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National Alliance for Model State Drug Laws

CONTROLLED SUBSTANCE ANALOGS STATUTORY COMPARISON AND COMPILATION

This project was supported by Cooperative Agreement No. 2012-DC-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the office of Juvenile Justice and Delinquency Prevention, the office for Victims of Crime, the Community Capacity Development Office, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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Section 101(3) of the Uniform Controlled Substance Act (UCSA) defines controlled substance analog and Sec. 214 determines how it is to be treated and scheduled. At this time, only two states follow the exact language of both Sections 101(3) and 214 of the UCSA – Washington and Wisconsin. Missouri follows the language of Sec. 101(3), and both Arkansas and Nevada follow the language of Sec. 214. In all, 34 states and the District of Columbia have the equivalent of one or both of the relevant sections of the UCSA. They are: AL, AR, CA, CO, DE, D.C., FL, IL, IN, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NC, OH, OK, OR, PA, SC, TN, TX, UT, VA, WA, WV and WI.

Comparison

For ease of reference, this memorandum will address each section separately, beginning with Sec. 101(3) of the UCSA defining controlled substance analog. As stated above, Missouri, Washington and Wisconsin track the language of Sec. 101(3) exactly. Ten other states and D.C. include language substantially equivalent to the UCSA definition.

Uniform Controlled Substances Act (1994)
Section 101. Definitions.

...

(3) (i) “Controlled substance analog” means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to Schedule I or II and:

(A) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(B) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; but

(ii) the term does not include:

(A) a controlled substance;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is permitted by the exemption; or

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

Arkansas: §5-64-414; [Sec. 101(3)(i) & (i)(A)] AR combines these provisions and changes the qualifier “and” between the sections to “or” as follows: “... means a substance: (A) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or Schedule II *or* that has a stimulant, depressant ...”

- [Sec. 101(3)(ii)(C)] Changes the language from “... with respect to the substance is *permitted by the exemption*” to “... with respect to the substance is *pursuant to the exemption*.”

Colorado: §18-18-102(6)(a) and (b); [Sec. 101(3)(ii)(B)] Adds “... so long as such substance is in its intended and uncontroverted form” to the end of the section.

D.C.: §48-902.14; [Sec. 101(3)(i) & (i)(A)] Makes the “chemical structure substantially similar to” language a separate section but does not include a conjunction between the sections, only a semi-colon to separate them (follows federal language)

- [Sec. 101(3)(i)(A)] Adds “... substantially similar to *or greater than*”

Kansas: §21-5701; [Sec. 101(3)(i) & (i)(A)] Follows D.C. language

- [Sec. 101(3)(i)] Adds the qualifying language of “intended for human consumption” and omits Section 101(3)(ii)(D) as a result.

Kentucky: §218A.010; [Sec. 101(3)(i) & (i)(A)] Makes the “chemical structure substantially similar” language a separate section, but otherwise follows the language of the UCSA

- [Sec. 101(3)(i)(A) & (B)] Adds “... or greater than ...” and omits 101(3)(ii)(A) from the exclusions.

Louisiana: §40:961; [Sec. 101(3)(i) & (i)(A)] Follows D.C. language

- [Sec. 101(3)(i)(A) & (B)] adds the “or greater than” language and omits 101(3)(ii)(A) from the exclusions

Michigan: §333.7104; [Sec. 101(3)(i)(A) & (B)] Adds “narcotic” to the list of effects the substance has and adds the “ ... or greater than ...” language.

Minnesota: §152.01; [Sec. 101(3)(i)(A) & (B)] Adds the “ ... or greater than ...” language

- [Sec. 101(3)(ii)(C)] Changes the exemption language as follows: “(3) with respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by United States Code, title 21, section 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.”
- [Sec. 101(3)(ii)(D)] Omits this exclusion.

Missouri: §195.010; exact

Nevada: §453.043; [Sec. 101(3)(i)(B)] Changes from “with respect to a particular *individual*, which *the individual* ...” to “with respect to a particular *person*, which *he or she* ...”

North Carolina: §90-87; [Sec. 101(3)(i) & (i)(A)] Follows D.C. language

- Adds the following language to the end of the statute: “The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to subdivision 802(34) or 802(35) of Title 21 of the United States Code does not preclude a finding pursuant to this subdivision that the chemical is a controlled substance analogue.” (This is included in the federal definition.)

Ohio: § 3719.01; [Sec. 101(3)(i)(A) & (B)] Adds the “... or greater than ...” language.

Washington: §69.50.101; exact

Wisconsin: §961.01; exact

Three states, **Maryland** (Crim. Law §5-402), **Nebraska** (§28-401) and **South Carolina** (§44-53-110), track the language of Sec. 101(3) with the exception of “medium” changes to the language. All three states omit Section 101(3)(i)(B) from their statutory definitions. Maryland and Nebraska add the “or greater than” language to Sec. 101(3)(i)(A). Nebraska and South Carolina

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change the conjunction from “and” to “or,” and both add the following language to Sec. 101(3)(ii):

“any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.” [Note that Nebraska includes “as such act existed on January 1, 2009.”]

Additionally, all three states omit Sec. 101(3)(ii)(D).

Fourteen states have statutes that define controlled substance analog which have substantial changes to the uniform definition as follows:

Alabama: § 20-2-23; Definition is as follows:

“(5)a. A controlled substance analog, being a material, mixture, or preparation that contains any chemical structure of which is chemically similar to the chemical structure of any other controlled substance in Schedule I or Schedule II and that satisfies any one of the following:

1. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system that mimics or is similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or Schedule II.
2. With respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or Schedule II.
3. Has been demonstrated to have binding activity at one or more cannabinoid receptors.
4. Is capable of exhibiting cannabinoid-like activity.
5. 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, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

6. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

7. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

8. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

9. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not substituted in the cyclohexyl ring to any extent.

b. A controlled substance analog does not include any of the following:

1. Any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act.

2. With respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by 21 U.S. C. § 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

c. A controlled substance analog, to the extent intended for human consumption, is treated as a controlled substance in Schedule I.

d. After the Alabama Department of Forensic Sciences has determined a substance to be a controlled substance analog under this section, the department shall notify the Alabama Department of Public Health with information relevant to scheduling as provided by Section 20-2-20.”

California: Health and Safety Code §11401; States that a controlled substance analog means either a “substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance classified in Section 11054 or 11055” or “a substance which has, is represented as having, or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than, the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance classified in Section 11054 or 11055.” (Basically, it combines parts (3)(i)(A) and (B) into one sub-section but makes it “either” instead of “and.”)

- [Sec. 101(3)(ii)(B)] Changes the language as follows: “Any substance for which there is an approved new drug application as defined under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355) or which is generally recognized as safe and effective for use pursuant to Sections 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 351, 352, and 353) and 21 C.F.R. Section 330 et seq.”

Florida: §893.0356; Florida uses the similar language for Sec. 101(3)(i)(A) & (B) as California, except that it uses “and” instead of “either.” Section 101(3)(ii)(D) is changed as follows: “any compound, mixture, or preparation which contains any controlled substance which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.”

Illinois: 720 ILCS 570/402 “Possession unauthorized by this Act; penalty”; Definition is as follows: “a substance which is intended for human consumption, other than a controlled substance, that has a chemical structure similar to that of a controlled substance in Schedule I or II, or that was specifically designed to produce an effect substantially similar to that of a controlled substance in Schedule I or II.” Includes examples of chemical classes which may provide evidence of an analog.

Indiana: §35-48-1-9.3; [Sec. 101(3)(i)(A) & (B)] Definition as follows: “means a substance: (1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or (2) that a person represents or intends to have; a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than ...”

- tracks Sec. 101(3)(ii) of the UCSA.

New Hampshire: Title XXX §318-B:1; Definition is as follows: “means a substance that has a chemical structure substantially similar to that of a controlled drug and that

was specifically designed to produce an effect substantially similar to that of a controlled drug. The term shall not include a drug manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act, 52 Stat. 1052 (21 U.S.C. §355).”

New Jersey: §2C:35-2; Definition is as follows: “means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of Section 505 of the “Federal Food, Drug, and Cosmetic Act,” 52 Stat. 1052 (21 U.S.C. s.355).” (Very similar to the NH statute.)

New Mexico: §30-31-2(W); NM generally tracks the NJ definition with some changes. Definition is as follows: “means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in Schedule I, II, III, IV or V.” Includes examples of chemical classes. Excludes the following: “those substances generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act or have been manufactured, distributed or possessed in conformance with the provisions of an approved new drug application or an exemption from investigational use within the meaning of Section 505 of the Federal Food, Drug, and Cosmetic Act.”

Oklahoma: 63 Okl.St. Ann. §2-101; the Oklahoma definition for “synthetic controlled substance” provides that such a substance is either 1) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II; 2) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect of a controlled substance in Schedule I or II; or 3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect of a Schedule I or II substance.

- The definition further provides that the designation of gamma butyrolactone or any other chemical as a precursor does not preclude a finding that the chemical is a synthetic controlled substance.

- Tracks the language of Sec. 101(3)(ii) of the UCSA, but adds that prima facie evidence that a substance containing salvia divinorum has been enhanced, concentrated, or chemically or physically altered shall give rise to a rebuttable presumption that the substance is a synthetic controlled substance.

Oregon: § 475.908; Oregon’s definition of “controlled substance analog” states that it is a substance which has a chemical structure that is substantially similar to the chemical structure of a controlled substance in Schedule I or II. It further states that an analog is a substance that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect of a Schedule I or II substance.

- The definition further states that a controlled substance analog does not include a controlled substance, any substance that has an approved drug application, any substance exempted under 21 USC § 355 if the ingestion is within the scope of the investigation authorized, or distilled spirits, wine, or malt beverages.

Tennessee: § 39-17-454; Tennessee has an expansive definition for “controlled substance analogue” which includes multiple parameters for determining whether a substance is an analog, including both scientific and pharmacological factors, as well as other factors. The definition of “controlled substance analogue” is as follows:

“means a capsule, pill, powder, product or other substance, however constituted:

(A) That has the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance; and

(B) The chemical structure of which is a derivative of, or substantially similar to, the chemical structure of a controlled substance; or

(C) That is prohibited by § 39-17-452 [related to cathinone derivatives].”

- Pursuant to the definition, a controlled substance analog does not include a controlled substance; any substance for which there is an approved use or new drug application by the FDA; any compound, mixture, or preparation that contains any controlled substance that is not for administration to a human being or animal, and that is packaged in such a form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or any substance which has an investigational

- exemption, but only to the extent that conduct with respect to the substance is pursuant to such exemption.
- Some of the factors to be considered in determining whether a substance is an analog include:
 - The difference between the price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold;
 - Its diversion from legitimate channels and its clandestine importation, manufacture, or distribution;
 - Comparisons with accepted methods of marketing a legitimate non-prescription drug for medicinal purposes rather than for the purpose of drug abuse or any similar non-medicinal use including the packaging of the substance and its appearance in overall finished dosage form, oral or written statements or representations concerning the substance, the methods by which the substance is distributed, and the manner in which it is sold to the public;
 - Scientific and pharmacological factors, including
 - Its actual and relative potential for abuse
 - Scientific evidence of its pharmacological effects, if known
 - The state of current scientific knowledge about the substance
 - The history of the substance and its current pattern of abuse
 - What, if any, risk there is to public health
 - Its psychic or physiological dependence liability
 - Whether the substance is an immediate precursor of a controlled substance
 - The statute further states that it is not a defense to prosecution for any crime related to controlled substance analogs that the substance is not a derivative of a controlled substance; does not have a chemical structure that is substantially similar to that of a controlled substance; that it does not have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance; or that it is not listed in § 39-17-452.

Texas: Health & Safety Code §481.002; Similar the NH & NJ language except substitute “Schedule I or II or Penalty Group 1, 1-A, or 2” for “Schedule I, II, III, IV or V,” and substitute “or” for “and.” Does not include exclusions in this statute.

- §481.123, “Defense to Prosecution for Offense Involving Controlled Substance Analogue” includes the exclusions of Sec. 101(3)(ii) with the exception of (3)(ii)(A).

Utah: §58-37-2; The Utah definition is similar to the Oklahoma definition and provides that a controlled substance analog is either 1) a substance the chemical structure of which is substantially similar to the chemical structure of a substance listed in Schedules I and II, certain listed synthetic cannabinoids or substituted cathinones, or a substance listed in Schedules I and II of the federal Controlled Substances Act; 2) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect of a substance listed above; or 3) a substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect substantially similar to the stimulant, depressant, or hallucinogenic effect of a substance listed above.

The definition further adds two sections to the end of Sec. 101(3)(ii) as follows:

- “(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

“(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.”

West Virginia: §60A-1-101; “‘analogue’ means a substance that, in relation to a controlled substance, has a substantially similar chemical structure.”

Delaware and Pennsylvania include a definition of “designer drug” in their respective controlled substance statutes that is similar to Sec. 101(3).

Delaware: 16 Del.C. §4701; “designer drug means a substance that has a chemical structure substantially similar to that of a controlled substance or that was specifically designed to or may produce an effect substantially similar to that of a controlled substance. Examples of chemical classes in which ‘designer drugs’ are found include, but are not limited to, the following: Phenethylamines, N-substituted piperidines, morphinans, ecgonines, quinazolinones, substituted indoles, and arylcycloalkylamines, cannabinoids, cathinones, and any synthetic analogue of a controlled substance.”

- “Designer drug” excludes “any substance that was manufactured, delivered or dispensed in conformance with an approved new drug application, or an exemption for investigational use within the meaning of §505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. §355), or that was manufactured, delivered, or dispensed in conformance with a registration issued by the Attorney General of the United States within the meaning of §§301-304 of the Federal Controlled Substances Act (21 U.S.C. §§821-824).”
- The definition of “controlled substance” includes “designer drug” as a controlled substance

Pennsylvania: 35 P.S. §780-102; “‘Designer drug’ means a substance other than a controlled substance that is intended for human consumption and that either has a chemical structure substantially similar to that of a controlled substance in Schedules I, II or III of this act or that produces an effect substantially similar to that of a controlled substance in Schedules I, II or III. Examples of chemical classes in which designer drugs are found include, but are not limited to, the following: Phenethylamines, N-substituted piperidines, morphinans, ecgonines, quinazolinones, substituted indoles and arylcycloalkylamines.”

- 35 P.S. §780-113(a)(36) makes a misdemeanor “the knowing or intentional manufacture, distribution, possession with intent to distribute, or possession of a designer drug. Nothing in this section shall be construed to apply to a person who manufactures or distributes a substance in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 355). For purposes of this section, no new drug shall be introduced or delivered for introduction except upon approval of an application pursuant to section 505 of the Federal Food, Drug and Cosmetic Act.”

Mississippi includes a definition of “illegal drug” which states that an illegal drug is “any substance, other than alcohol, having psychological and/or physiological effects on a human being and that is not a prescription or nonprescription medication, including controlled dangerous substances and controlled substance analogs or volatile substances which produce the psychological and/or physiological effects of a controlled dangerous substance through deliberate introduction into the body.”

Virginia does not have a definition of either “controlled substance analog” or “designer drug,” but does include a “designer drug” scheduling provision as follows:

- §54.1-3456; “Any drug not listed on Schedule I or II in this chapter, which is privately compounded, with the specific intent to circumvent the provisions of this chapter, to emulate or simulate the effects of another drug or class of drugs listed on Schedule I or II in this chapter through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent, shall be considered to be listed on the same schedule as the drug or class of drugs which it imitates in the same manner as any isomer, ester, ether, salts of isomers, esters and ethers of such drug or class of drugs.”

With regard to Sec. 214 of the UCSA, four states track the language of Sec. 214 exactly: **Arkansas, Nevada, Washington, and Wisconsin.** **Kansas** does not include the scheduling language of Sec. 214, but otherwise tracks the language of Sec. 214.

Uniform Controlled Substances Act (1994)

Section 214. Controlled Substance Analog Treated as Schedule I Substance.

A controlled substance analog, to the extent intended for human consumption, must be treated, for the purposes of this [Act], as a substance included in Schedule I. Within [] days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the [prosecuting attorney] shall notify the [appropriate person or agency] of information relevant to emergency scheduling as provided for in Section 201(g). After final determination 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.

The following states have enacted statutes that treat a controlled substance analog as either a Schedule I or II substance or an equivalent thereof:

Alabama (§ 20-2-23 – treated as Schedule I)

California (Health & Safety Code §§11400 & 11401(a) – scheduled as either Schedule I or II)

Colorado (§§18-18-203 & 204 – scheduled as either Schedule I or II)

D.C. (§48-902.14 – treated as Schedule I substance)

Florida (§893.0356 – treated as Schedule I substance)

Illinois (710 ILCS 570/402 – treated as the controlled substance to which it is substantially similar)

Indiana (§35-48-4-0.5 – treated as Schedule I if the substance is intended in whole or in part for human consumption)

Louisiana (§40:964.1 – treated as Schedule I or II)

New Mexico (§30-31-23 – treats them as the same as the substance of which they are an analog for Schedules I, II, III and IV)

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Maryland (Crim. Law §5-402 – treated as Schedule I to the extent the substance is intended for human consumption)

Minnesota (§152.02 – treated as a Schedule I substance to the extent that it is implicitly or explicitly intended for human consumption)

Missouri (§195.022 – treated as Schedule I)

Nebraska (§28-401(30) – treated as Schedule I)

North Carolina (§90-89.1 – treated as Schedule I)

Ohio (§3719.013 – treated as Schedule I to the extent it is intended for human consumption)

Texas (§481.106 – treated as Penalty Group 1, 1-A, or 2)

Virginia (§54.1-3456 – treated as Schedule I or II).

Nine states contain no Sec. 214 equivalent or scheduling statute for controlled substance analogs, but they all have some statute providing for penalties related to controlled substance analogs. They are: **Delaware, Kentucky, Michigan, New Hampshire, New Jersey, Oklahoma, Pennsylvania, South Carolina, and Utah.** **Mississippi** and **West Virginia** contain no Sec. 214 equivalent or scheduling statute for controlled substance analogs at this time.

Oregon only provides penalties for causing another person to ingest a controlled substance analog (§475.908) and does not otherwise have a Sec. 214 equivalent or scheduling statute.

Tennessee also does not contain a Sec. 214 equivalent or scheduling statute, but provides penalties for the manufacture, delivery, dispensing, selling, possession, or casual exchange of a controlled substance analog in § 39-17-454. The statute further provides penalties for representing, orally or in writing, advertising, inferring, or intending that a controlled substance analog is a derivative of or substantially similar to the chemical structure of a controlled substance, that it has a substantially similar or greater effect on the central nervous system as a controlled substance, or that it is a substance listed under § 39-17-452.

The following state controlled substance analog statutes have been challenged as to their constitutionality and found to be valid:

California: *People v. Silver*, (App. 2 Dist. 1991) 281 Cal.Rptr. 354, 230 Cal.App.3d 389, review denied

Colorado: *People v. Frantz*, 114 P.3d 34, modified on denial of rehearing, cert. denied

It has also been challenged on the federal level in *U.S. v. Grandberry*, 916 F.2d 1008 (1990), and *U.S. v. Desurra*, 865 F.2d 651 (1989) and found to be constitutional. The United States District Court for the Southern District of New York found the federal statute to be unconstitutionally vague, but that ruling was reversed in the case of *U.S. v. Roberts*, 363 F.3d 118 (2004). The main issue seems to be whether to interpret the statute in the conjunctive or disjunctive. Per the Court of Appeals:

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Under the disjunctive reading, a substance that satisfies one or more of the subsections is a “controlled substance analogue.” According to the conjunctive reading, the definition requires two things: first, (i) that the substance be chemically similar and, second, (ii) that it have a similar or greater psychopharmacological effect or (iii) that it be intended to have or be represented as having such an effect.

Roberts at 120.

Note that the federal statute differs from the UCSA model language in that it makes the “chemical structure of which is substantially similar to” language a separate section and does not include a conjunction between the first two sections, only a semi-colon, which leads to the arguments regarding how it should be interpreted, conjunctively or disjunctively. Where the issue has arisen, the courts have construed the statute to read disjunctively, i.e., with an implied “or.” This will only be an issue for those states that include neither “and” nor “or” in their controlled substance analog statute. Currently, only Kansas, Louisiana, North Carolina, Utah and D.C. follow the federal statute and omit the conjunction.

Statutes

United States Code Annotated (2011)
Title 21. Food and Drugs
Chapter 13. Drug Abuse Prevention and Control
Subchapter I. Control and Enforcement
Part A. Introductory Provisions

§ 802. Definitions

As used in this subchapter:

...

(32)(A) Except as provided in subparagraph (C), the term “controlled substance analogue” means a substance--

(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

(ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) of this paragraph that the chemical is a controlled substance analogue.

(C) Such term does not include--

(i) a controlled substance;

(ii) any substance for which there is an approved new drug application;

(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 355 of this title to the extent conduct with respect to such substance is pursuant to such exemption; or

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(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

United States Code Annotated (2011)
Title 21. Food and Drugs
Chapter 13. Drug Abuse Prevention and Control
Subchapter I. Control and Enforcement
Part B. Authority to Control; Standards and Schedules

§ 813. Treatment of controlled substance analogues

A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any Federal law as a controlled substance in schedule I.

Code of Alabama (2012)
Title 20. Food, Drugs, and Cosmetics.
Chapter 2. Controlled Substances.
Article 2. . Standards and Schedules.

§ 20-2-23. Schedule I -- Listing of controlled substances.

(a) The Legislature finds the following:

(1) New synthetic substances are being created which are not controlled under the provisions of existing state law but which have a potential for abuse similar to or greater than that for substances controlled under existing state law. These new synthetic substances are called “controlled substance analogs,” and can be designed to produce a desired pharmacological effect and to evade the controlling statutory provisions. Controlled substance analogs are being manufactured, distributed, possessed, and used as substitutes for controlled substances.

(2) The hazards attributable to the traffic in and use of controlled substance analogs are increased because their unregulated manufacture produces variations in purity and concentration.

(3) Many new synthetic substances are untested, and it cannot be immediately determined whether they have useful medical or chemical purposes.

(4) The uncontrolled importation, manufacture, distribution, possession, or use of controlled substance analogs has a substantial and detrimental impact on the health and safety of the people of this state.

(5) Controlled substance analogs can be created more rapidly than they can be identified and controlled by action of the Legislature. There is a need for a speedy determination of their proper classification under existing law. It is therefore necessary to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances controlled under existing state law.

(b) The controlled substances listed in this section are included in Schedule I:

...

(5)a. A controlled substance analog, being a material, mixture, or preparation that contains any chemical structure of which is chemically similar to the chemical structure of any other controlled substance in Schedule I or Schedule II and that satisfies any one of the following:

1. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system that mimics or is similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or Schedule II.
2. With respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or Schedule II.
3. Has been demonstrated to have binding activity at one or more cannabinoid receptors.
4. Is capable of exhibiting cannabinoid-like activity.
5. 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, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent.
6. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.
7. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.
8. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.
9. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not substituted in the cyclohexyl ring to any extent.

b. A controlled substance analog does not include any of the following:

1. Any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act.

2. With respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by 21 U.S. C. § 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

c. A controlled substance analog, to the extent intended for human consumption, is treated as a controlled substance in Schedule I.

d. After the Alabama Department of Forensic Sciences has determined a substance to be a controlled substance analog under this section, the department shall notify the Alabama Department of Public Health with information relevant to scheduling as provided by Section 20-2-20.

West's Arkansas Code Annotated (2012)
Title 5. Criminal Offenses
Subtitle 6. Offenses Against Public Health, Safety, or Welfare
Chapter 64. Controlled Substances
Subchapter 4. Uniform Controlled Substances Act--Prohibitions and Penalties

§ 5-64-414. Controlled substance analog

(a)(1) “Controlled substance analog” means a substance:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or Schedule II or that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or Schedule II; or

(B) With respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or Schedule II.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) A substance for which there is an approved new drug application;

(C) A substance with respect to which an exemption is in effect for investigational use by a particular person under § 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

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

(b) A controlled substance analog, to the extent intended for human consumption, is treated for the purposes of this chapter as a substance included in Schedule I.

(c) Within ten (10) days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the Director of the Department of Health of information relevant to emergency scheduling as provided for in § 5-64-201(d).

(d) After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may continue or take place.

West's Annotated California Codes (2012)
Health and Safety Code
Division 10. Uniform Controlled Substances Act
Chapter 6.5. Analogs

§ 11401. Controlled substance analog defined; punishment

(a) A controlled substance analog shall, for the purposes of Chapter 6 (commencing with Section 11350), be treated the same as the controlled substance classified in Section 11054 or 11055 of which it is an analog.

(b) Except as provided in subdivision (c), the term “controlled substance analog” means either of the following:

(1) A substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance classified in Section 11054 or 11055.

(2) A substance which has, is represented as having, or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than, the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance classified in Section 11054 or 11055.

(c) The term “controlled substance analog” does not mean any of the following:

(1) Any substance for which there is an approved new drug application as defined under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355) or which is generally recognized as safe and effective for use pursuant to Sections 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 351, 352, and 353) and 21 C.F.R. Section 330 et seq.

(2) With respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355), to the extent that the conduct with respect to that substance is pursuant to the exemption.

(3) Any substance, before an exemption as specified in paragraph (2) takes effect with respect to the substance, to the extent the substance is not intended for human consumption.

West's Annotated California Codes (2012)
Health and Safety Code
Division 10. Uniform Controlled Substances Act
Chapter 6.5. Analogs

§ 11400. Legislative findings; analogs of controlled substances; punishment

The Legislature finds and declares that the laws of this state which prohibit the possession, possession for sale, offer for sale, sale, manufacturing, and transportation of controlled substances are being circumvented by the commission of those acts with respect to analogs of specified controlled substances which have, are represented to have, or are intended to have effects on the central nervous system which are substantially similar to, or greater than, the controlled substances classified in Sections 11054 and 11055 of which they are analogs. These analogs have been synthesized by so-called “street chemists” and imported into this state from other jurisdictions as precursors to, or substitutes for, controlled substances, due to the nonexistence of applicable criminal penalties. These analogs present grave dangers to the health and safety of the people of this state. Therefore, it is the intent of the Legislature that a controlled substance analog as defined in Section 11401 be considered identical, for purposes of the penalties and punishment specified in Chapter 6 (commencing with Section 11350), to the controlled substance in Section 11054 or 11055 of which it is an analog.

West's Colorado Revised Statutes Annotated (2012)
Title 18. Criminal Code
Article 18. Uniform Controlled Substances Act of 1992
Part 1. Definitions

§ 18-18-102. Definitions

As used in this article:

...

(6)(a) “Controlled substance analog” means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in or added to schedule I or II and:

(I) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II; or

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

(b) The term does not include:

(I) A controlled substance;

(II) A substance for which there is an approved drug application, so long as such substance is in its intended and unconverted form;

(III) A substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the “Federal Food, Drug, and Cosmetic Act”, 21 U.S.C. sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

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

...

West's Colorado Revised Statutes Annotated (2012)
Title 18. Criminal Code
Article 18. Uniform Controlled Substances Act of 1992
Part 2. Standards and Schedules

§ 18-18-203. Schedule I

...

(2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule I:

...

(g) Any material, compound, mixture, or preparation which is a controlled substance analog, the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in this subsection (2) or that was specifically designed to produce an effect substantially similar to or greater than the effect of a controlled substance listed in this subsection (2), all or part of which is intended for human consumption.

...

West's Colorado Revised Statutes Annotated (2012)
Title 18. Criminal Code
Article 18. Uniform Controlled Substances Act of 1992
Part 2. Standards and Schedules

§ 18-18-204. Schedule II

...

(2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule II:

...

(g) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which is a controlled substance analog, as defined in section 18-18-102(6), the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule II of this part 2 or that was specifically designed to produce an

effect substantially similar to or greater than the effect of a controlled substance in schedule II of this part 2, all or part of which is intended for human consumption, shall be treated for the purposes of this article as a controlled substance in schedule II of this part 2.

West's Delaware Code Annotated (2012)
Title 16. Health and Safety
Part IV. Food and Drugs
Chapter 47. Uniform Controlled Substances Act
Subchapter I. Definitions

§ 4701. Definitions

As used in this chapter:

...

(6) “Controlled substance” means a drug, substance or immediate precursor in Schedules I through V of subchapter II of this chapter. For purposes of the crimes set forth in subchapters IV and V of this chapter, and of forfeiture set forth in § 4784 of this title, “controlled substance” includes “designer drug”, as defined in paragraph (9) of this section.

...

(9) “Designer drug” means a substance that has a chemical structure substantially similar to that of a controlled substance or that was specifically designed to or may produce an effect substantially similar to that of a controlled substance. Examples of chemical classes in which “designer drugs” are found include, but are not limited to, the following: Phenethylamines, N-substituted piperidines, morphinans, ecgonines, quinazolinones, substituted indoles, arylcycloalkylamines, cannabinoids, cathinones, and any synthetic analogue of a controlled substance. “Designer drug” does not include any substance that was manufactured, delivered or dispensed in conformance with an approved new drug application, or an exemption for investigating use within the meaning of § 505 of the Federal Food, Drug and Cosmetic Act (21 U. S.C. § 355), or that was manufactured, delivered or dispensed in conformance with a registration issued by the Attorney General of the United States within the meaning of §§ 301-304 of the Federal Controlled Substances Act (21 U.S.C. §§ 821-824).

...

District of Columbia Official Code 2001 Edition (2012)
Division VIII. General Laws.
Title 48. Foods and Drugs.
Subtitle III. Illegal Drugs.
Chapter 9. Controlled Substances.
Unit A. Controlled Substances Act.
Subchapter II. Standards and Schedules.

§ 48-902.14. Treatment of controlled substance analogues

(a) A controlled substances analogue shall, to the extent intended for human consumption, be treated for the purposes of any District of Columbia law as a controlled substance in Schedule I.

(b) Except as provided in subsection (c) of this section, the term “controlled analogue” means:
(1) a substance with a chemical structure that is substantially similar to the chemical structure of a controlled substance in Schedule I or II;

(2) A substance that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central system of a controlled substance in Schedule I or II; or

(3) A substance that, with respect to a particular person, is represented to have or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(c) Such term does not include:

(1) A controlled substance;

(2) Any substance for which there is an approved new drug application;

(3) With respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under § 505 of the Federal Food, Drug, and Cosmetic Act, approved June 25, 1938 (52 Stat. 1052, 21 U.S.C. § 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

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

West's Florida Statutes Annotated (2012)
Title XLVI. Crimes (Chapters 775-899)
Chapter 893. Drug Abuse Prevention and Control

§ 893.0356. Control of new substances; findings of fact; “controlled substance analog” defined

(1)(a) New substances are being created which are not controlled under the provisions of this chapter but which have a potential for abuse similar to or greater than that for substances controlled under this chapter. These new substances are called “controlled substance analogs,” and can be designed to produce a desired pharmacological effect and to evade the controlling statutory provisions. Controlled substance analogs are being manufactured, distributed, possessed, and used as substitutes for controlled substances.

(b) The hazards attributable to the traffic in and use of controlled substance analogs are increased because their unregulated manufacture produces variations in purity and concentration.

(c) Many such new substances are untested, and it cannot be immediately determined whether they have useful medical or chemical purposes.

(d) The uncontrolled importation, manufacture, distribution, possession, or use of controlled substance analogs has a substantial and detrimental impact on the health and safety of the people of Florida.

(e) Controlled substance analogs can be created more rapidly than they can be identified and controlled by action of the Legislature. There is a need for a speedy determination of their proper classification under this chapter. It is therefore necessary to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances currently controlled under this chapter.

(2)(a) As used in this section, “controlled substance analog” means a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

1. Is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03; and

2. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03.

(b) “Controlled substance analog” does not include:

1. A controlled substance;
2. Any substance for which there is an approved new drug application;
3. Any compound, mixture, or preparation which contains any controlled substance which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or
4. Any substance to which an investigational exemption applies under s. 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, but only to the extent that conduct with respect to the substance is pursuant to such exemption.

(3) The term “potential for abuse” in this section means that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being:

- (a) Used in amounts that create a hazard to the user's health or the safety of the community;
- (b) Diverted from legal channels and distributed through illegal channels; or
- (c) Taken on the user's own initiative rather than on the basis of professional medical advice.

Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.

(4) The following factors shall be relevant to a finding that a substance is a controlled substance analog within the purview of this section:

- (a) Its actual or relative potential for abuse.
- (b) Scientific evidence of its pharmacological effect, if known.
- (c) The state of current scientific knowledge regarding the substance.
- (d) Its history and current pattern of abuse.
- (e) The scope, duration, and significance of abuse.
- (f) What, if any, risk there is to the public health.

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(g) Its psychic or physiological dependence liability.

(h) Its diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

(i) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(5) A controlled substance analog shall, for purposes of drug abuse prevention and control, be treated as a controlled substance in Schedule I of s. 893.03.

(6) In construing this section, due consideration and great weight should be given to interpretations of the United States Attorney General and the federal courts relating to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985. New substances controlled under this section shall not be treated in a manner inconsistent with the rules of the United States Attorney General and the decisions of the federal courts interpreting the provisions of s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985.

(7) The treatment of a new substance as a controlled substance pursuant to this section shall not affect prosecution or punishment for any crime previously committed with respect to that substance.

West's Smith-Hurd Illinois Compiled Statutes Annotated (2012)
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 570. Illinois Controlled Substances Act
Article IV. Violations and Penalties

§ 570/402. Possession unauthorized by this Act; penalty

§ 402. Except as otherwise authorized by this Act, it is unlawful for any person knowingly to possess a controlled or counterfeit substance or controlled substance analog. A violation of this Act with respect to each of the controlled substances listed herein constitutes a single and separate violation of this Act. For purposes of this Section, “controlled substance analog” or “analog” means a substance which is intended for human consumption, other than a controlled substance, that has a chemical structure substantially similar to that of a controlled substance in Schedule I or II, or that was specifically designed to produce an effect substantially similar to that of a controlled substance in Schedule I or II. Examples of chemical classes in which controlled substance analogs are found include, but are not limited to, the following: phenethylamines, N-substituted piperidines, morphinans, ecgonines, quinazolinones, substituted indoles, and arylcycloalkylamines. For purposes of this Act, a controlled substance analog shall be treated in the same manner as the controlled substance to which it is substantially similar.

(a) Any person who violates this Section with respect to the following controlled or counterfeit substances and amounts, notwithstanding any of the provisions of subsections (c) and (d) to the contrary, is guilty of a Class 1 felony and shall, if sentenced to a term of imprisonment, be sentenced as provided in this subsection (a) and fined as provided in subsection (b):

(1)(A) not less than 4 years and not more than 15 years with respect to 15 grams or more but less than 100 grams of a substance containing heroin;

(B) not less than 6 years and not more than 30 years with respect to 100 grams or more but less than 400 grams of a substance containing heroin;

(C) not less than 8 years and not more than 40 years with respect to 400 grams or more but less than 900 grams of any substance containing heroin;

(D) not less than 10 years and not more than 50 years with respect to 900 grams or more of any substance containing heroin;

(2)(A) not less than 4 years and not more than 15 years with respect to 15 grams or more but less than 100 grams of any substance containing cocaine;

(B) not less than 6 years and not more than 30 years with respect to 100 grams or more but less than 400 grams of any substance containing cocaine;

(C) not less than 8 years and not more than 40 years with respect to 400 grams or more but less than 900 grams of any substance containing cocaine;

(D) not less than 10 years and not more than 50 years with respect to 900 grams or more of any substance containing cocaine;

(3)(A) not less than 4 years and not more than 15 years with respect to 15 grams or more but less than 100 grams of any substance containing morphine;

(B) not less than 6 years and not more than 30 years with respect to 100 grams or more but less than 400 grams of any substance containing morphine;

(C) not less than 6 years and not more than 40 years with respect to 400 grams or more but less than 900 grams of any substance containing morphine;

(D) not less than 10 years and not more than 50 years with respect to 900 grams or more of any substance containing morphine;

(4) 200 grams or more of any substance containing peyote;

(5) 200 grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;

(6) 200 grams or more of any substance containing amphetamine or any salt of an optical isomer of amphetamine;

(6.5) (blank);

(7)(A) not less than 4 years and not more than 15 years with respect to: (i) 15 grams or more but less than 100 grams of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 15 or more objects or 15 or more segregated parts of an object or objects but less than 200 objects or 200 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(B) not less than 6 years and not more than 30 years with respect to: (i) 100 grams or more but less than 400 grams of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 200 or more objects or 200 or more segregated parts of an object or objects but less than 600 objects or less than 600 segregated parts of an object or objects containing in them

or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(C) not less than 8 years and not more than 40 years with respect to: (i) 400 grams or more but less than 900 grams of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 600 or more objects or 600 or more segregated parts of an object or objects but less than 1500 objects or 1500 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(D) not less than 10 years and not more than 50 years with respect to: (i) 900 grams or more of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 1500 or more objects or 1500 or more segregated parts of an object or objects containing in them or having upon them any amount of a substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(7.5)(A) not less than 4 years and not more than 15 years with respect to: (i) 15 grams or more but less than 100 grams of any substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 15 or more pills, tablets, caplets, capsules, or objects but less than 200 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(B) not less than 6 years and not more than 30 years with respect to: (i) 100 grams or more but less than 400 grams of any substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 200 or more pills, tablets, caplets, capsules, or objects but less than 600 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(C) not less than 8 years and not more than 40 years with respect to: (i) 400 grams or more but less than 900 grams of any substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 600 or more pills, tablets, caplets, capsules, or objects but less than 1,500 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(D) not less than 10 years and not more than 50 years with respect to: (i) 900 grams or more of any substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or

(26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 1,500 or more pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of a substance listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(8) 30 grams or more of any substance containing pentazocine or any of the salts, isomers and salts of isomers of pentazocine, or an analog thereof;

(9) 30 grams or more of any substance containing methaqualone or any of the salts, isomers and salts of isomers of methaqualone;

(10) 30 grams or more of any substance containing phencyclidine or any of the salts, isomers and salts of isomers of phencyclidine (PCP);

(10.5) 30 grams or more of any substance containing ketamine or any of the salts, isomers and salts of isomers of ketamine;

(11) 200 grams or more of any substance containing any substance classified as a narcotic drug in Schedules I or II, or an analog thereof, which is not otherwise included in this subsection.

(b) Any person sentenced with respect to violations of paragraph (1), (2), (3), (7), or (7.5) of subsection (a) involving 100 grams or more of the controlled substance named therein, may in addition to the penalties provided therein, be fined an amount not to exceed \$200,000 or the full street value of the controlled or counterfeit substances, whichever is greater. The term “street value” shall have the meaning ascribed in Section 110-5 of the Code of Criminal Procedure of 1963. [FN1] Any person sentenced with respect to any other provision of subsection (a), may in addition to the penalties provided therein, be fined an amount not to exceed \$200,000.

(c) Any person who violates this Section with regard to an amount of a controlled substance other than methamphetamine or counterfeit substance not set forth in subsection (a) or (d) is guilty of a Class 4 felony. The fine for a violation punishable under this subsection (c) shall not be more than \$25,000.

(d) Any person who violates this Section with regard to any amount of anabolic steroid is guilty of a Class C misdemeanor for the first offense and a Class B misdemeanor for a subsequent offense committed within 2 years of a prior conviction.

West's Annotated Indiana Code (2012)
Title 35. Criminal Law and Procedure
Article 48. Controlled Substances
Chapter 1. Definitions

§ 35-48-1-9.3 “Controlled substance analog” defined

Sec. 9.3. (a) “Controlled substance analog” means a substance:

(1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or

(2) that a person represents or intends to have;

a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) The definition set forth in subsection (a) does not include:

(1) a controlled substance;

(2) a substance for which there is an approved new drug application;

(3) a substance for which an exemption is in effect for investigational use by a person under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), to the extent that conduct with respect to the substance is permitted under the exemption; or

(4) a substance to the extent not intended for human consumption before an exemption takes effect regarding the substance.

West's Annotated Indiana Code (2012)
Title 35. Criminal Law and Procedure
Article 48. Controlled Substances
Chapter 4. Offenses Relating to Controlled Substances

§ 35-48-4-0.5 Schedule 1 controlled substance analog

Sec. 0.5. For purposes of this chapter, a “controlled substance analog” is considered to be a controlled substance in schedule I if the analog is in whole or in part intended for human consumption.

West's Kansas Statutes Annotated (2012)
Chapter 21. Crimes and Punishments
Article 57. Crimes Involving Controlled Substances

§ 21-5701. Definitions

As used in K.S.A. 21-5701 through 21-5717, and amendments thereto:

...

(b)(1) “Controlled substance analog” means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. 355) to the extent conduct with respect to the substance is permitted by the exemption.

...

West's Kansas Statutes Annotated (2012)
Chapter 21. Crimes and Punishments
Article 57. Crimes Involving Controlled Substances

§ 21-5715. Treatment of a controlled substance analog

Within 10 days after the initiation of prosecution with respect to a controlled substance analog by indictment, complaint or information, the prosecuting attorney shall notify the board of pharmacy of information relevant to emergency scheduling as provided for in subsection (e) of K.S.A. 65-4102, and amendments thereto. After final determination 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.

Baldwin's Kentucky Revised Statutes Annotated (2012)
Title XVIII. Public Health
Chapter 218A. Controlled Substances

§ 218A.010 Definitions for chapter

As used in this chapter:

...

(6) “Controlled substance” means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;

(7) (a) “Controlled substance analogue,” except as provided in paragraph (b) of this subsection, means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;
2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;

...

West's Louisiana Statutes Annotated (2012)
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X. Uniform Controlled Dangerous Substances Law

§ 961. Definitions

As used in this Part, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

...

(8) “Controlled substance analogue” means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II of R.S. 40:964; which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II; or with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II. Such term shall not include any substance for which there is an approved new drug application; with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) to the extent conduct with respect to such substance is pursuant to such exemption; or any substance to the extent not intended for human consumption before an exception takes effect with respect to that substance.

...

West's Louisiana Statutes Annotated (2012)
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X. Uniform Controlled Dangerous Substances Law

§ 964.1. Treatment of controlled analogues

A controlled substance analogue shall be treated, for the purposes of any state law and to the extent intended for human consumption, as a controlled dangerous substance in either Schedule I or Schedule II of R.S. 40:964.

© 2012 Research is current as of October 30, 2012. In order to ensure that the information contained herein is as current as possible, research is conducted using both nationwide legal database software and individual state legislative websites. Please contact Heather Gray at (703) 836-6100, ext. 114 or hgray@namsdl.org with any additional updates or information that may be relevant to this document. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS, 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

West's Annotated Code of Maryland (2012)
Criminal Law
Title 5. Controlled Dangerous Substances, Prescriptions, and Other Substances
Subtitle 4. Schedules

§ 5-402. Schedule I

...

Analogues

(f)(1) In this subsection:

(i) “controlled dangerous substance analogue” means a substance:

1. that has a chemical structure substantially similar to the chemical structure of a controlled dangerous substance listed in Schedule I or Schedule II; and
2. that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance listed in Schedule I or Schedule II; but

(ii) “controlled dangerous substance analogue” does not include:

1. a controlled dangerous substance;
2. a substance for which there is an approved new drug application; or
3. a substance exempted for investigational use under § 506 of the Federal Food, Drug, and Cosmetic Act.

(2) To the extent intended for human consumption, each controlled dangerous substance analogue is a substance listed in Schedule I.

...

Michigan Compiled Laws Annotated (2012)
Chapter 333. Health
Public Health Code
Article 7. Controlled Substances
Part 71. General Provisions

§ 333.7104. Definitions

Sec. 7104.

...

(3) “Controlled substance analogue” means a substance the chemical structure of which is substantially similar to that of a controlled substance in schedule 1 or 2 and that has a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule 1 or 2 or, with respect to a particular individual, that the individual represents or intends to have a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule 1 or 2. Controlled substance analogue does not include 1 or more of the following:

(a) A controlled substance.

(b) A substance for which there is an approved new drug application.

(c) A substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, chapter 675, 52 Stat. 1052, 21 U.S.C. 355, to the extent conduct with respect to the substance is pursuant to the exemption.

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

Minnesota Statutes Annotated (2012)
Health (Ch. 144-159)
Chapter 152. Drugs; Controlled Substances
Definitions and Schedules of Controlled Substances

§ 152.01. Definitions

Subdivision 1. Words, terms, and phrases. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

...

Subd. 23. Analog. (a) Except as provided in paragraph (b), “analog” means a substance, the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II:

(1) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

(2) with respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) “Analog” does not include:

(1) a controlled substance;

(2) any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act; or

(3) with respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by United States Code, title 21, section 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

Minnesota Statutes Annotated (2012)
Health (Ch. 144-159)
Chapter 152. Drugs; Controlled Substances
Definitions and Schedules of Controlled Substances

§ 152.02. Schedules of controlled substances; administration of chapter

...

Subd. 2. Schedule I. The following items are listed in Schedule I:

...

(8) A controlled substance analog, to the extent that it is implicitly or explicitly intended for human consumption.

...

Vernon's Annotated Missouri Statutes (2012)
Title XII. Public Health and Welfare
Chapter 195. Drug Regulations
Narcotic Drug Act

§ 195.010. Definitions

The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

...

(6) “Controlled substance analogue”, a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

...

Vernon's Annotated Missouri Statutes (2012)
Title XII. Public Health and Welfare
Chapter 195. Drug Regulations
Narcotic Drug Act

§ 195.022. Analogue or homologue of controlled substance to be treated as controlled substance

Any analogue or homologue of a Schedule I controlled substance shall be treated, for the purposes of any state law, as a controlled substance in Schedule I.

West's Annotated Mississippi Code (2011)
Title 71. Labor and Industry
Chapter 7. Drug and Alcohol Testing of Employees

§ 71-7-1. Definitions

As used in this chapter, the following terms shall have the meaning ascribed to them herein unless the context requires otherwise:

...

(h) "Illegal drug" means any substance, other than alcohol, having psychological and/or physiological effects on a human being and that is not a prescription or nonprescription medication, including controlled dangerous substances and controlled substance analogs or volatile substances which produce the psychological and/or physiological effects of a controlled dangerous substance through deliberate introduction into the body.

...

West's Revised Statutes of Nebraska Annotated (2012)
Chapter 28. Crimes and Punishments
Article 4. Drugs and Narcotics

§ 28-401. Terms, defined

As used in the Uniform Controlled Substances Act, unless the context otherwise requires:

...

(30)(a) Controlled substance analogue shall mean a substance (i) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (ii) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of the Uniform Controlled Substances Act; and

(b) Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2009, (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2009, to the extent conduct with respect to such substance is pursuant to such exemption;

...

West's Nevada Revised Statutes Annotated (2012)
Title 40. Public Health and Safety (Chapters 439-461A)
Chapter 453. Controlled Substances
Uniform Controlled Substances Act
General Provisions

§ 453.043. “Controlled substance analog” defined

1. “Controlled substance analog” means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance placed in schedule I or II and:

(a) Which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance placed in schedule I or II pursuant to NRS 453.166 or 453.176; or

(b) With respect to a particular person, which he or she represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

2. The term does not include:

(a) A controlled substance;

(b) A substance for which there is an approved new drug application;

(c) A substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) to the extent conduct with respect to the substance is permitted by the exemption; or

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

West's Nevada Revised Statutes Annotated (2012)
Title 40. Public Health and Safety (Chapters 439-461A)
Chapter 453. Controlled Substances
Uniform Controlled Substances Act
Schedules

§ 453.219. Controlled substance analog: Treatment as substance in schedule I; notice of prosecution; determination by Board

A controlled substance analog, to the extent intended for human consumption, must be treated, for the purposes of NRS 453.011 to 453.552, inclusive, as a substance included in schedule I. Within 30 days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the district attorney shall notify the Board of information relevant to scheduling by extraordinary regulation as provided for in NRS 453.2184. If the Board finally determines 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.

Revised Statutes Annotated of the State of New Hampshire (2012)
Title XXX. Occupations and Professions (Ch. 309 to 332-J)
Chapter 318-B. Controlled Drug Act

§ 318-B:1 Definitions.

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

...

VI-a. “Controlled drug analog” means a substance that has a chemical structure substantially similar to that of a controlled drug and that was specifically designed to produce an effect substantially similar to that of a controlled drug. The term shall not include a drug manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act, 52 Stat. 1052 (21 U.S.C. 355).

...

New Jersey Statutes Annotated (2012)
Title 2C. The New Jersey Code of Criminal Justice
Subtitle 2. Definition of Specific Offenses
Part 5. Offenses Against Public Order, Health and Decency
Chapter 35. Controlled Dangerous Substances

§ 2C:35-2. Definitions

As used in this chapter:

...

“Controlled dangerous substance” means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c. 194 (C.2C:35-5.2), in section 5 of P.L.1997, c. 194 (C.2C:35-5.3), or in section 2 of P.L.2011, c. 120 (C.2C:35-5.3a), and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

“Controlled substance analog” means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the “Federal Food, Drug and Cosmetic Act,” 52 Stat. 1052 (21 U.S.C. s.355).

...

West's New Mexico Statutes Annotated (2012)
Chapter 30. Criminal Offenses
Article 31. Controlled Substances

§ 30-31-2. Definitions

As used in the Controlled Substances Act:

...

W. “controlled substance analog” means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in Schedule I, II, III, IV or V. Examples of chemical classes in which controlled substance analogs are found include the following:

- (1) phenethylamines;
- (2) N-substituted piperidines;
- (3) morphinans;
- (4) ecgonines;
- (5) quinazolinones;
- (6) substituted indoles; and
- (7) arylcycloalkylamines.

Specifically excluded from the definition of “controlled substance analog” are those substances that are generally recognized as safe and effective within the meaning of the Federal Food, Drug and Cosmetic Act or have been manufactured, distributed or possessed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of Section 505 of the Federal Food, Drug and Cosmetic Act;

...

West's North Carolina General Statutes Annotated (2012)
Chapter 90. Medicine and Allied Occupations
Article 5. North Carolina Controlled Substances Act

§ 90-87. Definitions

As used in this Article:

...

(5a) “Controlled substance analogue” means a substance (i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II; (ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or (iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; and does not include (i) a controlled substance; (ii) any substance for which there is an approved new drug application; (iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under § 355 of Title 21 of the United States Code to the extent conduct with respect to such substance is pursuant to such exemption; or (iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance. The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to subdivision 802(34) or 802(35) of Title 21 of the United States Code does not preclude a finding pursuant to this subdivision that the chemical is a controlled substance analogue.

...

West's North Carolina General Statutes Annotated (2012)
Chapter 90. Medicine and Allied Occupations
Article 5. North Carolina Controlled Substances Act

§ 90-89.1. Treatment of controlled substance analogues

A controlled substance analogue shall, to the extent intended for human consumption, be treated for the purposes of any State law as a controlled substance in Schedule I.

Baldwin's Ohio Revised Code Annotated (2012)
Title XXXVII. Health--Safety--Morals
Chapter 3719. Controlled Substances
Controlled Substances

§ 3719.01 Definitions

As used in this chapter:

...

(HH)(1) “Controlled substance analog” means, except as provided in division (HH)(2) of this section, a substance to which both of the following apply:

(a) The chemical structure of the substance is substantially similar to the structure of a controlled substance in schedule I or II.

(b) One of the following applies regarding the substance:

(i) The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(ii) With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(2) “Controlled substance analog” does not include any of the following:

(a) A controlled substance;

(b) Any substance for which there is an approved new drug application;

(c) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption;

(d) Any substance to the extent it is not intended for human consumption before the exemption described in division (HH)(2)(b) of this section takes effect with respect to that substance.

Baldwin's Ohio Revised Code Annotated (2012)
Title XXXVII. Health--Safety--Morals
Chapter 3719. Controlled Substances
Controlled Substances

§ 3719.013 Controlled substance analogs

A controlled substance analog, to the extent intended for human consumption, shall be treated for purposes of any provision of the Revised Code as a controlled substance in schedule I.

Oklahoma Statutes Annotated (2012)
Title 63. Public Health and Safety
Chapter 2. Uniform Controlled Dangerous Substances Act
Article 1. Definitions; Director of the Bureau of Narcotics and Dangerous Drugs Control;
Advisory Board

§ 2-101. Definitions

As used in the Uniform Controlled Dangerous Substances Act:

...

37. a. “Synthetic controlled substance” means a substance:

(1) the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II,

(2) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II, or

(3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II.

b. The designation of gamma butyrolactone or any other chemical as a precursor, pursuant to Section 2-322 of this title, does not preclude a finding pursuant to subparagraph a of this paragraph that the chemical is a synthetic controlled substance.

c. “Synthetic controlled substance” does not include:

(1) a controlled dangerous substance,

(2) any substance for which there is an approved new drug application,

(3) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person under the provisions of Section 505 of the Federal Food, Drug and Cosmetic Act, Title 21 of the United States Code, Section 355, to the extent conduct with respect to such substance is pursuant to such exemption, or

(4) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

d. Prima facie evidence that a substance containing salvia divinorum has been enhanced, concentrated or chemically or physically altered shall give rise to a rebuttable presumption that the substance is a synthetic controlled substance;

...

West's Oregon Revised Statutes Annotated (2012)
Title 37. Alcoholic Liquors; Controlled Substances; Drugs
Chapter 475. Controlled Substances; Illegal Drug Cleanup; Paraphernalia; Precursors
Penalties

§ 475.908. Causing another person to ingest a controlled substance

(1) A person commits the crime of causing another person to ingest a controlled substance if the person knowingly or intentionally causes the other person to ingest, other than by administering or dispensing, a controlled substance or a controlled substance analog without consent of the other person. A person who violates this subsection is guilty of a Class B felony.

(2) Notwithstanding subsection (1) of this section, causing another person to ingest a controlled substance is a Class A felony if the person, with the intent of committing or facilitating a crime of violence against the other person, knowingly or intentionally causes the other person to ingest a controlled substance or a controlled substance analog without consent of the other person.

(3) For the purposes of this section:

(a)(A) Except as provided in subparagraph (B) of this paragraph, “controlled substance analog” means a substance that:

(i) Has a chemical structure that is substantially similar to the chemical structure of a controlled substance in Schedule I or II.

(ii) Has a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(B) “Controlled substance analog” does not include:

(i) A controlled substance;

(ii) Any substance that has an approved drug application;

(iii) Any substance exempted under 21 U.S.C. 355 if the ingestion is within the scope of investigation authorized under 21 U.S.C. 355; or

(iv) Distilled spirits, wine or malt beverages.

(b) “Crime of violence” means:

- (A) Rape in the first degree, as defined in ORS 163.375;
 - (B) Sodomy in the first degree, as defined in ORS 163.405;
 - (C) Unlawful sexual penetration in the first degree, as defined in ORS 163.411;
 - (D) Sexual abuse in the first degree, as defined in ORS 163.427;
 - (E) Kidnapping in the first degree, as defined in ORS 163.235;
 - (F) Kidnapping in the second degree, as defined in ORS 163.225;
 - (G) Assault in the first degree, as defined in ORS 163.185; or
 - (H) Assault in the second degree, as defined in ORS 163.175.
- (c) “Ingest” means to consume or otherwise deliver a controlled substance into the body of a person, except that “ingest” does not include inhalation of marijuana smoke.

Purdon's Pennsylvania Statutes and Consolidated Statutes (2012)
Title 35 P.S. Health and Safety
Chapter 6. The Controlled Substance, Drug, Device and Cosmetic Act

§ 780-102. Definitions

(a) The definitions contained and used in the “Pennsylvania Drug and Alcohol Abuse Control Act” shall also apply for purposes of this act.

(b) As used in this act:

...

“Designer drug” means a substance other than a controlled substance that is intended for human consumption and that either has a chemical structure substantially similar to that of a controlled substance in Schedules I, II or III of this act or that produces an effect substantially similar to that of a controlled substance in Schedules I, II or III. Examples of chemical classes in which designer drugs are found include, but are not limited to, the following: Phenethylamines, N-substituted piperidines, morphinans, ecgonines, quinazolinones, substituted indoles and arylcycloalkylamines.

...

Code of Laws of South Carolina 1976 Annotated (2012)
Title 44. Health
Chapter 53. Poisons, Drugs and Other Controlled Substances
Article 3. Narcotics and Controlled Substances

§ 44-53-110. Definitions.

As used in this article and Sections 44-49-10, 44-49-40, and 44-49-50:

...

“Controlled substance analogue” means a substance that is intended for human consumption and that either has a chemical structure substantially similar to that of a controlled substance in Schedules I, II, or III or has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to that of a controlled substance in Schedules I, II, or III. Controlled substance analogue does not include a controlled substance; any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq.; any substance for which there is an approved new drug application; or, with respect to a particular person, any substance if an exemption is in effect for investigational use for that person under Section 505 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 355.

...

West's Tennessee Code Annotated (2012)
Title 39. Criminal Offenses
Chapter 17. Offenses Against Public Health, Safety and Welfare
Part 4. Drugs

§ 39-17-454. Controlled substance analogue; violations; penalties

(a)(1) As used in this section, “controlled substance analogue” means a capsule, pill, powder, product or other substance, however constituted:

(A) That has the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance; and

(B) The chemical structure of which is a derivative of, or substantially similar to, the chemical structure of a controlled substance; or

(C) That is prohibited by § 39-17-452.

(2) “Controlled substance analogue” does not include:

(A) A controlled substance;

(B) Any substance for which there is an approved use or new drug application by the federal food and drug administration;

(C) Any compound, mixture, or preparation that contains any controlled substance that is not for administration to a human being or animal, and that is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or

(D) Any substance to which an investigational exemption applies under Section 505 of the Food, Drug and Cosmetic Act, 21 U.S.C. § 355, but only to the extent that conduct with respect to the substance is pursuant to such exemption.

(b)(1) In determining whether a substance is a controlled substance analogue, the following factors shall be considered, along with any other relevant factors:

(A) The difference between the price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold;

(B) Its diversion from legitimate channels, and its clandestine importation, manufacture, or distribution;

(C) The defendants prior convictions, if any, for a violation of any state or federal statute prohibiting controlled substances or controlled substance analogues; and

(D) Comparisons with accepted methods of marketing a legitimate nonprescription drug for medicinal purposes rather than for the purpose of drug abuse or any similar nonmedical use, including:

(1) The packaging of the substance and its appearance in overall finished dosage form;

(2) Oral or written statements or representations concerning the substance;

(3) The methods by which the substance is distributed; and

(4) The manner in which the substance is sold to the public.

(2) In determining whether a substance is a controlled substance analogue, the following scientific or pharmacological factors may be considered, along with any other relevant factors:

(A) Its actual or relative potential for abuse;

(B) Scientific evidence of its pharmacological effect, if known;

(C) The state of current scientific knowledge regarding the substance;

(D) The history of the substance and its current pattern of abuse;

(E) The scope, duration and significance of abuse;

(F) What, if any, risk there is to the public health;

(G) Its psychic or physiological dependence liability; and

(H) Whether the substance is an immediate precursor of a substance already controlled under this chapter;

(c) It is an offense to knowingly manufacture, deliver, dispense or sell a controlled substance analogue or to possess a controlled substance analogue with the intent to manufacture, deliver, dispense or sell such substance.

(d) It is an offense to knowingly possess or casually exchange a small amount of a controlled substance analogue not in excess of one (1) gram.

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(e) It may be inferred from the amount of controlled substance analogue possessed by an offender, along with other relevant facts surrounding the arrest, that the controlled substance analogue was possessed with the purpose of selling or otherwise dispensing in violation of subsection (c). It may be inferred from circumstances indicating a casual exchange among individuals of a controlled substance analogue that the controlled substance analogue so exchanged was possessed not with the purpose of selling or otherwise dispensing in violation of subsection (c). The inferences shall be transmitted to the jury by the trial judge's charge, and the jury will consider the inferences along with the nature of the substance possessed when affixing the penalty.

(f)(1) It is an offense for a person to represent, orally or in writing, advertise, infer or intend that a controlled substance analogue:

(A) Is a derivative of, or substantially similar to, the chemical structure of a controlled substance;

(B) Has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a control substance;

(C) Is a substance listed in § 39-17-452.

(2) It is not a defense to prosecution under this subsection (f) that the controlled substance analogue:

(A) is not a derivative of a controlled substance;

(B) Does not have a chemical structure that is substantially similar to that of a controlled substance;

(C) Does not have a stimulant, depressant, hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a control substance; or

(D) Is not listed in § 39-17-452.

(g)(1) A first violation of subsection (c) is a Class D felony.

(2) A second or subsequent violation of subsection (c) is a Class C felony.

(3) If the violation of subsection (c) involved the delivery, dispensing or sale of a controlled substance analogue to a minor, the person shall be punished one classification higher than the punishment provided by this subsection for delivering, dispensing or selling to an adult.

(4) A violation of subsection (d) or (f) is a Class A misdemeanor.

(h)(1) Nothing in this section shall preclude a violation of § 39-17-453, involving an imitation controlled substance, or § 39-17-452 from being prosecuted and punished as a violation of this section if the substance in question meets the definition of an analogue controlled substance under subsection (a) of this section.

(2) Nothing in this section shall preclude a violation of this section involving a controlled substance analogue from being prosecuted and punished under § 39-17-453 or § 39-17-452 if the controlled substance analogue in question also meets the definitions found in such sections.

(i) Any disability, disqualification, forfeiture, suspension, revocation, prohibition, tax or other adverse consequence provided by law that may result from a conviction for an offense involving a controlled substance shall also apply if the conviction involves a controlled substance analogue in violation of subsection (c).

(j) The building and premises of any business in or upon which a violation of subsection (c) or (f) is committed by an employee, agent or owner of such business is declared to be a public nuisance and shall be subject to abatement as provided in title 29, chapter 3, part 1.

Vernon's Texas Statutes and Codes Annotated (2012)
Health and Safety Code
Title 6. Food, Drugs, Alcohol, and Hazardous Substances
Subtitle C. Substance Abuse Regulation and Crimes
Chapter 481. Texas Controlled Substances Act
Subchapter A. General Provisions

§ 481.002. Definitions

In this chapter:

...

(6) “Controlled substance analogue” means:

(A) a substance with a chemical structure substantially similar to the chemical structure of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, or 2; or

(B) a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, or 2.

...

Vernon's Texas Statutes and Codes Annotated (2012)
Health and Safety Code
Title 6. Food, Drugs, Alcohol, and Hazardous Substances
Subtitle C. Substance Abuse Regulation and Crimes
Chapter 481. Texas Controlled Substances Act
Subchapter D. Offenses and Penalties

§ 481.106. Classification of Controlled Substance Analogue

For the purposes of the prosecution of an offense under this subchapter involving the manufacture, delivery, or possession of a controlled substance, Penalty Groups 1, 1-A, and 2 include a controlled substance analogue that:

(1) has a chemical structure substantially similar to the chemical structure of a controlled substance listed in the applicable penalty group; or

(2) is specifically designed to produce an effect substantially similar to, or greater than, a controlled substance listed in the applicable penalty group.

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Vernon's Texas Statutes and Codes Annotated (2012)
Health and Safety Code
Title 6. Food, Drugs, Alcohol, and Hazardous Substances
Subtitle C. Substance Abuse Regulation and Crimes
Chapter 481. Texas Controlled Substances Act
Subchapter D. Offenses and Penalties

§ 481.123. Defense to Prosecution for Offense Involving Controlled Substance Analogue

(a) It is an affirmative defense to the prosecution of an offense under this subchapter involving the manufacture, delivery, or possession of a controlled substance analogue that the analogue:

(1) was not in any part intended for human consumption;

(2) was a substance for which there is an approved new drug application under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355); or

(3) was a substance for which an exemption for investigational use has been granted under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355), if the actor's conduct with respect to the substance is in accord with the exemption.

(b) For the purposes of this section, Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355) applies to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

West's Utah Code Annotated (2012)
Title 58. Occupations and Professions
Chapter 37. Utah Controlled Substances Act

§ 58-37-2. Definitions

(1) As used in this chapter:

...

(f)(i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g)(i) "Controlled substance analog" means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4. 2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) “Controlled substance analog” does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

...

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West's Annotated Code of Virginia (2012)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 34. Drug Control Act

Article 5. Standards and Schedules

§ 54.1-3456. Designer drugs

Any drug not listed on Schedule I or II in this chapter, which is privately compounded, with the specific intent to circumvent the provisions of this chapter, to emulate or simulate the effects of another drug or class of drugs listed on Schedule I or II in this chapter through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent, shall be considered to be listed on the same schedule as the drug or class of drugs which it imitates in the same manner as any isomer, ester, ether, salts of isomers, esters and ethers of such drug or class of drugs.

West's Revised Code of Washington Annotated (2012)
Title 69. Food, Drugs, Cosmetics, and Poisons
Chapter 69.50. Uniform Controlled Substances Act
Article I. Definitions

§ 69.50.101. Definitions

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

...

(e)(1) “Controlled substance analog” means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

West's Revised Code of Washington Annotated (2012)
Title 69. Food, Drugs, Cosmetics, and Poisons
Chapter 69.50. Uniform Controlled Substances Act
Article II. Standards and Schedules

§ 69.50.214. Controlled substance analog

A controlled substance analog, to the extent intended for human consumption, shall be treated, for the purposes of this chapter, as a substance included in Schedule I. Within thirty days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the state board of pharmacy of information relevant to emergency scheduling as provided for in *RCW 69.50.201(f). After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may continue or take place.

West's Annotated Code of West Virginia (2012)
Chapter 60A. Uniform Controlled Substances Act
Article 1. Definitions

§ 60A-1-101. Definitions

As used in this act:

...

(c) “Analogue” means a substance that, in relation to a controlled substance, has a substantially similar chemical structure.

...

West's Wisconsin Statutes Annotated (2012)
Controlled Substances (Ch. 961)
Chapter 961. Uniform Controlled Substances Act
Subchapter I. Definitions

§ 961.01. Definitions

As used in this chapter:

...

(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.

West's Wisconsin Statutes Annotated (2012)
Controlled Substances (Ch. 961)
Chapter 961. Uniform Controlled Substances Act
Subchapter II. Standards and Schedules

§ 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 district attorney shall provide the controlled substances board with information relevant to emergency scheduling under s. 961.11(4m). After a final determination by the 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.