FIRST REGULAR SESSION

HOUSE BILL NO. 538

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WRIGHT (137).

Read 1st time February 15, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1618L.01I

AN ACT

To repeal sections 195.017, 195.417, and 217.785, RSMo, and to enact in lieu thereof three new sections relating to methamphetamine and its precursors, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 195.017, 195.417, and 217.785, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 195.017, 195.417, and 217.785, to read as follows:

195.017. 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

(1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(e) Alphameprodine;
(f) Alphamethadol;
(g) Alpha-methylfentanyl;
(h) Alpha-methylthiofentanyl;
(i) Benzethidine;
(j) Betacetylmethadol;
(k) Beta-hydroxyfentanyl;
(l) Beta-hydroxy-3-methylfentanyl;
(m) Betameprodine;
(n) Betamethadol;
(o) Betaprodine;
(p) Clonitazene;
(q) Dextromoramide;
(r) Diampromide;
(s) Diethylthiambutene;
(t) Difenoxin;
(u) Dimenoxadol;
(v) Dimepheptanol;
(w) Dimethylthiambutene;
(x) Dioxaphetyl butyrate;
(y) Dipipanone;
(z) Ethylmethylthiambutene;
(aa) Etonitazene;
(bb) Etoxeridine;
(cc) Furethidine;
(dd) Hydroxypethidine;
(ee) Ketobemidone;
(ff) Levomoramide;
(gg) Levophenacylmorphan;
(hh) 3-Methylfentanyl;
(ii) 3-Methylthiofentanyl;
(jj) Morpheridine;
(kk) MPPP;
(ll) Noracymethadol;
(mm) Norlevorphanol;
(nn) Normethadone;

(oo) Norpipanone;
(pp) Para-fluorofentanyl;
(qq) PEPAP;
(rr) Phenadoxone;
(ss) Phenampromide;
(tt) Phenomorphan;
(uu) Phenoperidine;
(vv) Piritramide;
(ww) Proheptazine;
(xx) Properidine;
(yy) Propiram;
(zz) Racemoramide;
(aaa) Thiofentanyl;
(bbb) Tilidine;
(ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is 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;
(i) Drotebanol;
(j) Etorphine; (except Hydrochloride Salt);
(k) Heroin;
(l) Hydromorphinol;
(m) Methyldesorphine;
(n) Methyldihydromorphine;
(o) Morphine methylbromide;
(p) Morphine methylsulfonate;
(q) Morphine-N-Oxide;
(r) Myrophine;

(s) Nicocodeine;

(t) Nicomorphine;

(u) Normorphine;

(v) Pholcodine;

(w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 4-bromo-2,5-dimethoxyamphetamine;

(b) 4-bromo-2, 5-dimethoxyphenethylamine;

(c) 2,5-dimethoxyamphetamine;

(d) 2,5-dimethoxy-4-ethylamphetamine;

(e) 4-methoxyamphetamine;

(f) 5-methoxy-3,4-methylenedioxyamphetamine;

(g) 4-methyl-2,5-dimethoxy amphetamine;

(h) 3,4-methylenedioxyamphetamine;

(i) 3,4-methylenedioxymethamphetamine;

(j) 3,4-methylenedioxy-N-ethylamphetamine;

(k) N-nydroxy-3, 4-methylenedioxyamphetamine;

(l) 3,4,5-trimethoxyamphetamine;

(m) Alpha-ethyltryptamine;

(n) Bufotenine;

(o) Diethyltryptamine;

(p) Dimethyltryptamine;

(q) Ibogaine;

(r) Lysergic acid diethylamide;

(s) Marijuana; (Marihuana);

(t) Mescaline;

(u) Parahexyl;

(v) Peyote, to include all parts of the plant presently classified botanically as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;

(w) N-ethyl-3-piperidyl benzilate;

(x) N-methyl-3-piperidyl benzilate;

(y) Psilocybin;

(z) Psilocyn;

(aa) Tetrahydrocannabinols;

(bb) Ethylamine analog of phencyclidine;

(cc) Pyrrolidine analog of phencyclidine;

(dd) Thiophene analog of phencyclidine;

(ee) 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Gamma hydroxybutyric acid;

(b) Mecloqualone;

(c) Methaqualone;

(6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Aminorex;

(b) Cathinone;

(c) Fenethylline;

(d) Methcathinone;

(e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro- 4-methyl-5-phenyl-2-oxazolamine);

(f) N-ethylamphetamine;

(g) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

3. The department of health and senior services shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

a. Raw opium;

b. Opium extracts;

c. Opium fluid;

d. Powdered opium;

e. Granulated opium;

f. Tincture of opium;

g. Codeine;

h. Ethylmorphine;

i. Etorphine hydrochloride;

j. Hydrocodone;

k. Hydromorphone;

l. Metopon;

m. Morphine;

n. Oxycodone;

o. Oxymorphone;

p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within

the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) Alfentanil;

(b) Alphaprodine;

(c) Anileridine;

(d) Bezitramide;

(e) Bulk Dextropropoxyphene;

(f) Carfentanil;

(g) Butyl nitrite;

(h) Dihydrocodeine;

(i) Diphenoxylate;

(j) Fentanyl;

(k) Isomethadone;

(l) Levo-alphacetylmethadol;

(m) Levomethorphan;

(n) Levorphanol;

(o) Metazocine;

(p) Methadone;

(q) Meperidine;

(r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;

(s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane--carboxylic acid;

(t) Pethidine;

(u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperdine-4-carboxylic acid;

(x) Phenazocine;

(y) Piminodine;

(z) Racemethorphan;

(aa) Racemorphan;

(bb) Sulfentanil;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Methamphetamine, its salts, isomers, and salts of its isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital;

(b) Glutethimide;

(c) Pentobarbital;

(d) Phencyclidine;

(e) Secobarbital;

(5) Any material, compound or compound which contains any quantity of the following substances:

(a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(b) Nabilone;

(6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;

(b) Immediate precursors to phencyclidine (PCP):

a. 1-phenylcyclohexylamine;

b. 1-piperidinocyclohexanecarbonitrile (PCC).

5. The department of health and senior services shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

6. The controlled substances listed in this subsection are included in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

a. Amobarbital;

b. Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;

c. Secobarbital;

d. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

(d) Chlorhexadol;

(e) Ketamine, its salts, isomers, and salts of isomers;

(f) Lysergic acid;

(g) Lysergic acid amide;

(h) Methyprylon;

(i) Sulfondiethylmethane;

(j) Sulfonethylmethane;

(k) Sulfonmethane;

(l) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety 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 one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an

isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen 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 one hundred milliliters or more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Anabolic steroids. Unless specially excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(a) Boldenone;

(b) Chlorotestosterone (4-Chlortestosterone);

(c) Clostebol;

(d) Dehydrochlormethyltestosterone;

(e) Dihydrostestosterone (4-Dihydro-testosterone);

(f) Drostanolone;

(g) Ethylestrenol;

(h) Fluoxymesterone;

(i) Formebulone (Formebolone);

(j) Mesterolone;

(k) Methandienone;

(l) Methandranone;

(m) Methandriol;

(n) Methandrostenolone;

(o) Methenolone;

(p) Methyltestosterone;

(q) Mibolerone;

(r) Nandrolone;

(s) Norethandrolone;

(t) Oxandrolone;

(u) Oxymesterone;

(v) Oxymetholone;

(w) Stanolone;

(x) Stanozolol;

(y) Testolactone;

(z) Testosterone;

(aa) Trenbolone;

(bb) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for that administration.

(6) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms

of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethy-lamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alprazolam;

(b) Barbital;

(c) Bromazepam;

(d) Camazepam;

(e) Chloral betaine;

(f) Chloral hydrate;

(g) Chlordiazepoxide;

(h) Clobazam;

(i) Clonazepam;

(j) Clorazepate;

(k) Clotiazepam;

(l) Cloxazolam;

(m) Delorazepam;

(n) Diazepam;

(o) Estazolam;

(p) Ethchlorvynol;

(q) Ethinamate;

(r) Ethyl loflazepate;

(s) Fludiazepam;

(t) Flunitrazepam;

(u) Flurazepam;

(v) Halazepam;

(w) Haloxazolam;

(x) Ketazolam;

(y) Loprazolam;

(z) Lorazepam;

(aa) Lormetazepam;

(bb) Mebutamate;

(cc) Medazepam;

(dd) Meprobamate;

(ee) Methohexital;

(ff) Methylphenobarbital;

(gg) Midazolam;

(hh) Nimetazepam;

(ii) Nitrazepam;

(jj) Nordiazepam;

(kk) Oxazepam;

(ll) Oxazolam;

(mm) Paraldehyde;

(nn) Petrichloral;

(oo) Phenobarbital;

(pp) Pinazepam;

(qq) Prazepam;

(rr) Quazepam;

(ss) Temazepam;

(tt) Tetrazepam;

(uu) Triazolam;

(vv) Zolpidem;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Cathine ((+)-norpseudoephedrine);

(b) Diethylpropion;

(c) Fencamfamin;

(d) Fenproporex;

(e) Mazindol;

(f) Mefenorex;

(g) Pemoline, including organometallic complexes and chelates thereof;

(h) Phentermine;

(i) Pipradrol;

(j) SPA ((-)-1-dimethyamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts: pentazocine;

(6) **[**Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers and salts of isomers: ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient;**] Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;**

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any material, compound, mixture or preparation containing any of the following narcotic drug and its salts: buprenorphine;

(2) Any compound, mixture or preparation containing any of the following narcotic

drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which 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 two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

[(3)**] (2)** Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone**[**.**];**

(3) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers.

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a checkout counter where the public is not permitted, by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist or registered pharmacy technician shall require any person purchasing, receiving or otherwise acquiring such compound, mixture, or preparation, who is not known to the pharmacist or registered pharmacy technician, to furnish suitable photo identification showing the date of birth of the person.

12. Within ninety days of the enactment of this section, pharmacists and registered pharmacy technicians shall implement and maintain a written or electronic log of each transaction. Such log shall include the following information:

(1) The name and address of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date of each purchase; and

(4) The name or initials of the pharmacist or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

14. Within thirty days of the enactment of this section, all persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a checkout counter where the public is not permitted.

15. Within thirty days of the enactment of this section, all persons in the possession of pseudoephedrine and ephedrine products, who do not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substances registrant.

16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

[11.**] 19.** The department of health and senior services shall revise and republish the schedules annually.

195.417. 1. No person shall **[**deliver in any single over-the-counter sale more than:**] sell, dispense, or otherwise provide to the same individual more than the amount specified below within any thirty-day period and no person shall purchase, receive, or otherwise acquire more than the amount specified within any thirty-day period. This limit shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription:**

(1) **[**Two packages or**]** Any number of packages that contain a combined total of no more than **[**six**]** **nine** grams of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers; or **any number of packages of said combination drug that contain a combined total of no more than nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;**

(2) **[**Three**]** **Any number of** packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, or any number of packages of said combination drug that contain a combined total of no more than nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.

2. **[**All packages of any drug having a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, shall be displayed and offered for sale only behind a checkout counter where the public is not permitted, or within ten feet and an unobstructed view of an attended checkout counter. This subsection shall not apply to any retailer utilizing an electronic antitheft system that utilizes a product tag and detection alarm which specifically prevents the theft of such drugs from the place of business where such drugs are sold.**]** **All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or isomers, or salts of optical isomers, except those in liquid or liquid-filled gel capsule form that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a checkout counter where the public is not permitted, by a registered pharmacist or registered pharmacy technician under section 195.017.**

3. This section shall supersede any municipal ordinances or regulations passed on or after December 23, 2002, to the extent that such ordinances or regulations are more restrictive than the provisions of this section. This section shall not apply to **[**any product labeled pursuant to federal regulation for use only in children under twelve years of age, or to**]** any products that the state department of health and senior services, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors or to the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

4. **[**Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with

information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.**] Persons selling and dispensing substances containing any detectable amount of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine its salts or isomers, or salts of optical isomers shall maintain logs, documents, and records as specified in section 195.017. Persons selling only compounds, mixtures, or preparations in liquid or liquid-filled gel capsule form that are excluded from Schedule V in subsection 17 or 18 of section 195.017 shall not be required to maintain such logs, documents, and records. All logs, records, documents, and electronic information maintained for the dispensing of these products shall be open for inspection and copying by municipal, county, and state or federal law enforcement officers whose duty it is to enforce the controlled substances laws of this state or the United States.**

5. **Within thirty days of the enactment of this section, all persons who dispense or offer for sale pseudoephedrine and ephedrine products, except those in liquid or liquid-filled gel capsule form that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall ensure that all such products are located only behind a checkout counter where the public is not permitted.**

6. Within thirty days of the enactment of this section, all persons in possession of pseudoephedrine and ephedrine products except those excluded from Schedule V in subsection 17 or 18 of section 195.017, who do not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substance registrant.

7. Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

8. The provisions of subsection 1 of this section limiting individuals from purchasing the specified amount in any thirty-day period shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form. However, no person shall purchase, receive, or otherwise acquire more than the specified amount of a compound, mixture, or preparation in liquid or liquid-filled gel capsule form in a single purchase as provided in subsection 1 of this section.

217.785. 1. As used in this section, the term "Missouri postconviction drug treatment program" means a program of noninstitutional and institutional correctional programs for the monitoring, control and treatment of certain drug abuse offenders.

2. The department of corrections shall establish by regulation the "Missouri Postconviction Drug Treatment Program". The program shall include noninstitutional and institutional placement. The institutional phase of the program may include any offender under the supervision and control of the department of corrections. The department shall establish

rules determining how, when and where an offender shall be admitted into or removed from the program.

3. **Except as provided in subsection 8 of this section** any first-time offender who has pled guilty or been found guilty of violating the provisions of chapter 195, RSMo, or whose controlled substance abuse was a precipitating or contributing factor in the commission of his offense, and who is placed on probation may be required to participate in the noninstitutional phase of the program, which may include education, treatment and rehabilitation programs. Persons required to attend a program pursuant to this section may be charged a reasonable fee to cover the costs of the program. Failure of an offender to complete successfully the noninstitutional phase of the program shall be sufficient cause for the offender to be remanded to the sentencing court for assignment to the institutional phase of the program or any other authorized disposition.

4. A probationer shall be eligible for assignment to the institutional phase of the postconviction drug treatment program if he has failed to complete successfully the noninstitutional phase of the program. If space is available, the sentencing court may assign the offender to the institutional phase of the program as a special condition of probation, without the necessity of formal revocation of probation.

5. The availability of space in the institutional program shall be determined by the department of corrections. If the sentencing court is advised that there is no space available, then the court shall consider other authorized dispositions.

6. Any time after ninety days and prior to one hundred twenty days after assignment of the offender to the institutional phase of the program, the department shall submit to the court a report outlining the performance of the offender in the program. If the department determines that the offender will not participate or has failed to complete the program, the department shall advise the sentencing court, who shall cause the offender to be brought before the court for consideration of revocation of the probation or other authorized disposition. If the offender successfully completes the program, the department shall release the individual to the appropriate probation and parole district office and so advise the court.

7. Time spent in the institutional phase of the program shall count as time served on the sentence.

8. No person who has pled guilty to or been found guilty of violating the provisions of section 195.211, 195.222, or 195.223, RSMo, when the controlled substance involved was methamphetamine, shall be eligible to participate in the noninstitutional or institutional phases of this program.

Section B. Because of the need to protect Missouri citizens from crime relating to methamphetamine, section A of this act is deemed necessary for the immediate preservation of

the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.