AN ACT in relation to public aid.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Pharmacy Practice Act of 1987 is amended by changing Section 4 as follows:

(225 ILCS 85/4) (from Ch. 111, par. 4124)

(Section scheduled to be repealed on January 1, 2008)

Sec. 4. Exemptions. Nothing contained in any Section of this Act shall apply to, or in any manner interfere with <u>any of the following</u>:

(a) The lawful practice of any physician licensed to practice medicine in all of its branches, dentist, podiatrist, veterinarian, or therapeutically or diagnostically certified optometrist within the limits of his or her license, or prevent him or her from supplying to his or her bona fide patients such drugs, medicines, or poisons as may seem to him appropriate<u>.</u><s>;</s>

(b) The sale of compressed gases<u>.</u><s>;</s>

(c) The sale of patent or proprietary medicines and household remedies when sold in original and unbroken packages only, if such patent or proprietary medicines and household remedies be properly and adequately labeled as to content and usage and generally considered and accepted as harmless and nonpoisonous when used according to the directions on the label, and also do not contain opium or coca leaves, or any compound, salt or derivative thereof, or any drug which, according to the latest editions of the following authoritative pharmaceutical treatises and standards, namely, The United States Pharmacopoeia/National Formulary (USP/NF), the United States Dispensatory, and the Accepted Dental Remedies of the Council of Dental

Therapeutics of the American Dental Association or any or either of them, in use on the effective date of this Act, or according to the existing provisions of the Federal Food, Drug, and Cosmetic Act and Regulations of the Department of Health and Human Services, Food and Drug Administration, promulgated thereunder now in effect, is designated, described or considered as a narcotic, hypnotic, habit forming, dangerous, or poisonous drug.~~;~~

(d) The sale of poultry and livestock remedies in original and unbroken packages only, labeled for poultry and livestock medication.~~;~~

(e) The sale of poisonous substances or mixture of poisonous substances, in unbroken packages, for nonmedicinal use in the arts or industries or for insecticide purposes; provided, they are properly and adequately labeled as to content and such nonmedicinal usage, in conformity with the provisions of all applicable federal, state and local laws and regulations promulgated thereunder now in effect relating thereto and governing the same, and those which are required under such applicable laws and regulations to be labeled with the word "Poison", are also labeled with the word "Poison" printed thereon in prominent type and the name of a readily obtainable antidote with directions for its administration.~~;~~

(f) The delegation of limited prescriptive authority by a physician licensed to practice medicine in all its branches to a physician assistant under Section 7.5 of the Physician Assistant Practice Act of 1987. This delegated authority may but is not required to include prescription of Schedule III, IV, or V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, in accordance with written guidelines under Section 7.5 of the Physician Assistant Practice Act of 1987.~~;-and~~

(g) The delegation of limited prescriptive authority by a physician licensed to practice medicine in all its branches

to an advanced practice nurse in accordance with a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act. This delegated authority may but is not required to include the prescription of Schedule III, IV, or V controlled substances as defined in Article II of the Illinois Controlled Substances Act.

(h) The return and packaging, repackaging, and labeling of prescription drugs to the extent required under Section 12-4.25d of the Illinois Public Aid Code.

(Source: P.A. 90-116, eff. 7-14-97; 90-253, eff. 7-29-97; 90-655, eff. 7-30-98; 90-742, eff. 8-13-98.)

Section 10. The Wholesale Drug Distribution Licensing Act is amended by changing Section 15 as follows:

(225 ILCS 120/15) (from Ch. 111, par. 8301-15)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15. Definitions. As used in this Act:

"Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

"Blood component" means that part of blood separated by physical or mechanical means.

"Board" means the State Board of Pharmacy of the Department of Professional Regulation.

"Department" means the Department of Professional Regulation.

"Director" means the Director of Professional Regulation.

"Drug sample" means a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

"Manufacturer" means anyone who is engaged in the manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a

prescription drug. "Manufacturer" does not include anyone who is engaged in the packaging, repackaging, or labeling of a prescription drug only to the extent required under Section 12-4.25d of the Illinois Public Aid Code.

"Person" means and includes a natural person, partnership, association or corporation.

"Pharmacy distributor" means any pharmacy licensed in this State or hospital pharmacy that is engaged in the delivery or distribution of prescription drugs either to any other pharmacy licensed in this State or to any other person or entity including, but not limited to, a wholesale drug distributor engaged in the delivery or distribution of prescription drugs who is involved in the actual, constructive, or attempted transfer of a drug in this State to other than the ultimate consumer except as otherwise provided for by law.

"Prescription drug" means any human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to subsection (b) of Section 503 of the Federal Food, Drug and Cosmetic Act.

"Wholesale distribution" or "wholesale distributions" means distribution of prescription drugs to persons other than a consumer or patient, but does not include any of the following:

(a) Intracompany sales, defined as any transaction or transfer between any division, subsidiary, parent, or affiliated or related company under the common ownership and control of a corporate entity.

(b) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of a group

organization.

(c) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in subsection (c)(3) of Section 501 of the U.S. Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law.

(d) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control. For purposes of this Act, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise.

(e) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Act, "emergency medical reasons" include transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

(f) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription.

(g) The distribution of drug samples by manufacturers' representatives or distributors' representatives.

(h) The sale, purchase, or trade of blood and blood components intended for transfusion.

"Wholesale drug distributor" means any person or entity engaged in wholesale distribution of prescription drugs, including, but not limited to, manufacturers; repackers; own label distributors; jobbers; private label distributors; brokers; warehouses, including manufacturers' and

distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions, including, but not limited to, any pharmacy distributor as defined in this Section. A wholesale drug distributor shall not include any for hire carrier or person or entity hired solely to transport prescription drugs.
(Source: P.A. 87-594.)

Section 15. The Illinois Public Aid Code is amended by adding Section 12-4.25d as follows:

(305 ILCS 5/12-4.25d new)

Sec. 12-4.25d. Nursing homes; return of unused prescription drugs.

(a) Every provider of long-term care services under this Code shall return to the vendor pharmacy from which the drug product was purchased, for repackaging and reimbursement to the Department of Public Aid, every drug product that (i) was dispensed to a resident of the provider's long-term care facility and not used and (ii) meets all of the following criteria:

(1) It is a prescription drug product that is not a controlled substance.

(2) It is sealed in an individually packaged unit.

(3) It is returned to the vendor pharmacy within the recommended period of shelf life for the purpose of redispensing the drug product.

(4) It is determined to be of acceptable integrity by a licensed pharmacist.

(5) It consists of (i) oral or parenteral medication in a single-dose sealed container approved by the federal Food and Drug Administration, (ii) a topical or inhalant drug product in a unit-of-use container

approved by the federal Food and Drug Administration, or (iii) a parenteral medication in a multiple-dose sealed container approved by the federal Food and Drug Administration.

(6) No doses have been withdrawn from the container in which the drug product is packaged.

If a provider of long-term care services under this Code returns a drug product under this Section to the vendor pharmacy from which the drug product was purchased, the pharmacy must accept the returned product.

(b) Notwithstanding the provisions of subsection (a):

(1) If a drug product is packaged in the manufacturer's unit-dose package, the drug product shall be returned to the vendor pharmacy for redispensing and reimbursement to the Department of Public Aid if the drug may be redispensed for use before the expiration date, if any, indicated on the package.

(2) If the drug product is repackaged in the manufacturer's unit-dose or multiple-dose blister pack, the drug product shall be returned to the vendor pharmacy for redispensing and reimbursement to the Department of Public Aid if:

(A) the date on which the drug product was repackaged and the drug product's lot number and expiration date are indicated clearly on the package of the repackaged drug product;

(B) ninety days or fewer have elapsed from the date the drug product was repackaged; and

(C) a repackaging log is maintained by the pharmacy in the case of drug products repackaged in advance of immediate needs.

(3) A drug product dispensed in a bulk dispensing container may not be returned to the vendor pharmacy.

(c) Every provider of long term-care services under this

Code shall establish procedures for the return of unused drug products to the vendor pharmacies from which the drug products were purchased.

(d) The Department of Public Aid:

(1) shall reimburse to the vendor pharmacy the reasonable cost of services incurred in the implementation of this Section, as determined by the Director of Public Aid; and

(2) may establish procedures, if feasible, for reimbursement to non-Medicaid payors for drug products returned under this Section.

(e) The Department of Public Aid, in consultation with the Department of Professional Regulation, shall adopt rules to govern the repackaging and labeling of drug products returned under this Section. The rules must provide for the following:

(1) A formulary for the drug products to be returned for repackaging.

(2) The protection of the privacy of the individual for whom the drug product was originally prescribed.

(3) The integrity, safe storage, and safe transfer of the drug product, which may include, but need not be limited to, limiting the drugs to those that were originally dispensed by unit dose or an individually sealed dose or that remain in intact packaging.

(4) The tracking of and accountability for the drug products.

(5) Other matters necessary for implementing this Section.

(f) A provider of long-term care services that fails to comply with this Section is subject to a civil penalty of $30,000 for each incident of noncompliance. The Department may impose a civil penalty under this Section only after it provides all of the following to the provider:

(1) Written notice of the alleged violation and the resulting penalty.

(2) Written notice of the provider's right to request an administrative hearing on the question of the alleged violation.

(3) An opportunity to present evidence, orally or in writing or both, on the question of the alleged violation before an impartial hearing examiner appointed by the Director of Public Aid.

(4) A written decision from the Director of Public Aid, based on the evidence introduced at the hearing and the hearing examiner's recommendations, finding that the provider violated this Section and imposing the civil penalty.

A provider must request an administrative hearing under this subsection within 15 days after receiving the notice of violation from the Department. If a provider requests a hearing within that time, the Department shall stay the imposition of a penalty pending the outcome of the hearing.

The Department of Public Aid may impose a penalty on a provider under this Section regardless of whether a change in ownership of the provider has taken place since the time of the violation, provided that (i) the Department sent notice of the alleged violation and the resulting penalty to the provider before the effective date of the change in ownership and (ii) a record of the notice is readily available in a central registry maintained by the Department.

(g) The Attorney General may bring an action in the circuit court to enforce the collection of a monetary penalty imposed under this Section. Alternatively, for the purpose of collecting a penalty imposed under this Section, the Department may use all or part of the amount of the penalty to offset payments owed by the Department to the provider under this Code.

(h) All penalties collected under this Section shall be deposited into the General Revenue Fund and credited to the Medicaid account.

(i) A licensed physician, pharmacist, or other health care professional is not subject to liability for compliance with this Section when acting within the scope of practice of his or her license and in good faith compliance with the rules adopted by the Department of Public Aid under this Section.

Section 20. The Senior Pharmaceutical Assistance Act is amended by changing Section 10 as follows:

(320 ILCS 50/10)

Sec. 10. Definitions. In this Act:

"Manufacturer" includes:

(1) An entity that is engaged in (a) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products (i) directly or indirectly by extraction from substances of natural origin, (ii) independently by means of chemical synthesis, or (iii) by combination of extraction and chemical synthesis; or (b) the packaging, repackaging, labeling or re-labeling, or distribution of prescription drug products.

(2) The entity holding legal title to or possession of the national drug code number for the covered prescription drug.

The term does not include a wholesale distributor of drugs, drugstore chain organization, or retail pharmacy licensed by the State. The term also does not include an entity that is engaged in the packaging, repackaging, or labeling of a prescription drug only to the extent required under Section 12-4.25d of the Illinois Public Aid Code.

"Prescription drug" means a drug that may be dispensed only upon prescription by an authorized prescriber and that is approved for safety and effectiveness as a prescription drug under Section 505 or 507 of the Federal Food, Drug and Cosmetic Act.

"Senior citizen" or "senior" means a person 65 years of age or older.

(Source: P.A. 92-594, eff. 6-27-02.)

Section 25. The Illinois Food, Drug and Cosmetic Act is amended by changing Section 16 as follows:

(410 ILCS 620/16) (from Ch. 56 1/2, par. 516)

Sec. 16. (a) The Director is hereby authorized to promulgate regulations exempting from any labeling or packaging requirement of this Act drugs and devices which are (i), in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packaged on condition that such drugs and devices are not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling or repacking establishment or (ii) packaged, repackaged, or labeled to the extent required under Section 12-4.25d of the Illinois Public Aid Code.

(b) Drugs and device labeling or packaging exemptions adopted under the Federal Act and supplements thereto or revisions thereof shall apply to drugs and devices in Illinois except insofar as modified or rejected by regulations promulgated by the Director.

(c) A drug intended for use by man which (A) is a habit-forming drug to which Section 15 (d) applies; or (B) because of its toxicity or other potentiality for harmful effect or the method of its use or the collateral measures

necessary to its use is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or (C) is limited by an approved application under Section 505 of the Federal Act or Section 17 of this Act to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only in accordance with the provisions of the "Illinois Controlled Substances Act". The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

(d) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of Section 15, except subsections (a), (k) and (l) and clauses (2) and (3) of subsection (i), and the packaging requirements of subsections (g), (h) and (q), if the drug bears a label containing the proprietary name or names, or if there is none, the established name or names of the drugs, the dosage and quantity, unless the prescribing practitioner, in the interest of the health of the patient, directs otherwise in writing, the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber and, if stated in the prescription, the name of the patient, and the directions for use and the cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of subsection (a) of this Section.

(e) The Director may by regulation remove drugs subject to Section 15 (d) and Section 17 from the requirements of subsection (c) of this Section when such requirements are not necessary for the protection of the public health.

(f) A drug which is subject to subsection (c) of this Section shall be deemed to be misbranded if at any time before dispensing its label fails to bear the statement "Caution: Federal Law Prohibits Dispensing Without Prescription" or "Caution: State Law Prohibits Dispensing Without Prescription". A drug to which subsection (c) of this Section does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

(g) Nothing in this Section shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to controlled substances now included or which may hereafter be included within the classifications of controlled substances cannabis as defined in applicable Federal laws relating to controlled substances or cannabis or the Cannabis Control Act.

(Source: P.A. 84-1308.)

Section 30. The Illinois Controlled Substances Act is amended by changing Section 102 as follows:

(720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

Sec. 102. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any person who habitually uses any drug, chemical, substance or dangerous drug other than alcohol so as to endanger the public morals, health, safety or welfare or who is so far addicted to the use of a dangerous drug or controlled substance other than alcohol as to have lost the power of self control with reference to his addiction.

(b) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or

research subject by:

(1) a practitioner (or, in his presence, by his authorized agent), or

(2) the patient or research subject at the lawful direction of the practitioner.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c-1) "Anabolic Steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(i) boldenone,

(ii) chlorotestosterone,

(iii) chostebol,

(iv) dehydrochlormethyltestosterone,

(v) dihydrotestosterone,

(vi) drostanolone,

(vii) ethylestrenol,

(viii) fluoxymesterone,

(ix) formebulone,

(x) mesterolone,

(xi) methandienone,

(xii) methandranone,

(xiii) methandriol,

(xiv) methandrostenolone,

(xv) methenolone,

(xvi) methyltestosterone,

(xvii) mibolerone,

(xviii) nandrolone,

(xix) norethandrolone,

(xx) oxandrolone,

(xxi) oxymesterone,

(xxii) oxymetholone,

(xxiii) stanolone,

(xxiv) stanozolol,

(xxv) testolactone,

(xxvi) testosterone,

(xxvii) trenbolone, and

(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

Any person who is otherwise lawfully in possession of an anabolic steroid, or who otherwise lawfully manufactures, distributes, dispenses, delivers, or possesses with intent to deliver an anabolic steroid, which anabolic steroid is expressly intended for and lawfully allowed to be administered through implants to livestock or other nonhuman species, and which is approved by the Secretary of Health and Human Services for such administration, and which the person intends to administer or have administered through such implants, shall not be considered to be in unauthorized possession or to unlawfully manufacture, distribute, dispense, deliver, or possess with intent to deliver such anabolic steroid for purposes of this Act.

(d) "Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule under Article II of this Act whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means a drug, substance, or immediate precursor in the Schedules of Article II of this Act.

(g) "Counterfeit substance" means a controlled

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

(h) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a controlled substance, with or without consideration, whether or not there is an agency relationship.

(i) "Department" means the Illinois Department of Human Services (as successor to the Department of Alcoholism and Substance Abuse) or its successor agency.

(j) "Department of State Police" means the Department of State Police of the State of Illinois or its successor agency.

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Professional Regulation" means the Department of Professional Regulation of the State of Illinois or its successor agency.

(m) "Depressant" or "stimulant substance" means:

(1) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid which has been designated as habit forming under section 502 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (d)); or

(2) a drug which contains any quantity of (i) amphetamine or methamphetamine and any of their optical isomers; (ii) any salt of amphetamine or methamphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Department, after investigation, has found to be, and by rule designated as, habit forming because of its depressant or stimulant effect on the

central nervous system; or

(3) lysergic acid diethylamide; or

(4) any drug which contains any quantity of a substance which the Department, after investigation, has found to have, and by rule designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(n) (Blank).

(o) "Director" means the Director of the Department of State Police or the Department of Professional Regulation or his designated agents.

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

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

(t) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(t-5) "Euthanasia agency" means an entity certified by

the Department of Professional Regulation for the purpose of animal euthanasia that holds an animal control facility license or animal shelter license under the Animal Welfare Act. A euthanasia agency is authorized to purchase, store, possess, and utilize Schedule II nonnarcotic and Schedule III nonnarcotic drugs for the sole purpose of animal euthanasia.

(u) "Good faith" means the prescribing or dispensing of a controlled substance by a practitioner in the regular course of professional treatment to or for any person who is under his treatment for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided herein: and application of the term to a pharmacist shall mean the dispensing of a controlled substance pursuant to the prescriber's order which in the professional judgment of the pharmacist is lawful. The pharmacist shall be guided by accepted professional standards including, but not limited to the following, in making the judgment:

(1) lack of consistency of doctor-patient relationship,

(2) frequency of prescriptions for same drug by one prescriber for large numbers of patients,

(3) quantities beyond those normally prescribed,

(4) unusual dosages,

(5) unusual geographic distances between patient, pharmacist and prescriber,

(6) consistent prescribing of habit-forming drugs.

(u-1) "Home infusion services" means services provided by a pharmacy in compounding solutions for direct administration to a patient in a private residence, long-term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(v) "Immediate precursor" means a substance:

(1) which the Department has found to be and by rule designated as being a principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(w) "Instructional activities" means the acts of teaching, educating or instructing by practitioners using controlled substances within educational facilities approved by the State Board of Education or its successor agency.

(x) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(y) "Look-alike substance" means a substance, other than a controlled substance which (1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, or (2) is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of subsection (y), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

(a) statements made by the owner or person in control of the substance concerning its nature, use or

effect;

(b) statements made to the buyer or recipient that the substance may be resold for profit;

(c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;

(d) whether the distribution or attempted distribution included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

Clause (1) of this subsection (y) shall not apply to a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble.

Nothing in this subsection (y) prohibits the dispensing or distributing of noncontrolled substances by persons authorized to dispense and distribute controlled substances under this Act, provided that such action would be deemed to be carried out in good faith under subsection (u) if the substances involved were controlled substances.

Nothing in this subsection (y) or in this Act prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

(y-1) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States, other than Illinois, that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a

controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that this term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his own use; ~~or~~

(2) by a practitioner, or his authorized agent under his supervision, the preparation, compounding, packaging, or labeling of a controlled substance:

(a) as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) as an incident to lawful research, teaching or chemical analysis and not for sale or; ~~.~~

(3) the packaging, repackaging, or labeling of a prescription drug to the extent required under Section 12-4.25d of the Illinois Public Aid Code.

(z-1) "Methamphetamine manufacturing chemical" means any of the following chemicals or substances containing any of the following chemicals: benzyl methyl ketone, ephedrine, methyl benzyl ketone, phenylacetone, phenyl-2-propanone, or pseudoephedrine or any of the salts, optical isomers, or salts of optical isomers of the above-listed chemicals.

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

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative, or

preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salts, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine or ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers).

(bb) "Nurse" means a registered nurse licensed under the Nursing and Advanced Practice Nursing Act.

(cc) (Blank).

(dd) "Opiate" means any substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having addiction forming or addiction sustaining liability.

(ee) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(ff) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

(gg) "Person" means any individual, corporation, mail-order pharmacy, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

(hh) "Pharmacist" means any person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant

pharmacist under the Pharmacy Practice Act of 1987.

(ii) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act of 1987.

(jj) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(kk) "Practitioner" means a physician licensed to practice medicine in all its branches, dentist, podiatrist, veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ll) "Pre-printed prescription" means a written prescription upon which the designated drug has been indicated prior to the time of issuance.

(mm) "Prescriber" means a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian who issues a prescription, a physician assistant who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act.

(nn) "Prescription" means a lawful written, facsimile, or verbal order of a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian for any controlled substance, of a physician assistant for a

Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act.

(oo) "Production" or "produce" means manufacture, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Registrant" means every person who is required to register under Section 302 of this Act.

(qq) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(rr) "State" includes the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(ss) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(Source: P.A. 91-403, eff. 1-1-00; 91-714, eff. 6-2-00; 92-449, eff. 1-1-02.)

Section 35. The Cannabis and Controlled Substances Tort Claims Act is amended by changing Section 3 as follows:

(740 ILCS 20/3) (from Ch. 70, par. 903)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires:

"Cannabis" includes marihuana, hashish, and other

substances that are identified as including any parts of the plant Cannabis Sativa, whether growing or not, the seeds of that plant, the resin extracted from any part of that plant, and any compound, manufacture, salt, derivative, mixture, or preparation of that plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. "Cannabis" does not include the mature stalks of that plant, fiber produced from those stalks, oil or cake made from the seeds of that plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks (except the extracted resin), fiber, oil or cake, or the sterilized seeds of that plant that are incapable of germination.

"Controlled substance" means a drug, substance, or immediate precursor in the Schedules of Article II of the Illinois Controlled Substances Act.

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

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of possession of a controlled substance or cannabis, with or without consideration, whether or not there is an agency relationship.

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly, by

extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that the term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his own use;

(2) by a practitioner or his authorized agent under his supervision, the preparation, compounding, packaging, or labeling of a controlled substance;

(A) as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(B) as an incident to lawful research, teaching or chemical analysis and not for sale; ~~or~~

(3) the preparation, compounding, packaging, or labeling of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale; or~~.~~

(4) the packaging, repackaging, or labeling of a prescription drug to the extent required under Section 12-4.25d of the Illinois Public Aid Code.

"Owner" means a person who has possession of or any interest whatsoever in the property involved.

"Person" means an individual, a corporation, a government, a governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other entity.

"Production" means planting, cultivating, tending, or harvesting.

"Property" means real property, including things growing on, affixed to, and found in land, and tangible or intangible personal property, including rights, services, privileges, interests, claims, and securities.

(Source: P.A. 87-544.)