamphetamine, methcathinone, cathinone, N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm), (u) to (xb), or (7) (L), psilocin, or psilocybin, the person shall be guilty of a misdemeanor and may be fined not more than \$5,000 or imprisoned for not more than one year in jail or both upon a first conviction and is guilty of a felony for a 2<sup>nd</sup> or subsequent offense. For purposes of this paragraph, an offense is considered a 2<sup>nd</sup> or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

(e) *Tetrahydrocannabinols*. If a person possesses or attempts to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, the person shall be guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and is guilty of a felony for a 2<sup>nd</sup> or subsequent offense. For purposes of this paragraph, an offense is considered a 2<sup>nd</sup> or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

(em) *Synthetic cannabinoids*. If a person possesses or attempts to possess a controlled substance specified in s. 961.14 (4) (tb), or a controlled substance analog of a controlled substance specified in s. 961.14 (4) (tb), the person shall be guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and is guilty of a felony for a 2<sup>nd</sup> or subsequent offense. For purposes of this paragraph, an offense is considered a 2<sup>nd</sup> or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana, or depressant, stimulant, or hallucinogenic drugs.

(f) *Gamma-hydroxybutyric acid, gamma-butyrolactone, 1,4-butanediol, ketamine, or flunitrazepam*. If a person possesses or attempts to possess gamma-hydroxybutyric acid, gamma-butyrolactone, 1,4-butanediol, ketamine or flunitrazepam, the person is guilty of a felony.

(g) *Methamphetamine*. If a person possesses or attempts to possess methamphetamine or a controlled substance analog of methamphetamine, the person is guilty of a felony.

**(3j) PURCHASES OF PSEUDOEPHEDRINE PRODUCTS.** Whoever purchases more than 7.5 grams of pseudoephedrine contained in a pseudoephedrine product within a 30-day period, other than by purchasing the product in person from a pharmacy or pharmacist, is guilty of a felony.

This subsection does not apply to a purchase by a physician, dentist, veterinarian, or pharmacist or a purchase that is authorized by a physician, dentist, or veterinarian.

**(4) IMITATION CONTROLLED SUBSTANCES.**

(am) 1. No person may knowingly distribute or deliver, attempt to distribute or deliver or cause to be distributed or delivered a noncontrolled substance and expressly or impliedly represent any of the following to the recipient:

a. That the substance is a controlled substance.

b. That the substance is of a nature, appearance or effect that will allow the recipient to display, sell, distribute, deliver or use the noncontrolled substance as a controlled substance, if the representation is made under circumstances in which the person has reasonable cause to believe that the noncontrolled substance will be used or distributed for use as a controlled substance.

2. Proof of any of the following is prima facie evidence of a representation specified in subd. 1. a. or b.:

a. The physical appearance of the finished product containing the substance is substantially the same as that of a specific controlled substance.

b. The substance is unpackaged or is packaged in a manner normally used for the illegal delivery of a controlled substance.

c. The substance is not labeled in accordance with 21 USC 352 or 353.

d. The person distributing or delivering, attempting to distribute or deliver or causing distribution or delivery of the substance to be made states to the recipient that the substance may be resold at a price that substantially exceeds the value of the substance.

3. A person who violates this paragraph is guilty of a felony.

(bm) It is unlawful for any person to agree, consent or offer to lawfully manufacture, deliver, distribute or dispense any controlled substance to any person, or to offer, arrange or negotiate to have any controlled substance unlawfully manufactured, delivered, distributed or dispensed, and then manufacture, deliver, distribute or dispense or offer, arrange or negotiate to have manufactured, delivered, distributed or dispensed to any such person a substance which is not a controlled substance. Any person who violates this paragraph shall be guilty of a misdemeanor and may be fined not more than \$500 or imprisoned for not more than 6 months or both.

**961.42 Prohibited acts B — penalties.**

(1) It is unlawful for any person knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for manufacturing, keeping or delivering them in violation of this chapter.

(2) Any person who violates this section is guilty of a felony.

**961.43 Prohibited acts C — penalties.**

(1) It is unlawful for any person:

(a) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(b) Without authorization, to make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as:

1. To make a counterfeit substance; or

2. To duplicate substantially the physical appearance, form, package or label of a controlled substance.

(2) Any person who violates this section is guilty of a felony.

**961.435 Specific penalty.** Any person who violates s.961.38 (5) shall be guilty of a misdemeanor and may be fined not more than \$500 or imprisoned not more than 30 days or both.

**961.44 Penalties under other laws.** Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

**961.443 Immunity from criminal prosecution; possession.**

(1) DEFINITIONS. In this section, “aider” means a person who does any of the following:

(a) Brings another person to an emergency room, hospital, fire station, or other health care facility if the other person is, or the person believes him or her to be, suffering from an overdose of,  
or other adverse reaction to, any controlled substance or controlled substance analog.



(b) Summons a law enforcement officer, ambulance, emergency medical technician, or other health care provider, to assist another person if the other person is, or the person believes him

or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog.

(c) Dials the telephone number “911” or, in an area in which the telephone number “911” is not available, the number for an emergency medical service provider, to obtain assistance for another person if the other person is, or the person believes him or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog.

**(2) IMMUNITY FROM CRIMINAL PROSECUTION.** An aider is immune from prosecution under s. 961.573, for the possession of drug paraphernalia, and under s. 961.41 (3g) for the possession of a controlled substance or a controlled substance analog, under the circumstances surrounding or leading to his or her commission of an act described in sub. (1).

**961.45 Bar to prosecution.** If a violation of this chapter is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

**961.452 Defenses in certain schedule V prosecutions.**

**(1)** A person who proves all of the following by a preponderance of the evidence has a defense to prosecution under s. 961.41 (1) (j) that is based on the person’s violation of a condition specified in s. 961.23 with respect to the person’s distribution or delivery of a pseudoephedrine product:

(a) The person did not knowingly or recklessly violate the condition under s. 961.23.

(b) The person reported his or her own violation of the condition under s. 961.23 to a law enforcement officer in the county or municipality in which the violation occurred within 30 days after the violation.

**(2)** A seller who proves all of the following by a preponderance of the evidence has a defense to prosecution under s. 961.41(1) (j) that is based on the person’s violation of a condition specified in s. 961.23 with respect to the person’s distribution or delivery of a pseudoephedrine product:

(a) The person did not knowingly or recklessly violate the condition under s. 961.23.

(b) The acts or omissions constituting the violation of the condition under s. 961.23 were the acts or omissions of one or more of the person’s employees.

(c) The person provided training to each of those employees regarding the restrictions imposed under s. 961.23 on the delivery of pseudoephedrine products.

(3) A person who proves all of the following by a preponderance of the evidence has a defense to prosecution under s. 961.41(1) (j) for a violation of s. 961.23 (6):

(a) The purchaser presented an identification card that contained a name or address other than the person's own.

(b) The appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser was the person depicted in the photograph contained in that identification card.

(c) The sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser, and with the belief that the name and address of the purchaser were as listed on the identification card.

(4) A person who proves all of the following by a preponderance of the evidence has a defense to prosecution under s. 961.41 (1) (j) for a violation of s. 961.23 (8):

(a) The purchaser presented an identification card that indicated that he or she was 18 years of age or older.

(b) The appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser was 18 years of age or older.

(c) The sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser, and with the belief that the purchaser was 18 years of age or older.

**961.453 Purchases of pseudoephedrine products on behalf of another person.**

(1) (a) No person may, with the intent to acquire more than 7.5 grams of pseudoephedrine contained in a pseudoephedrine product within a 30-day period, knowingly solicit, hire, direct, employ, or use another to purchase a pseudoephedrine product on his or her behalf.

- (b) 1. Except as provided in subd. 2., a person who violates par. (a) is guilty of a felony.
2. If the person who is solicited, hired, directed, employed, or used to purchase the pseudoephedrine product is an individual who is less than 18 years of age, the actor is guilty of a felony.

(2) No person may purchase a pseudoephedrine product on behalf of another with the intent to facilitate another person's manufacture of methamphetamine. A person who violates this subsection is guilty of a felony.

**961.455 Using a child for illegal drug distribution or manufacturing purposes.**

(1) Any person who has attained the age of 17 years who knowingly solicits, hires, directs, employs

or uses a person who is under the age of 17 years for the purpose of violating s. 961.41 (1) is guilty of a felony.

(2) The knowledge requirement under sub. (1) does not require proof of knowledge of the age of the child. It is not a defense to a prosecution under this section that the actor mistakenly believed that the person solicited, hired, directed, employed or used under sub. (1) had attained the age of 18 years, even if the mistaken belief was reasonable.

(3) Solicitation under sub. (1) occurs in the manner described under s. 939.30, but the penalties under sub. (1) apply instead of the penalties under s. 939.30.

(4) If the conduct described under sub. (1) results in a violation under s. 961.41 (1), the actor is subject to prosecution and conviction under s. 961.41 (1) or this section or both.

#### **961.46 Distribution to persons under age 18.**

If a person 17 years of age or over violates s. 961.41 (1) by distributing or delivering a controlled substance or a controlled substance analog to a person 17 years of age or under who is at least 3 years his or her junior, the applicable maximum term of imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not more than 3 years with a total term of imprisonment not to exceed 3 years.

#### **961.47 Conditional discharge for possession or attempted possession as first offense.**

(1) Whenever any person who has not previously been convicted of any offense under this chapter, or of any offense under any statute of the United States or of any state or of any county ordinance relating to controlled substances or controlled substance analogs, narcotic drugs, marijuana or stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 961.41 (3g) (b), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him or her on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him or her. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for 2<sup>nd</sup> or subsequent convictions under s. 961.48. There may be only one discharge and dismissal under this section with respect to any person.

(2) Within 20 days after probation is granted under this section, the clerk of court shall notify the department of justice of the name of the individual granted probation and any other information required by the department. This report shall be upon forms provided by the department.

**961.472 Assessment; certain possession or attempted possession offenses.**

(1) In this section, “facility” means a treatment facility approved or licensed by a state or other agency.

(2) Except as provided in sub. (5), if a person pleads guilty or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 961.41 (3g) (am), (c), (d), or (g), the court shall order the person to comply with an assessment of the person’s use of controlled substances. The court’s order shall designate a facility that is certified to provide assessment services to perform the assessment and, if appropriate, to develop a proposed treatment plan. The court shall notify the person that noncompliance with the order limits the court’s ability to determine whether the treatment option under s. 961.475 is appropriate. The court shall also notify the person of any associated fees.

(3) The facility shall submit an assessment report within 14 days to the court. At the request of the facility, the court may extend the time period by not more than 20 additional workdays. The assessment report may include a proposed treatment plan.

(4) The court shall consider the assessment report in determining whether the treatment option under s. 961.475 is appropriate.

(5) The court is not required to enter an order under sub. (2) if any of the following applies:

(a) The court finds that the person is already covered by or has recently completed an assessment under this section or a substantially similar assessment.

(b) The person is participating in a substance abuse treatment program that meets the requirements of providing holistic treatment to its participants and provides them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court-ordered obligations.

**961.475 Treatment option.** Whenever any person pleads guilty to or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 961.41 (3g), the court may, upon request of the person and with the consent of a treatment facility with special inpatient or outpatient programs for the treatment of drug dependent persons, allow the person to enter the treatment programs voluntarily for purposes of treatment and rehabilitation. Treatment shall be for the period the treatment facility feels is necessary and required, but shall not exceed the maximum sentence allowable unless the person consents to the continued treatment. At the end of the necessary and required treatment, with the consent of the court, the person may be released from sentence. If treatment efforts are ineffective or the person ceases to cooperate with treatment rehabilitation efforts, the person may be remanded to the court for completion of sentencing.

**961.48 Second or subsequent offenses.**

(1) If a person is charged under sub. (2m) with a felony offense under this chapter that is a 2nd or subsequent offense as provided under sub. (3) and the person is convicted of that 2nd or subsequent offense, the maximum term of imprisonment for the offense may be increased as follows:

(a) by 3 years with the total term on imprisonment not to exceed 3 years, if the offense is a felony.

(2m) (a) Whenever a person charged with a felony offense under this chapter may be subject to a conviction for a 2nd or subsequent offense, he or she is not subject to an enhanced penalty under sub. (1) unless any applicable prior convictions are alleged in the complaint, indictment or information or in an amended complaint, indictment or information that is filed under par. (b) 1. A person is not subject to an enhanced penalty under sub. (1) for an offense if an allegation of applicable prior convictions is withdrawn by an amended complaint filed under par. (b) 2.

(b) Notwithstanding s. 971.29 (1), at any time before entry of a guilty or no contest plea or the commencement of a trial, a district attorney may file without leave of the court an amended complaint, information or indictment that does any of the following:

1. Charges an offense as a 2nd or subsequent offense under this chapter by alleging any applicable prior convictions.

2. Withdraws the charging of an offense as a 2nd or subsequent offense under this chapter by withdrawing an allegation of applicable prior convictions.

(3) For purposes of this section, a felony offense under this chapter is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor offense under this chapter or under any statute of the United States or of any state relating to controlled substances or controlled substance analogs, narcotic drugs, marijuana or depressant, stimulant or hallucinogenic drugs.

(5) This section does not apply if the person is presently charged with a felony under s. 961.41 (3g) (c), (d), (e), or (g).

**961.49 Offenses involving intent to deliver or distribute a controlled substance on or near certain places.**

(1m) If any person violates s. 961.41 (1) (cm), (d), (e), (f), (g) or (h) by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), (g) or (h) by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or any form of tetrahydrocannabinols or a controlled substance analog of any of these substances and the delivery, distribution or possession takes place under any of the following circumstances, the maximum

term of imprisonment prescribed by law for that crime may be increased by up to 3 years with the total term on imprisonment not to exceed 3 years:

- (a) While the person is in or on the premises of a scattered-site public housing project.
- (b) While the person is in or on or otherwise within 1,000 feet of any of the following:
  - 1. A state, county, city, village or town park.
  - 2. A jail or correctional facility.
  - 3. A multiunit public housing project.
  - 4. A swimming pool open to members of the public.
  - 5. A youth center or a community center.
  - 6. Any private or public school premises and any premises of a tribal school, which means an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to 12 and that is one of the following:
    - a. Controlled by the elected governing body of a federally recognized American Indian tribe or band in this state.
    - b. Jointly controlled by the elected governing bodies of 2 or more federally recognized American Indian tribes or bands in this state.
    - c. Controlled by a tribal educational authority established by a federally recognized American Indian tribe or band in this state.
    - d. Controlled by a tribal educational authority established jointly by 2 or more federally recognized American Indian tribes or bands in this state.
  - 7. A school bus, as defined as a motor vehicle which carries 10 or more passengers in addition to the operator or a motor vehicle painted to indicate it is a school bus for the purpose of transporting pupils, disabled individuals or elderly persons to or from public or private school, technical college, curricular or extracurricular activities, religious instruction on school days.
- (c) While the person is in or on the premises of a treatment facility approved or licensed by a state or other agency that provides alcohol and other drug abuse treatment.
- (d) While the person is within 1,000 feet of the premises of a treatment facility approved or licensed by a state or other agency that provides alcohol and other drug abuse treatment, if the person knows or should have known that he or she is within 1,000 feet of the premises

of the facility or if the facility is readily recognizable as a facility that provides alcohol and other drug abuse treatment.

**(2m)** If any person violates s. 961.65 and, during the violation, the person intends to deliver or distribute methamphetamine or a controlled substance analog of methamphetamine under any of the circumstances listed under sub. (1m) (a), (b), (c), or (d), the maximum term of imprisonment for that crime is increased by up to 3 years with the total term on imprisonment not to exceed 3 years.

**961.495 Possession or attempted possession of a controlled substance on or near certain places.**

If any person violates s. 961.41 (3g) by possessing or attempting to possess a controlled substance included in schedule I or II, a controlled substance analog of a controlled substance included in schedule I or II or ketamine or flunitrazepam while in or on the premises of a scattered-site public housing project, while in or on or otherwise within 1,000 feet of a state, county, city, village, or town park, a jail or correctional facility, a multiunit public housing project, a swimming pool open to members of the public, a youth center or a community center, while in or on or otherwise within 1,000 feet of any private or public school premises or of any premises of a tribal school, as defined in s.961.49(1m)(b)6., or while in or on or otherwise within 1,000 feet of a school bus, as defined in s. 961.49(1m)(b)7., the court shall, in addition to any other penalties that may apply to the crime, impose 100 hours of community service work the Nation or its designee. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored.

**961.50 Suspension or revocation of operating privilege.**

**(1)** If a person is convicted of any violation of this chapter, the court may, in addition to any other penalties that may apply to the crime, suspend the person's operating privilege, , for not less than 6 months nor more than 5 years. If a court suspends a person's operating privilege under this subsection, the court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation the record of conviction and notice of the suspension. The person is eligible for an occupational license as follows:

(a) For the first such conviction, at any time.

(b) For a 2nd conviction within a 5-year period, after the first 60 days of the suspension or revocation period.

(c) For a 3rd or subsequent conviction within a 5-year period, after the first 90 days of the suspension or revocation period.

**(2)** For purposes of counting the number of convictions under sub. (1), convictions under the law of a federally recognized American Indian tribe or band in this state, federal law or the law of another jurisdiction, for any offense therein which, if the person had committed the offense in this

Nation and been convicted of the offense under the laws of this Nation, would have required suspension or revocation of such person's operating privilege under this section, shall be counted and given the effect specified under sub. (1). The 5-year period under this section shall be measured from the dates of the violations which resulted in the convictions.

(3) If the person's license or operating privilege is currently suspended or revoked or the person does not currently possess a valid operator's license, the suspension or revocation under this section is effective on the date on which the person is first eligible for issuance, renewal, or reinstatement of an operator's license.

## **SUBCHAPTER V: ENFORCEMENT AND ADMINISTRATIVE PROVISIONS**

### **961.51 Powers of enforcement personnel.**

(1) Any officer may:

(a) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas and summonses issued under the authority of this state;

(b) Make arrests without warrant for any offense under this chapter committed in the officer's or employee's presence, or if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing a violation of this chapter which may constitute a felony; and

(c) Make seizures of property pursuant to this chapter.

(2) This section does not affect the responsibility of law enforcement officers and agencies to enforce this chapter, nor the investigative authority of the department of justice..

### **961.52 Administrative inspections and warrants.**

(1) Issuance and execution of administrative inspection warrants shall be as follows:

(a) A judge of a court of record, upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

(b) A warrant shall issue only upon an affidavit of a designated officer or the department of justice having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge shall issue a warrant identifying the area, premises, building or conveyance to be inspected, the purpose of the



inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

1. State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;
2. Be directed to a person authorized by law to execute it;
3. Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;
4. Identify the item or types of property to be seized, if any;
5. Direct that it be served during normal business hours and designate the judge to whom it shall be returned.

(c) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(d) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of court for the county in which the inspection was made.

(2) The department of justice may make administrative inspections of controlled premises in accordance with the following provisions:

(a) For purposes of this section only, “controlled premises” means:

1. Places where persons authorized under s. 961.32 to possess controlled substances in this state are required by federal law to keep records; and
2. Places including factories, warehouses, establishments and conveyances in which persons authorized under s. 961.32 to possess controlled substances in this state are permitted by federal law to hold, manufacture, compound, process, sell, deliver or otherwise dispose of any controlled substance.

(b) When authorized by an administrative inspection warrant issued pursuant to sub. (1), an officer or the department of justice, upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(c) When authorized by an administrative inspection warrant, an officer or the department of justice may:

1. Inspect and copy records relating to controlled substances;
2. Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in par. (e), all other things therein, including records, files, papers, processes, controls and facilities bearing on violation of this chapter; and
3. Inventory any stock of any controlled substance therein and obtain samples thereof.

(d) This section does not prevent entries and administrative inspections, including seizures of property, without a warrant:

1. If the owner, operator or agent in charge of the controlled premises consents;
2. In situations presenting imminent danger to health or safety;
3. In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
4. In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or
5. In all other situations in which a warrant is not constitutionally required.

(e) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.

**961.53 Violations constituting public nuisance.** Violations of this chapter constitute public nuisances, irrespective of any criminal prosecutions which may be or are commenced based on the same acts.

**961.54 Cooperative arrangements and confidentiality.** The department of justice shall cooperate with federal, state and local agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:

- (1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;
- (2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;
- (3) Cooperate with the bureau by establishing a centralized unit to accept, catalog, file and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes. It shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under s. 961.335 (7); and
- (4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

**961.55 Forfeitures.**

(1) The following are subject to forfeiture:

- (a) All controlled substances or controlled substance analogs which have been manufactured, delivered, distributed, dispensed or acquired in violation of this chapter.
- (b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, distributing, importing or exporting any controlled substance or controlled substance analog in violation of this chapter.
- (c) All property which is used, or intended for use, as a container for property described in pars. (a) and (b).
- (d) All vehicles which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in pars. (a) and (b) or for the purpose of transporting any property or weapon used or to be used or received in the commission of any felony under this chapter, but:

1. No vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to a violation of this chapter;
2. No vehicle is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted

without the owner's knowledge or consent. This subdivision does not apply to any vehicle owned by a person who is under 16 years of age on the date that the vehicle is used, or is intended for use, in the manner described under par. (d) (intro.), unless the court determines that the owner is an innocent bona fide owner;

3. A vehicle is not subject to forfeiture for a violation of s. 961.41 (3g) (b) to (g); and

4. If forfeiture of a vehicle encumbered by a bona fide perfected security interest occurs, the holder of the security interest shall be paid from the proceeds of the forfeiture if the security interest was perfected prior to the date of the commission of the felony which forms the basis for the forfeiture and he or she neither had knowledge of nor consented to the act or omission.

(e) All books, records, and research products and materials, including formulas, microfilm, tapes and data, which are used, or intended for use, in violation of this chapter.

(f) All property, real or personal, including money, directly or indirectly derived from or realized through the commission of any crime under this chapter.

(g) Any drug paraphernalia, as defined in s. 961.571, used in violation of this chapter.

**(2)** Property subject to forfeiture under this chapter may be seized by any officer or employee designated in s. 961.51 (1) or (2) or a law enforcement officer upon process issued by any court of record having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The officer or employee or a law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The officer or employee or a law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter, that the property was derived from or realized through a crime under this chapter or that the property is a vehicle which was used as described in sub. (1) (d).

**(3)** In the event of seizure under sub. (2), proceedings under sub. (4) shall be instituted promptly. All dispositions and forfeitures under this section and ss. 961.555 and 961.56 shall be made with due provision for the rights of innocent persons under sub. (1) (d) 1., 2. and 4. Any property seized but not forfeited shall be returned to its rightful owner. Any person claiming the right to possession of property seized may apply for its return to the circuit court for the county in which the property was seized. The court shall order such notice as it deems adequate to be given the district attorney

and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property returned if:

- (a) The property is not needed as evidence or, if needed, satisfactory arrangements can be made for its return for subsequent use as evidence; or
- (b) All proceedings in which it might be required have been completed.

**(4)** Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of Ho-Chunk Nation Law Enforcement Department subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the person seizing the property may:

- (a) Place the property under seal;
- (b) Remove the property to a place designated by it; or
- (c) Require the sheriff of the county in which the seizure was made to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

**(5)** When property is forfeited under this chapter, the agency whose officer or employee seized the property shall do one of the following:

- (a) Retain it for official use.
- (b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The agency may use 50 percent of the amount received for payment of forfeiture expenses. The remainder shall be deposited in the general fund as proceeds of the forfeiture. In this paragraph, "forfeiture expenses" include all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs and the costs of investigation and prosecution reasonably incurred.
- (c) Require the sheriff of the county in which the property was seized to take custody of the property and remove it for disposition in accordance with law.
- (d) Forward it to the bureau for disposition.
- (e) If the property forfeited is money, retain the sum of all of the following for payment of forfeiture expenses, as defined in par. (b), and deposit the remainder in the general fund:
  - 1. If the amount of money does not exceed \$2,000, 70 percent of that amount.
  - 2. Fifty percent of any amount seized in excess of \$2,000.

(6) Controlled substances included in schedule I and controlled substance analogs of controlled substances included in schedule I that are possessed, transferred, sold, offered for sale or attempted to be possessed in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances included in schedule I and controlled substance analogs of controlled substances included in schedule I that are seized or come into the possession of the Nation, the owners of which are unknown, are contraband and shall be summarily forfeited to the Nation.

(6m) Flunitrazepam or ketamine that is possessed, transferred, sold, offered for sale or attempted to be possessed in violation of this chapter is contraband and shall be seized and summarily forfeited to the state. Flunitrazepam or ketamine that is seized or comes into the possession of the state, the owner of which is unknown, is contraband and shall be summarily forfeited to the state.

(7) Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the Nation.

(8) The failure, upon demand by any officer or employee designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate federal registration, or proof that the person is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

#### **961.555 Forfeiture proceedings.**

(1) TYPE OF ACTION; WHERE BROUGHT. In an action brought to cause the forfeiture of any property seized under s. 961.55, the court may render a judgment in rem or against a party personally, or both. Any property seized may be the subject of a federal forfeiture action.

(2) COMMENCEMENT.

(a) The prosecutor shall commence the forfeiture action within 30 days after the seizure of the property, except that the defendant may request that the forfeiture proceedings be adjourned until after adjudication of any charge concerning a crime which was the basis for the seizure of the property. The request shall be granted. The forfeiture action shall be commenced by filing a summons, complaint and affidavit of the person who seized the property with the clerk of circuit court, provided service of authenticated copies of those papers is made within 90 days after filing upon the person from whom the property was seized and upon any person known to have a bona fide perfected security interest in the property.

(b) Upon service of an answer, the action shall be set for hearing within 60 days of the service of the answer but may be continued for cause or upon stipulation of the parties.

(c) In counties having a population of 500,000 or more, the district attorney or corporation counsel may proceed under par. (a).

(d) If no answer is served or no issue of law or fact has been joined and the time for that service or joining issue has expired, or if any defendant fails to appear at trial after answering or joining issue, the court may render a default judgment.

**(3) BURDEN OF PROOF.** The Nation shall have the burden of satisfying or convincing to a reasonable certainty by the greater weight of the credible evidence that the property is subject to forfeiture under s. 961.55.

**(4) ACTION AGAINST OTHER PROPERTY OF THE PERSON.** The court may order the forfeiture of any other property of a defendant up to the value of property found by the court to be subject to forfeiture under s. 961.55 if the property subject to forfeiture meets any of the following conditions:

(a) Cannot be located.

(b) Has been transferred or conveyed to, sold to or deposited with a 3rd party.

(c) Is beyond the jurisdiction of the court.

(d) Has been substantially diminished in value while not in the actual physical custody of the law enforcement agency.

(e) Has been commingled with other property that cannot be divided without difficulty.

**961.56 Burden of proof; liabilities.**

**(1)** It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.

**(2)** In the absence of proof that a person is the duly authorized holder of an appropriate federal registration or order form, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.

**(3)** No liability is imposed by this chapter upon any authorized state, county or municipal officer or employee engaged in the lawful performance of the officer's or employee's duties.

**961.565 Enforcement reports.** On or before November 15 annually, the Ho-Chunk Nation Law Enforcement and the Attorney General shall submit a joint report to the Chief Clerk of the Legislature for distribution to Legislators describing the activities in this Nation during the previous year to enforce the laws regulating controlled substances. The report shall contain recommendations for improving the effectiveness of enforcement activities and other efforts to combat the abuse of controlled substances.

## SUBCHAPTER VI: DRUG PARAPHERNALIA

**961.571 Definitions.** In this subchapter:

- (1) (a) “Drug paraphernalia” means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of this chapter. “Drug paraphernalia” includes, but is not limited to, any of the following:
1. Kits used, designed for use or primarily intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance or controlled substance analog can be derived.
  2. Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.
  3. Isomerization devices used, designed for use or primarily intended for use in increasing the potency of any species of plant that is a controlled substance.
  4. Testing equipment used, designed for use or primarily intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances or controlled substance analogs.
  5. Scales and balances used, designed for use or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.
  6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use or primarily intended for use in cutting controlled substances or controlled substance analogs.
  7. Separation gins and sifters used, designed for use or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  8. Blenders, bowls, containers, spoons and mixing devices used, designed for use or primarily intended for use in compounding controlled substances or controlled substance analogs.
  9. Capsules, balloons, envelopes and other containers used, designed for use or primarily intended for use in packaging small quantities of controlled substances or controlled substance analogs.



10. Containers and other objects used, designed for use or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.

11. Objects used, designed for use or primarily intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Smoking and carburetion masks.
- e. Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
- f. Miniature cocaine spoons and cocaine vials.
- g. Chamber pipes.
- h. Carburetor pipes.
- i. Electric pipes.
- j. Air-driven pipes.
- k. Chilams.
- L. Bongs.
- m. Ice pipes or chillers.

(b) “Drug paraphernalia” excludes:

- 1. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.
- 2. Any items, including pipes, papers and accessories that are designed for use or primarily intended for use with tobacco products.

(2) “Primarily” means chiefly or mainly.

**961.572 Determination.**

(1) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use.
- (b) The proximity of the object, in time and space, to a direct violation of this chapter.
- (c) The proximity of the object to controlled substances or controlled substance analogs.
- (d) The existence of any residue of controlled substances or controlled substance analogs on the object.
- (e) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is designed for use or primarily intended for use as drug paraphernalia.
- (f) Instructions, oral or written, provided with the object concerning its use.
- (g) Descriptive materials accompanying the object that explain or depict its use.
- (h) Local advertising concerning its use.
- (i) The manner in which the object is displayed for sale.
- (j) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
- (k) The existence and scope of legitimate uses for the object in the community.
- (L) Expert testimony concerning its use.

(2) In determining under this subchapter whether an item is designed for a particular use, a court or other authority shall consider the objective physical characteristics and design features of the item.

(3) In determining under this subchapter whether an item is primarily intended for a particular use, a court or other authority shall consider the subjective intent of the defendant.

**961.573 Possession of drug paraphernalia.**

(1) No person may use, or possess with the primary 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 analog in violation of this chapter. Any person who violates this subsection shall be guilty of a misdemeanor and may be fined not more than \$500 or imprisoned for not more than 30 days or both.

(2) Any person who violates sub. (1) who is under 17 years of age is subject to a in accordance with the following:

(a) If a court finds a juvenile committed a violation under s. 961.573 (2), 961.574 (2) or 961.575 (2), the court shall suspend the juvenile's operating privilege, for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

1. For a first violation, a forfeiture of not more than \$50 or participation in a supervised work program or other community service work or both.

2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100 or participation in a supervised work program or other community service work or both.

3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500 or participation in a supervised work program or other community service work or both.

(b) Whenever a court suspends a juvenile's operating privilege under this subsection, the court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the WI Department of Transportation the notice of suspension stating that the suspension is for a violation under s. 961.573 (2), 961.574 (2), or 961.575 (2).

(c) If the juvenile's license or operating privilege is currently suspended or revoked or the juvenile does not currently possess a valid operator's license, the suspension under this subsection is effective on the date on which the juvenile is first eligible for issuance or reinstatement of an operator's license.

(3) (a) No person may use, or possess with the primary intent to use, drug paraphernalia to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, or store methamphetamine or a controlled substance analog of methamphetamine in violation of this chapter.

(b) 1. Except as provided in subd. 2., any person who violates par. (a) is guilty of a felony.

2. Any person who is 18 years of age or older and who violates par. (a) while in the presence of a child who is 14 years of age or younger is guilty of a felony.

**961.574 Manufacture or delivery of drug paraphernalia.**

(1) No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily 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 analog in violation of this chapter. Any person who violates this subsection shall be guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

(2) Any person who violates sub. (1) who is under 17 years of age is subject to a disposition in accordance with the following:

(a) If a court finds a juvenile committed a violation under s. 961.573 (2), 961.574 (2) or 961.575 (2), the court shall suspend the juvenile's operating privilege, for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

1. For a first violation, a forfeiture of not more than \$50 or participation in a supervised work program or other community service work or both.

2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100 or participation in a supervised work program or other community service work or both.

3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500 or participation in a supervised work program or other community service work or both.

(b) Whenever a court suspends a juvenile's operating privilege under this subsection, the court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the WI Department of Transportation the notice of suspension stating that the suspension is for a violation under s. 961.573 (2), 961.574 (2), or 961.575 (2).

(c) If the juvenile's license or operating privilege is currently suspended or revoked or the juvenile does not currently possess a valid operator's license, the suspension under this subsection is effective on the date on which the juvenile is first eligible for issuance or reinstatement of an operator's license.

(3) No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack or store methamphetamine or a controlled

substance analog of methamphetamine in violation of this chapter. Any person who violates this subsection is guilty of a felony.

**961.575 Delivery of drug paraphernalia to a minor.**

(1) Any person 17 years of age or over who violates s. 961.574 (1) by delivering drug paraphernalia to a person 17 years of age or under who is at least 3 years younger than the violator shall be guilty of a felony and may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(2) Any person who violates this section who is under 17 years of age is subject to a disposition in accordance with the following:

(a) If a court finds a juvenile committed a violation under s. 961.573 (2), 961.574 (2) or 961.575 (2), the court shall suspend the juvenile's operating privilege, for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

1. For a first violation, a forfeiture of not more than \$50 or participation in a supervised work program or other community service work or both.

2. For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100 or participation in a supervised work program or other community service work or both.

3. For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500 or participation in a supervised work program or other community service work or both.

(b) Whenever a court suspends a juvenile's operating privilege under this subsection, the court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the WI Department of Transportation the notice of suspension stating that the suspension is for a violation under s. 961.573 (2), 961.574 (2), or 961.575 (2).

(c) If the juvenile's license or operating privilege is currently suspended or revoked or the juvenile does not currently possess a valid operator's license, the suspension under this subsection is effective on the date on which the juvenile is first eligible for issuance or reinstatement of an operator's license.

(3) Any person 17 years of age or over who violates s. 961.574(3) by delivering drug paraphernalia to a person 17 years of age or under is guilty of a felony.

**961.576 Advertisement of drug paraphernalia.** No person may place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed for use or primarily intended for use as drug paraphernalia in violation of this chapter. Any person who violates this

section shall be guilty of a misdemeanor and may be fined not more than \$500 or imprisoned for not more than 30 days or both.

## **SUBCHAPTER VII: MISCELLANEOUS**

### **961.65 Possessing materials for manufacturing methamphetamine.**

Except as authorized by this chapter, any person who possesses an ephedrine or pseudoephedrine product, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, or pressurized ammonia with intent to manufacture methamphetamine is guilty of a felony. Possession of more than 9 grams of ephedrine or pseudoephedrine, other than pseudoephedrine contained in a product to which s. 961.01 (20c) (a) or (b) applies, creates a rebuttable presumption of intent to manufacture methamphetamine. In this section, “ephedrine” and “pseudoephedrine” include any of their salts, isomers, and salts of isomers.

### **961.67 Possession and disposal of waste from manufacture of methamphetamine.**

(1) In this section:

(a) “Dispose of” means discharge, deposit, inject, dump, spill, leak or place methamphetamine manufacturing waste into or on any land or water in a manner that may permit the waste to be emitted into the air, to be discharged into any waters of the state or otherwise to enter the environment.

(b) “Intentionally” means that the actor either has a purpose to do the thing or cause the result specified, or is aware that his or her conduct is practically certain to cause that result. In addition, the actor must have knowledge of those facts which are necessary to make his or her conduct criminal and which are set forth after the word "intentionally" except criminal intent does not require proof of knowledge of the age of a minor even though age is a material element in the crime in question.

(c) “Methamphetamine manufacturing waste” means any solid, semisolid, liquid or contained gaseous material or article that results from or is produced by the manufacture of methamphetamine or a controlled substance analog of methamphetamine in violation of this chapter.

(2) No person may do any of the following:

(a) Knowingly possess methamphetamine manufacturing waste.

(b) Intentionally dispose of methamphetamine manufacturing waste.

(3) Subsection (2) does not apply to a person who possesses or disposes of methamphetamine manufacturing waste under all of the following circumstances:

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(a) The person is storing, treating or disposing of the methamphetamine manufacturing waste in compliance with applicable state law or the person has notified a law enforcement agency of the existence of the methamphetamine manufacturing waste.

(b) The methamphetamine manufacturing waste had previously been possessed or disposed of by another person in violation of sub. (2).

(4) A person who violates sub. (2) is guilty of a felony.

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Legislative History

12.17.13	Legislature establishes the Criminal Code Workgroup by Resolution 12.17.13C.
01.06.15	The Controlled Substances Act is placed out for 45 Day Public Comment period by Resolution 01.06.15G.
03.17.15	The Controlled Substances Act is placed out for an additional 45 Day Public Comment period by Resolution 03.17.15L.
05.05.15	Legislature enacts the Controlled Substances Act by Resolution 05.05.15K.