**South Carolina General Assembly**

119th Session, 2011-2012

**A140, R158, H3793**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Thayer, Whitmire, H.B. Brown, G.R. Smith, Gambrell, Bowen, Hardwick, Clemmons, Mitchell, Parks, Atwater, Butler Garrick, Pinson, Corbin, Norman, Viers, Erickson, Hearn, Murphy, Allison, McCoy, Govan, Agnew, Hosey, Hiott, Patrick, Chumley, Brannon, Battle, Brady, R.L. Brown, Clyburn, Cobb‑Hunter, Cole, Daning, Delleney, Funderburk, Hamilton, Harrison, Hayes, Henderson, Horne, Lucas, D.C. Moss, V.S. Moss, Nanney, J.M. Neal, Owens, Pitts, Pope, Ryan, Sabb, Sandifer, Simrill, J.R. Smith, Stringer, Tallon, Taylor, White, Cooper, Quinn, Lowe, Barfield, Munnerlyn, Weeks, Putnam, Gilliard, Branham, Alexander, Jefferson, Spires, Willis, Frye, Ballentine, Huggins, King, Anderson and Hixon

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Introduced in the House on March 3, 2011

Introduced in the Senate on February 1, 2012

Last Amended on March 6, 2012

Passed by the General Assembly on March 21, 2012

Governor's Action: April 2, 2012, Signed

Summary: Schedule I Drugs

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/3/2011 House Introduced and read first time ([House Journal‑page 13](file:///h%3A%5Chj%20archive%5C2011%5C03-03-11.docx))

 3/3/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 13](file:///h%3A%5Chj%20archive%5C2011%5C03-03-11.docx))

 3/3/2011 House Member(s) request name added as sponsor: Cooper

 3/9/2011 House Member(s) request name added as sponsor: Quinn

 8/22/2011 House Member(s) noted request to add name as sponsor: Lowe

 9/16/2011 House Member(s) noted request to add name as sponsor: Barfield

 1/10/2012 House Member(s) request name added as sponsor: Lowe, Barfield

 1/25/2012 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 17](file:///h%3A%5Chj%20archive%5C2012%5C01-25-12.docx))

 1/26/2012 House 24 hour point of order ([House Journal‑page 20](file:///h%3A%5Chj%20archive%5C2012%5C01-26-12.docx))

 1/26/2012 House Member(s) request name added as sponsor: Munnerlyn, Weeks, Putnam, Gilliard, Branham, Alexander, Jefferson

 1/26/2012 House Member(s) request name removed as sponsor: Stavrinakis

 1/26/2012 House Member(s) request name added as sponsor: Spires

 1/31/2012 House Amended ([House Journal‑page 21](file:///h%3A%5Chj%20archive%5C2012%5C01-31-12.docx))

 1/31/2012 House Read second time ([House Journal‑page 21](file:///h%3A%5Chj%20archive%5C2012%5C01-31-12.docx))

 1/31/2012 House Roll call Yeas‑103 Nays‑0 ([House Journal‑page 28](file:///h%3A%5Chj%20archive%5C2012%5C01-31-12.docx))

 1/31/2012 House Member(s) request name added as sponsor: Willis, Frye, Ballentine, Huggins, King, Anderson, Hixon

 2/1/2012 House Read third time and sent to Senate ([House Journal‑page 6](file:///h%3A%5Chj%20archive%5C2012%5C02-01-12.docx))

 2/1/2012 Scrivener's error corrected

 2/1/2012 Senate Introduced and read first time ([Senate Journal‑page 14](file:///h%3A%5Csj%20archive%5C2012%5C02-01-12.docx))

 2/1/2012 Senate Referred to Committee on **Medical Affairs** ([Senate Journal‑page 14](file:///h%3A%5Csj%20archive%5C2012%5C02-01-12.docx))

 3/1/2012 Senate Committee report: Favorable with amendment **Medical Affairs** ([Senate Journal‑page 11](file:///h%3A%5Csj%20archive%5C2012%5C03-01-12.docx))

 3/2/2012 Scrivener's error corrected

 3/6/2012 Senate Committee Amendment Adopted ([Senate Journal‑page 21](file:///h%3A%5Csj%20archive%5C2012%5C03-06-12.docx))

 3/6/2012 Senate Read second time ([Senate Journal‑page 21](file:///h%3A%5Csj%20archive%5C2012%5C03-06-12.docx))

 3/6/2012 Senate Roll call Ayes‑39 Nays‑0 ([Senate Journal‑page 21](file:///h%3A%5Csj%20archive%5C2012%5C03-06-12.docx))

 3/7/2012 Scrivener's error corrected

 3/7/2012 Senate Read third time and returned to House with amendments ([Senate Journal‑page 13](file:///h%3A%5Csj%20archive%5C2012%5C03-07-12.docx))

 3/21/2012 House Concurred in Senate amendment and enrolled ([House Journal‑page 36](file:///h%3A%5Chj%20archive%5C2012%5C03-21-12.docx))

 3/21/2012 House Roll call Yeas‑108 Nays‑0 ([House Journal‑page 36](file:///h%3A%5Chj%20archive%5C2012%5C03-21-12.docx))

 3/29/2012 Ratified R 158

 4/2/2012 Signed By Governor

 4/5/2012 Effective date 04/02/12

 4/11/2012 Act No. 140

**VERSIONS OF THIS BILL**

[3/3/2011](file:///p%3A%5Cpprever%5C2011-12%5C3793_20110303.docx)

[1/25/2012](file:///p%3A%5Cpprever%5C2011-12%5C3793_20120125.docx)

[1/31/2012](file:///p%3A%5Cpprever%5C2011-12%5C3793_20120131.docx)

[2/1/2012](file:///p%3A%5Cpprever%5C2011-12%5C3793_20120201.docx)

[3/1/2012](file:///p%3A%5Cpprever%5C2011-12%5C3793_20120301.docx)

[3/2/2012](file:///p%3A%5Cpprever%5C2011-12%5C3793_20120302.docx)

[3/6/2012](file:///p%3A%5Cpprever%5C2011-12%5C3793_20120306.docx)

[3/7/2012](file:///p%3A%5Cpprever%5C2011-12%5C3793_20120307.docx)

(A140, R158, H3793)

**AN ACT TO AMEND SECTION 44-53-160, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MANNER IN WHICH CHANGES IN SCHEDULES OF CONTROLLED SUBSTANCES MUST BE MADE, SO AS TO PROVIDE THAT CHANGES MADE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO THESE SCHEDULES WHEN THE GENERAL ASSEMBLY IS NOT IN SESSION HAVE THE FORCE AND EFFECT OF LAW UNLESS OVERTURNED BY THE GENERAL ASSEMBLY AND TO REQUIRE THE DEPARTMENT TO DISTRIBUTE THESE CHANGES TO ADDITIONAL LEGISLATIVE COMMITTEES AND POST THESE CHANGES TO THE DEPARTMENT’S WEBSITE; TO CLARIFY THAT THE BOARD OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MUST CONFORM CHANGES MADE BY FEDERAL LAW OR REGULATION TO THESE SCHEDULES AND TO REQUIRE THE DEPARTMENT TO DISTRIBUTE THESE CHANGES TO CERTAIN LEGISLATIVE COMMITTEES AND THE CLERKS OF THE SENATE AND HOUSE AND POST THESE CHANGES ON THE DEPARTMENT’S WEBSITE; AND TO PROVIDE THAT CHANGES MADE TO SCHEDULES OF CONTROLLED SUBSTANCES PURSUANT TO THIS SECTION ARE NOT REQUIRED TO BE PROMULGATED AS REGULATIONS PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT; AND TO AMEND SECTION 44‑53‑190, AS AMENDED, RELATING TO MATERIALS, COMPOUNDS, MIXTURES, AND PREPARATIONS CLASSIFIED AS SCHEDULE I CONTROLLED SUBSTANCES, INCLUDING HALLUCINOGENICS, SO AS TO ADD SYNTHETIC CANNABINOIDS, CATHINONES, AND SUBSTITUTED CATHINONES, COMMONLY KNOW AS “BATH SALTS” TO THE LIST OF SCHEDULE I CONTROLLED SUBSTANCES.**

Be it enacted by the General Assembly of the State of South Carolina:

**Manner in which changes must be made to schedules of controlled substances**

SECTION 1. Section 44‑53‑160 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

 “Section 44‑53‑160. (A)(1) Annually, within thirty days after the convening of each regular session of the General Assembly, the department shall recommend to the General Assembly any additions, deletions, or revisions in the schedules of controlled substances enumerated in Sections 44‑53‑190, 44‑53‑210, 44‑53‑230, 44‑53‑250, and 44‑53‑270 which the department deems necessary. Except as otherwise provided in this section, the department shall not make any additions, deletions, or revisions in the schedules until after notice and an opportunity for a hearing is afforded to all interested parties. In making a recommendation to the General Assembly regarding a substance, the department shall consider the following:

 (a) the actual or relative potential for abuse;

 (b) the scientific evidence of the substance’s pharmacological effect, if known;

 (c) the state of current scientific knowledge regarding the substance;

 (d) the history and current pattern of abuse;

 (e) the scope, duration, and significance of abuse;

 (f) the risk to public health;

 (g) the potential of the substance to produce psychic or physiological dependence liability;

 (h) whether the substance is an immediate precursor of a substance already controlled pursuant to this chapter; and

 (i) whether the substance has an accepted or recognized medical use.

 (2) After considering the factors listed in subsection (A)(1), the department shall make a recommendation to the General Assembly specifying to what schedule the substance should be added, deleted, or rescheduled, if the department finds that the substance has a potential for abuse.

 (B) Except as otherwise provided in this section, during the time the General Assembly is not in session, the department may add, delete, or reschedule a substance as a controlled substance after providing notice and a hearing to all interested parties. The addition, deletion, or rescheduling of a substance pursuant to this subsection has the full force of law unless overturned by the General Assembly. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department’s website indicating the change and specifying the effective date of the change.

 (C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department’s website indicating the change and specifying the effective date of the change.

 (D) The department shall exclude any nonnarcotic substance from a schedule if the substance may, under the federal Food, Drug, and Cosmetic Act and the laws of this State, be lawfully sold over the counter without a prescription.

 (E) The department’s addition, deletion, or rescheduling of a substance as a controlled substance is governed by this section and is not subject to the promulgation requirements of Title 1, Chapter 23.”

**Substances added to Schedule I controlled substances**

SECTION 2. Section 44‑53‑190 of the 1976 Code, as last amended by Act 267 of 2002, is further amended to read:

 “Section 44‑53‑190. (A) The controlled substances listed in this section are included in Schedule I.

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

 1. Acetylmethadol

 2. Allylprodine

 3. Alphacetylmethadol

 4. Alphameprodine

 5. Alphamethadol

 6. Benzethidine

 7. Betacetylmethadol

 8. Betameprodine

 9. Betamethadol

 10. Betaprodine

 11. Clonitazene

 12. Dextromoramide

 13. [Deleted]

 14. Diampromide

 15. Diethylthiambutene

 16. Dimenoxadol

 17. Dimepheptanol

 18. Dimethylthiambutene

 19. Dioxaphetyl butyrate

 20. Dipipanone

 21. Ethylmethylthiambutene

 22. Etonitazene

 23. Etoxeridine

 24. Furethidine

 25. Hydroxypethidine

 26. Ketobemidone

 27. Levomoramide

 28. Levophenacylmorphan

 29. Morpheridine

 30. Noracymethadol

 31. Norlevorphanol

 32. Normethadone

 33. Norpipanone

 34. Phenadoxone

 35. Phenampromide

 36. Phenomorphan

 37. Phenoperidine

 38. Piritramide

 39. Proheptazine

 40. Properidine

 41. Racemoramide

 42. Trimeperidine

 43. Propiram

 44. Difenoxin

 45. Alfentanyl

 46. Tilidine

 47. Alphamethylfentanyl (N‑[1‑(alpha‑methyl‑beta‑phenyl) ethyl‑4‑piperidyl] propionanilide; 1‑(1‑methyl‑2‑phenylethyl‑4‑(N‑pro-panilido) piperidine).

 (C) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

 1. Acetorphine

 2. Acetyldihydrocodeine

 3. Benzylmorphine

 4. Codeine methylbromide

 5. Codeine‑N‑Oxide

 6. Cyprenorphine

 7. Desomorphine

 8. Dihydromorphine

 9. Etorphine

 10. Heroin

 11. Hydromorphinol

 12. Methyldesorphine

 13. Methylhydromorphine

 14. Morphine methylbromide

 15. Morphine methylsulfonate

 16. Morphine‑N‑Oxide

 17. Myrophine

 18. Nicocodeine

 19. Nicomorphine

 20. Normorphine

 21. Pholcodine

 22. Thebacon

 23. Drotebanol

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

 1. 3,4‑methylenedioxy amphetamine

 2. 5‑methoxy‑3,4‑methylenedioxy amphetamine

 3. 3,4‑methylenedioxymethamphetamine (MDMA)

 4. 3,4,5‑trimethoxy amphetamine

 5. Bufotenine

 6. Diethyltryptamine (DET)

 7. Dimethyltryptamine (DMT)

 8. 4‑methyl‑2,5‑dimethoxyamphetamine (STP)

 9. Ibogaine

 10. Lysergic acid diethylamide (LSD)

 11. Marijuana

 12. Mescaline

 13. Peyote

 14. N‑ethyl‑3‑piperidyl benzilate

 15. N‑methyl‑3‑piperidyl benzilate

 16. Psilocybin

 17. Psilocyn

 18. Tetrahydrocannabinol (THC)

 19. 2,5‑dimethoxyamphetamine

 20. 4‑bromo‑2,5‑dimethoxyamphetamine

 21. 4‑Methoxyamphetamine

 22. Thiophene analog of phencyclidine

 23. Parahexyl

 24. Synthetic cannabinoids. – Any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedule I through V, is not an FDA‑approved drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues, and salts of isomers and homologues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, and salts of isomers and homologues is possible within the specific chemical designation:

 a. Naphthoylindoles. Any compound containing a 3‑(1‑naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl, or 2‑(4‑morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Including, but not limited to, JWH‑015, JWH‑018, JWH‑019, JWH‑073, JWH‑081, JWH‑122, JWH‑200, JWH‑210, JWH‑398, AM‑2201, WIN 55‑212, AM‑2201 (C1 analog), AM‑1220.

 b. Naphthylmethylindoles. Any compound containing a 1H‑indol‑3‑yl‑(1‑naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl, or 2‑(4‑morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

 c. Naphthoylpyrroles. Any compound containing a 3‑(1‑naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl, or 2‑(4‑morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Including, but not limited to, JWH‑307, JWH‑370, JWH‑176.

 d. Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3‑position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl, or 2‑(4‑morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.

 e. Phenylacetylindoles. Any compound containing a 3‑phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl, or 2‑(4‑morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to, SR‑18, RCS‑8, JWH‑203, JWH‑250, JWH‑251.

 f. Cyclohexylphenols. Any compound containing a 2‑(3‑hydroxycyclohexyl)phenol structure with substitution at the 5‑position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl, or 2‑(4‑morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to, CP 47,497 (and homologues), cannabicyclohexanol, CP‑55, 940.

 g. Benzoylindoles. Any compound containing a 3‑(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl, or 2‑(4‑morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to, AM‑694, Pravadoline (WIN 48,098), RCS‑4, AM‑630, AM‑1241, AM‑2233.

 h. 2,3‑Dihydro‑5‑methyl‑3‑(4‑morpholinylmethyl)pyrrolo [1,2,3‑de]‑1, 4‑benzoxazin‑6‑yl]‑1‑napthalenylmethanone (WIN 55,212‑2).

 i. 9‑(hydroxymethyl)‑6,6‑dimethyl‑3‑(2‑methyloctan‑2‑yl) – 6a,7,10,10a‑tetrahydrobenzo[c]chromen‑1‑ol 7370 (HU‑210, HU‑211).

 j. Adamantoylindoles. Any compound containing a 3‑(1‑adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1‑(N‑methyl‑2‑piperidinyl)methyl or 2‑(4‑morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent.

 (E) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers if possible within the specific chemical designation:

 (1) Mecloqualone;

 (2) Methaqualone; or

 (3) Gamma Hydroxybutyric Acid.

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

 (1) Fenethylline;

 (2) N‑ethylamphetamine;

 (3) Cathinone; or

 (4) Substituted Cathinones.

Any compound (not being bupropion) structurally derived from 2‑amino‑1‑phenyl‑1‑propanone by modification in any of the following ways:

 (a) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;

 (b) by substitution at the 3‑position with an alkyl substituent;

 (c) by substitution at the nitrogen atom with alkyl or dialkyl groups, benzyl or methoxybenzyl groups; or

 (d) by inclusion of the nitrogen atom in a cyclic structure.

Including, but not limited to: Methylone, Mephedrone, 3,4‑Methylenedioxypyrovalerone (MDPV), Butylone, Methedrone, 4‑Methylethcathinone, Flephedrone, Pentylone, Pentedrone, Buphedrone.”

**Severability clause**

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Savings clause**

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

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