

# State of Wisconsin



1995 Assembly Bill 817

Date of enactment: **June 24, 1996**

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## 1995 WISCONSIN ACT 448

AN ACT *to repeal* 46.60 (1), 46.60 (2) (title), 139.87 (4), 161.01 (3), 161.01 (15) (b), 161.14 (1) (title), 161.16 (1) (title), 161.18 (1) (title), 161.20 (1) (title), 161.20 (3m) (title), 161.22 (1) (title), 161.41 (1p) (a) (intro.) and 161.41 (3p); *to renumber* 46.60 (title), chapter 161 (title), 161.001 (intro.), 161.001 (1), 161.001 (2), 161.001 (3), subchapter I (title) of chapter 161 [precedes 161.01], 161.01 (intro.), 161.01 (5), 161.01 (7), 161.01 (8), 161.01 (10), 161.01 (10m), 161.01 (12), 161.01 (12m), 161.01 (14m), 161.01 (15) (intro.), 161.01 (18), 161.01 (20g), 161.01 (20i), 161.01 (22), subchapter II (title) of chapter 161 [precedes 161.11], 161.11 (title), 161.115, 161.13 (title), 161.14 (title), 161.15 (title), 161.16 (title), 161.17 (title), 161.18 (title), 161.18 (3) (b), 161.18 (3) (d), 161.18 (3) (e), 161.18 (3) (f), 161.18 (3) (h), 161.18 (3) (j), 161.19 (title), 161.20 (title), 161.20 (2m) (a), 161.20 (2m) (d), 161.20 (2m) (e), 161.21 (title), 161.22 (title), subchapter III (title) of chapter 161 [precedes 161.31], 161.31, 161.32, 161.38 (title), 161.38 (3), 161.38 (5), subchapter IV (title) of chapter 161 [precedes 161.41], 161.41 (title), 161.41 (1p) (a) 1., 161.41 (1p) (a) 2., 161.41 (1x), 161.41 (5), 161.42, 161.438, 161.44, 161.45, 161.455 (title), 161.46 (title), 161.465 (title), 161.465 (3), 161.50, subchapter V (title) of chapter 161 [precedes 161.51], 161.51, 161.53, 161.55 (title), 161.55 (4), 161.55 (5), 161.55 (7), 161.56, 161.565, subchapter VI (title) of chapter 161 [precedes 161.571], 161.573 (title), 161.573 (2), 161.574 (title), 161.574 (2), 161.576, subchapter VII (title) of chapter 161 [precedes 161.61], 161.61 and 161.62; *to renumber and amend* 46.60 (2), 146.0255 (1), 161.01 (1), 161.01 (2), 161.01 (4), 161.01 (6), 161.01 (9), 161.01 (11), 161.01 (13), 161.01 (14), 161.01 (15) (a), 161.01 (15) (c), 161.01 (16), 161.01 (17), 161.01 (19), 161.01 (20), 161.01 (20m), 161.01 (21), 161.11 (1) (intro.), 161.11 (1) (a) to (h), 161.11 (2), 161.11 (3), 161.11 (4), 161.11 (5), 161.11 (6), 161.12, 161.13, 161.14 (1), 161.14 (2), 161.14 (3), 161.14 (4), 161.14 (5), 161.14 (6), 161.14 (7), 161.15, 161.16 (1), 161.16 (2), 161.16 (2) (a), 161.16 (2) (b), 161.16 (3), 161.16 (5), 161.16 (7), 161.16 (8), 161.16 (10), 161.17, 161.18 (1), 161.18 (2m), 161.18 (3) (intro.), 161.18 (3) (a), 161.18 (3) (k), 161.18 (3) (km), 161.18 (3) (m), 161.18 (3) (n), 161.18 (4), 161.18 (5), 161.18 (6), 161.18 (7), 161.19, 161.20 (1), 161.20 (2), 161.20 (2m) (intro.), 161.20 (2m) (ag), 161.20 (2m) (ar), 161.20 (2m) (b), 161.20 (2m) (bm), 161.20 (2m) (c), 161.20 (3), 161.20 (3m), 161.20 (4), 161.20 (5), 161.21, 161.22 (1), 161.22 (1m), 161.22 (2), 161.23, 161.24, 161.335, 161.36, 161.38 (1), 161.38 (2), 161.38 (4), 161.39, 161.41 (1), 161.41 (1m), 161.41 (1p) (b), 161.41 (1q), 161.41 (1r), 161.41 (2), 161.41 (2m), 161.41 (2r) (a), 161.41 (2r) (b), 161.41 (2r) (c), 161.41 (3), 161.41 (3m), 161.41 (3n), 161.41 (3r), 161.41 (4) (a), 161.41 (4) (b), 161.41 (4) (c), 161.43, 161.435, 161.455 (1), 161.455 (2), (3) and (4), 161.46 (1), 161.46 (2), 161.46 (3), 161.465 (1), 161.465 (2), 161.465 (2m), 161.47, 161.472, 161.475, 161.48, 161.49, 161.495, 161.52, 161.54, 161.55 (1), 161.55 (2), 161.55 (3), 161.55 (6), 161.55 (8), 161.555, 161.571, 161.572, 161.573 (1), 161.574 (1), 161.575 and 161.577; *to amend* 16.20 (1) (cg), 20.435 (6) (gb), 20.475 (1) (i), 23.33 (1) (e), 23.33 (1) (i), 23.33 (13) (e), 30.50 (3g), 30.50 (4e), 30.80 (6) (d), 36.11 (21), 38.12 (10), 46.03 (18) (fm), 46.238 (title), 46.715 (1) (intro.), 46.973 (1) (a), 46.973 (2m) (c) 2., 48.02 (1e), 48.02 (2d), 48.17 (2) (c), 48.17 (2) (d), 48.17 (2) (e), 48.18 (1) (a) 1., 48.18 (1) (a) 2., 48.24 (2m) (a) 1., 48.24 (2m) (a) 3., 48.245 (2) (a) 3., 48.245 (2) (a) 4., 48.295 (1c) (b),

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

48.295 (1c) (c), 48.295 (1g), 48.31 (4), 48.32 (1g) (intro.), 48.34 (4r) (a), 48.34 (4r) (b), 48.34 (4s) (a) (intro.), 48.34 (4s) (am) (intro.), 48.34 (7m), 48.34 (13) (a), 48.34 (13) (b), 48.343 (10) (intro.), 48.344 (2e) (a) (intro.), 48.344 (2e) (b), 48.344 (3), 48.345 (13) (a), 48.345 (13) (b), 48.396 (1m), 48.396 (2) (c), 48.396 (7) (b), 48.547 (1), 59.07 (107), 59.20 (5) (b), 59.395 (5), 60.23 (21), 66.051 (1) (bm), 100.182 (4), 100.37 (1) (hm), 101.22 (1m) (g), 102.58, 106.04 (1m) (g), 106.215 (1) (cg), 108.04 (5), 108.04 (6), 111.335 (1) (cs) 1., 111.335 (1) (cs) 2., 111.335 (1) (cs) 3., 111.335 (1) (cs) 4., 111.37 (5) (c), 114.09 (1) (b), 114.103 (1) (a), 114.103 (2) (a), 115.35 (1), 118.01 (2) (d) 2. c., 118.01 (2) (d) 6., 118.01 (2) (d) 7., 118.257 (1) (a), 118.257 (1) (b), 118.257 (2), 125.12 (2) (ag) 5., 125.12 (2) (ag) 6., 125.12 (4) (ag) 7., 125.12 (4) (ag) 8., 139.34 (1) (c) 3., 139.37 (1) (c) 3., 139.87 (2), 139.87 (5), 139.87 (6), 139.88 (1), 139.88 (1d), 146.0255 (title), 146.0255 (2), 165.70 (1) (b), 165.72 (3), 165.83 (2) (a) 2., 302.11 (1g) (a) 1., 302.11 (1p), 302.375 (1) (b), 302.375 (4) (a), 304.06 (1) (b), 304.06 (4) (a), 304.071 (2), 340.01 (9m), 343.06 (1) (d), 343.10 (1) (a), 343.10 (5) (a) 1., 343.10 (5) (b), 343.16 (5) (a), 343.30 (1q) (c) 1. (intro.), 343.30 (1q) (d), 343.30 (5), 343.303, 343.305 (2), 343.305 (3) (am), 343.305 (3) (b), 343.305 (5) (b), 343.305 (5) (d), 343.305 (6) (a), 343.305 (9) (a) 5. a., 343.305 (9) (a) 5. c., 343.305 (9) (am) 5. a., 343.305 (9) (am) 5. c., 343.305 (10) (c) 1. (intro.), 343.305 (10) (d), 343.307 (1) (d), 343.307 (2) (e), 343.31 (1) (am), 343.31 (1) (b), 343.31 (2), 343.31 (3) (b), 343.315 (2) (a) 1., 343.315 (2) (a) 6., 343.315 (2) (e), 343.32 (1m) (b) (intro.), 343.32 (1m) (c), 346.63 (1) (a), 346.63 (2) (a) 1., 346.63 (2) (b), 346.63 (6) (c), 346.637 (1), 346.637 (2), 346.64 (1), 349.02 (2) (b) 2., 349.13 (5) (b) 5., 350.01 (2), 350.01 (9), 350.11 (3) (d), 351.02 (1) (a) 10., 441.16 (1) (b) 2., 447.07 (3) (L), 448.01 (11), 450.01 (4), 450.01 (20) (b), 450.02 (3) (d), 450.10 (1) (a) 2., 450.10 (3) (b), 450.17, 453.04, 632.32 (6) (b) 4., 753.061 (2), 778.25 (1) (a) 1., 814.60 (2) (cn), 818.02 (7), 823.113 (1), 885.235 (1) (a) 1., 885.235 (1) (a) 2., 885.235 (5) (b), 895.437 (1) (b), 895.437 (2) (b), 895.437 (3), 895.53 (2), 939.22 (21) (a), 939.22 (42), 939.30 (1), 939.31, 939.62 (2m) (a) 1., 939.625 (1) (a), 939.63 (1) (c), 940.02 (2) (a), 940.02 (2) (b), 941.296 (2) (intro.), 941.38 (1) (b) 1., 946.82 (4), 948.015 (6), 948.07 (6), 948.35 (1) (a), 949.08 (2) (e), 949.08 (2) (em), 951.06, 967.055 (1) (a), 967.055 (1) (b), 967.055 (2) (a), 967.055 (2) (b), 968.13 (1) (a), 968.28, 970.035, 971.17 (1), 971.365 (1) (a), 971.365 (1) (b), 971.365 (1) (c), 971.365 (2), 973.0135 (1) (b) 1., 973.03 (5) (c), 973.05 (1), 973.06 (1) (am) 1., 973.075 (6), 978.05 (6) (a) and 978.13 (1) (b); **to repeal and recreate** 48.31 (4), 48.547 (1), 304.06 (1) (b), 343.30 (5), 778.25 (1) (a) 1., 938.02 (1p), 938.02 (2d), 938.17 (2) (c), 938.17 (2) (d), 938.17 (2) (e), 938.18 (1) (a) 1., 938.18 (1) (a) 2., 938.24 (2m) (a) 1., 938.24 (2m) (a) 3., 938.245 (2) (a) 3., 938.295 (1c) (b), 938.295 (1c) (c), 938.295 (1g), 938.32 (1g) (intro.), 938.34 (6r) (a), 938.34 (6r) (b), 938.34 (6s), 938.34 (14r) (title), 938.34 (14r) (a), 938.34 (14r) (b), 938.34 (14s) (title), 938.34 (14s) (a) (intro.), 938.34 (14s) (am) (intro.), 938.34 (14t), 938.343 (10) (intro.), 938.344 (2e) (a) (intro.), 938.344 (2e) (b), 938.344 (3), 938.396 (1m) (a), 938.396 (2) (c), 938.396 (7) (b), 938.547 (1), 961.573 (2), 961.574 (2), 961.575 (2) and 970.035; and **to create** 23.33 (1) (f), 30.50 (3h), 48.02 (2e), 114.103 (1) (am), 118.257 (1) (am), 118.257 (1) (at), 139.87 (7), 146.0255 (1) (b), 302.375 (4) (am), 340.01 (9n), 350.01 (2d), 885.235 (5) (bd), 895.437 (1) (bd), 938.02 (2e), 961.001 (1g), 961.001 (1m), 961.01 (4m), 961.01 (11m), 961.01 (12g), 961.01 (15) (bm), 961.01 (15) (d), 961.11 (1r), 961.11 (4m), 961.13 (2m), 961.15 (2m), 961.16 (3) (cm), 961.17 (2m), 961.18 (3) (m) 1., 2. and 3., 961.18 (3) (n) 1., 2. and 3., 961.19 (2m), 961.20 (2m) (ad), 961.20 (2m) (br), 961.21 (2m), 961.22 (3), 961.25, 961.38 (1g), 961.38 (4g), 961.38 (4r), 961.395, 961.41 (1n), 961.41 (1x) (title), 961.41 (4) (title), 961.41 (5) (title) and 961.49 (3) of the statutes; **relating to:** controlled substances and providing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 16.20 (1) (cg) of the statutes is amended to read:

16.20 (1) (cg) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" includes any physical disability or developmental disability, as defined in s. 51.01 (5) (a). "Disability" does not include the current illegal use of a controlled substance, as defined in s. ~~461.01~~ 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), unless the individual is participating in a supervised drug rehabilitation program.

**SECTION 2.** 20.435 (6) (gb) of the statutes is amended to read:

20.435 (6) (gb) *Alcohol and drug abuse initiatives.* All moneys received from the state treasurer under s. ~~461.44~~ 961.41 (5) (c), to be expended on programs providing prevention, intervention and treatment for alcohol and other drug abuse problems.

**SECTION 3.** 20.475 (1) (i) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

20.475 (1) (i) *Other employes.* The amounts in the schedule to reimburse Milwaukee County for the costs of clerks necessary for the prosecution of violent crime cases under s. 978.13 (1) (c) and clerks providing clerical services under s. 978.13 (1) (b) to prosecutors handling cases involving felony violations under ch. ~~461~~ 961. All moneys received under s. 814.635 (1m) shall be credited to this appropriation account.

**SECTION 4.** 23.33 (1) (e) of the statutes is amended to read:

23.33 (1) (e) "Controlled substance" has the meaning specified under s. ~~461.04~~ 961.01 (4).

**SECTION 5.** 23.33 (1) (f) of the statutes is created to read:

23.33 (1) (f) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 6.** 23.33 (1) (i) of the statutes is amended to read:

23.33 (1) (i) "Intoxicant" means any alcohol beverage, controlled substance, controlled substance analog or other drug or any combination thereof.

**SECTION 7.** 23.33 (13) (e) of the statutes is amended to read:

23.33 (13) (e) (title) *Alcohol ~~or~~ controlled substances or controlled substance analogs; assessment.* In addition to any other penalty or order, a person who violates sub. (4c) (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25 if the violation involves the operation of an all-terrain vehicle, shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol ~~or~~ controlled substances or controlled substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

**SECTION 8.** 30.50 (3g) of the statutes is amended to read:

30.50 (3g) "Controlled substance" has the meaning specified under s. ~~461.04~~ 961.01 (4).

**SECTION 9.** 30.50 (3h) of the statutes is created to read:

30.50 (3h) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 10.** 30.50 (4e) of the statutes is amended to read:

30.50 (4e) "Intoxicant" means any alcohol beverage, controlled substance, controlled substance analog or other drug or any combination thereof.

**SECTION 11.** 30.80 (6) (d) of the statutes is amended to read:

30.80 (6) (d) (title) *Alcohol ~~or~~ controlled substances or controlled substance analogs; examination.* In addition to any other penalty or order, a person who violates s. 30.681 (1) or (2) or 30.684 (5) or who violates s. 940.09 or 940.25 if the violation involves the operation of a motorboat, shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol ~~or~~ controlled substances or controlled substance analogs. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

**SECTION 12.** 36.11 (21) of the statutes is amended to read:

36.11 (21) (title) CONTROLLED SUBSTANCES AND CONTROLLED SUBSTANCE ANALOGS; DISCIPLINE. Any student who engages in an activity, on campus or at an event sponsored by a center or institution or by the system, that constitutes a violation of ch. ~~461~~ 961 is subject to nonacademic misconduct disciplinary sanctions, as provided by the board by rule. In determining the appropriate sanction, the board or its designee shall consider those penalties, including suspension and expulsion, that will contribute most effectively to maintaining a system environment that is free from controlled substances, as defined in s. ~~461.04~~ 961.01 (4), and controlled substance analogs, as defined in s. 961.01 (4m).

**SECTION 13.** 38.12 (10) of the statutes is amended to read:

38.12 (10) (title) CONTROLLED SUBSTANCES AND CONTROLLED SUBSTANCE ANALOGS; DISCIPLINE. Each district board shall adopt rules providing nonacademic misconduct disciplinary sanctions for any student who engages in an activity, on district premises or at a district-sponsored event, that constitutes a violation of ch. ~~461~~ 961. In determining the appropriate sanction, the district board or its designee shall consider those penalties, including suspension and expulsion, that will contribute most effectively to maintaining a school environment free from controlled substances, as defined in s. ~~461.04~~ 961.01 (4), and controlled substance analogs, as defined in s. 961.01 (4m).

**SECTION 14.** 46.03 (18) (fm) of the statutes is amended to read:

46.03 (18) (fm) Notwithstanding par. (a), any person who submits to an assessment under s. ~~461.472~~ 961.472 shall pay a fee to the appropriate county department under s. 51.42. The department of health and social services shall set fees for each county department under s. 51.42 designed to offset all the costs to the county in providing the assessment program. The department of health and social services shall provide for the reduction or waiver of the fee for persons who are unable to pay the complete fee.

**SECTION 15.** 46.238 (title) of the statutes is amended to read:

**46.238** (title) **Infants whose mothers abuse controlled substances or controlled substance analogs.**

**SECTION 16.** 46.60 (title) of the statutes is renumbered 961.34 (title).

**SECTION 17.** 46.60 (1) of the statutes is repealed.

**SECTION 18.** 46.60 (2) (title) of the statutes is repealed.

**SECTION 19.** 46.60 (2) of the statutes is renumbered 961.34 and amended to read:

961.34 Upon the request of any practitioner, the controlled substances board shall aid the practitioner in applying for and processing an investigational drug per-

mit for marijuana under 21 USC 355 (i). If the federal food and drug administration issues an investigational drug permit, the controlled substances board shall approve which pharmacies can distribute the marijuana to patients upon written prescription. Only pharmacies located within hospitals are eligible to receive the marijuana for distribution. The controlled substances board shall also approve which practitioners can write prescriptions for the marijuana.

**SECTION 20.** 46.715 (1) (intro.) of the statutes is amended to read:

46.715 (1) (intro.) Within the limits of the availability of federal funds, the department shall, from the appropriation under s. 20.435 (7) (mb), award not more than \$1,200,000 in each fiscal year to fund programs to limit violence and abuse of controlled substances and controlled substance analogs in neighborhoods, including funding for the creation of Wisconsin against drug environments centers and for the use of neighborhood organizers, culturally representative alcohol and other drug abuse trainers, community speakers and persons to monitor certain court actions, as grants to any of the following applying entities:

**SECTION 21.** 46.973 (1) (a) of the statutes is amended to read:

46.973 (1) (a) "Drug" means a controlled substance, as defined in s. ~~461.01~~ 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).

**SECTION 22.** 46.973 (2m) (c) 2. of the statutes is amended to read:

46.973 (2m) (c) 2. The use and abuse of each controlled ~~substances~~ substance or controlled substance analog specified in ch. ~~464~~ 961.

**SECTION 23.** 48.02 (1e) of the statutes is amended to read:

48.02 (1e) "Alcohol and other drug abuse impairment" means a condition of a person which is exhibited by characteristics of habitual lack of self-control in the use of alcohol beverages ~~or~~ controlled substances or controlled substance analogs to the extent that the person's health is substantially affected or endangered or the person's social or economic functioning is substantially disrupted.

**SECTION 24.** 48.02 (2d) of the statutes is amended to read:

48.02 (2d) "Controlled substance" has the meaning given in s. ~~461.01~~ 961.01 (4).

**SECTION 25.** 48.02 (2e) of the statutes is created to read:

48.02 (2e) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 26.** 48.17 (2) (c) of the statutes is amended to read:

48.17 (2) (c) The citation procedures described in ch. 800 shall govern proceedings involving children in municipal court, except that this chapter shall govern the

taking and holding of a child in custody. When a child is before the court assigned to exercise jurisdiction under this chapter upon a citation alleging the child to have violated a civil law or municipal ordinance, the procedures specified in s. 48.237 shall apply. If a citation is issued to a child, the issuing agency shall notify the child's parent or guardian within 7 days. The agency issuing a citation to a child who is 12 to 15 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those statutes shall send a copy to an intake worker under s. 48.24 for informational purposes only.

**SECTION 27.** 48.17 (2) (d) of the statutes is amended to read:

48.17 (2) (d) If a municipal court finds that the child violated a municipal ordinance other than an ordinance enacted under s. 118.163 or an ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders permitted under s. 48.343 (1), (2), (4), (5), (6), (7) or (8). If a child fails to pay the forfeiture imposed by the municipal court, the court shall not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 nor more than 90 days, or suspend the child's operating privilege, as defined in s. 340.01 (40), for not less than 30 nor more than 90 days. If a court suspends a license or privilege under this section, the court shall immediately take possession of the applicable license and forward it to the department that issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify the department, which shall thereupon return the license to the person.

**SECTION 28.** 48.17 (2) (e) of the statutes is amended to read:

48.17 (2) (e) If a municipal court finds that a child violated a municipal ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order under s. 48.344.

**SECTION 29.** 48.18 (1) (a) 1. of the statutes is amended to read:

48.18 (1) (a) 1. If the child is alleged to have attempted to violate s. 940.01 on or after the child's 14th birthday or is alleged to have violated s. ~~161.41 (1), 940.01, 940.02, 940.05, 940.06, 940.225 (1), 940.305, 940.31 or~~ 943.10 (2) or 961.41 (1) on or after the child's 14th birthday.

**SECTION 30.** 48.18 (1) (a) 2. of the statutes is amended to read:

48.18 (1) (a) 2. If the child is alleged to have committed, on or after the child's 14th birthday, a violation, at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would constitute a felony under ~~ch. 161 or under~~ chs. 939 to 948 or 961 if committed by an adult.

**SECTION 31.** 48.24 (2m) (a) 1. of the statutes is amended to read:

48.24 (2m) (a) 1. Any child alleged to have committed a violation specified under ch. ~~161~~ 961.

**SECTION 32.** 48.24 (2m) (a) 3. of the statutes is amended to read:

48.24 (2m) (a) 3. Any child alleged to have committed any offense which appears to the intake worker to be directly motivated by the child's need to purchase or otherwise obtain alcohol beverages ~~or~~ controlled substances or controlled substance analogs.

**SECTION 33.** 48.245 (2) (a) 3. of the statutes is amended to read:

48.245 (2) (a) 3. That the child submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 48.547 (4) and that is conducted by an approved treatment facility for an examination of the child's use of alcohol beverages ~~or~~ controlled substances or controlled substance analogs and any medical, personal, family or social effects caused by its use, if the multidisciplinary screen conducted under s. 48.24 (2) shows that the child is at risk of having needs and problems related to the use of alcohol beverages ~~or~~ controlled substances or controlled substance analogs and its medical, personal, family or social effects.

**SECTION 34.** 48.245 (2) (a) 4. of the statutes is amended to read:

48.245 (2) (a) 4. That the child participate in an alcohol and other drug abuse outpatient treatment program or an education program relating to the abuse of alcohol beverages ~~or~~ controlled substances or controlled substance analogs, if an alcohol and other drug abuse assessment conducted under subd. 3. recommends outpatient treatment or education.

**SECTION 35.** 48.295 (1c) (b) of the statutes is amended to read:

48.295 (1c) (b) The child was adjudicated delinquent on the basis of an offense specified in ch. ~~161~~ 961.

**SECTION 36.** 48.295 (1c) (c) of the statutes is amended to read:

48.295 (1c) (c) The greater weight of the evidence at a fact-finding hearing indicates that any offense which formed the basis for the adjudication was motivated by the child's need to purchase or otherwise obtain alcohol beverages ~~or~~ controlled substances or controlled substance analogs.

**SECTION 37.** 48.295 (1g) of the statutes is amended to read:

48.295 (1g) If the court orders an alcohol or other drug abuse assessment under sub. (1), the approved treat-

ment facility shall, within 14 days after the court order, report the results of the assessment to the court, except that, upon request by the approved treatment facility and if the child is not held in secure or nonsecure custody, the court may extend the period for assessment for not more than 20 additional working days. The report shall include a recommendation as to whether the child is in need of treatment for abuse of alcohol beverages ~~or~~ controlled substances or controlled substance analogs or education relating to the use of alcohol beverages ~~and~~ controlled substances and controlled substance analogs and, if so, shall recommend a service plan and an appropriate treatment, from an approved treatment facility, or a court-approved education program.

**SECTION 38.** 48.31 (4) of the statutes is amended to read:

48.31 (4) The court or jury shall make findings of fact and the court shall make conclusions of law relating to the allegations of a petition filed under s. 48.13 (1) to (11m). In cases alleging a child to be in need of protection or services under s. 48.13 (11), the court shall not find that the child is suffering serious emotional damage unless a licensed physician specializing in psychiatry or a licensed psychologist appointed by the court to examine the child has testified at the hearing that in his or her opinion the condition exists, and adequate opportunity for the cross-examination of the physician or psychologist has been afforded. The judge may use the written reports if the right to have testimony presented is voluntarily, knowingly and intelligently waived by the guardian ad litem or legal counsel for the child and the parent or guardian. In cases alleging a child to be in need of protection and services under s. 48.13 (11m), the court shall not find that the child is in need of treatment and education for needs and problems related to the use or abuse of alcohol beverages ~~or~~ controlled substances or controlled substance analogs and its medical, personal, family or social effects unless an assessment for alcohol and other drug abuse that conforms to the criteria specified under s. 48.547 (4) has been conducted by an approved treatment facility. In cases alleging a child delinquent or in need of protection or services under s. 48.13 (12) the court shall make findings relating to the proof of the violation of law and to the proof that the child named in the petition committed the violation alleged.

**SECTION 39.** 48.31 (4) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (this act), is repealed and recreated to read:

48.31 (4) The court or jury shall make findings of fact and the court shall make conclusions of law relating to the allegations of a petition filed under s. 48.13. In cases alleging a child to be in need of protection or services under s. 48.13 (11), the court shall not find that the child is suffering serious emotional damage unless a licensed physician specializing in psychiatry or a licensed psychologist appointed by the court to examine the child has

testified at the hearing that in his or her opinion the condition exists, and adequate opportunity for the cross-examination of the physician or psychologist has been afforded. The judge may use the written reports if the right to have testimony presented is voluntarily, knowingly and intelligently waived by the guardian ad litem or legal counsel for the child and the parent or guardian. In cases alleging a child to be in need of protection and services under s. 48.13 (11m), the court shall not find that the child is in need of treatment and education for needs and problems related to the use or abuse of alcohol beverages, controlled substances or controlled substance analogs and its medical, personal, family or social effects unless an assessment for alcohol and other drug abuse that conforms to the criteria specified under s. 48.547 (4) has been conducted by an approved treatment facility.

**SECTION 40.** 48.32 (1g) (intro.) of the statutes is amended to read:

48.32 (1g) (intro.) If the petition alleges that the child committed a violation specified under ch. ~~461.961~~ and if the multidisciplinary screen conducted under s. 48.24 (2) shows that the child is at risk of having needs and problems related to the use of alcohol beverages ~~or~~ controlled substances or controlled substance analogs and its medical, personal, family and social effects, the judge or juvenile court commissioner may establish as a condition under sub. (1) any of the following:

**SECTION 41.** 48.34 (4r) (a) of the statutes is amended to read:

48.34 (4r) (a) In addition to any other dispositions imposed under this section, if the child is found to have violated ch. ~~461.961~~, the judge shall suspend or revoke the child's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall immediately take possession of any suspended or revoked license and forward it to the department of transportation together with the notice of suspension or revocation clearly stating that the suspension or revocation is for a violation of ch. ~~461.961~~.

**SECTION 42.** 48.34 (4r) (b) of the statutes is amended to read:

48.34 (4r) (b) This subsection does not apply to violations under s. ~~461.573 (2), 461.574 (2) or 461.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

**SECTION 43.** 48.34 (4s) (a) (intro.) of the statutes is amended to read:

48.34 (4s) (a) (intro.) In addition to any other dispositions imposed under this section, if the child is found to have violated s. ~~461.41 (2r), (3), (3m), (3n), (3p) or (3r)~~ 961.41 (3g), the judge shall order one of the following penalties:

**SECTION 44.** 48.34 (4s) (am) (intro.) of the statutes is amended to read:

48.34 (4s) (am) (intro.) In addition to any other dispositions imposed under this section, if the child is found

to have violated s. ~~461.41 961.41~~ (1) or (1m), the judge shall order one of the following penalties:

**SECTION 45.** 48.34 (7m) of the statutes is amended to read:

48.34 (7m) If the child is adjudicated delinquent under a violation of s. ~~461.41 (2r), (3), (3m), (3n), (3p) or (3r)~~ 961.41 (3g) by possessing or attempting to possess a controlled substance ~~listed~~ included in schedule I or II under ch. ~~461.961~~ or a controlled substance analog of a controlled substance included in schedule I or II under ch. 961 while in or on the premises of a scattered-site public housing project, as defined in s. ~~461.01 961.01~~ (20i), while in or otherwise within 1,000 feet of a state, county, city, village or town park, a jail or correctional facility, as defined in s. ~~461.01 961.01~~ (12m), a multiunit public housing project, as defined in s. ~~461.01 961.01~~ (14m), a swimming pool open to members of the public, a youth center, as defined in s. ~~461.01 961.01~~ (22), or a community center, while on or otherwise within 1,000 feet of any private or public school premises or while on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the judge shall require that the child participate for 100 hours in a supervised work program under sub. (9) or perform 100 hours of other community service work.

**SECTION 46.** 48.34 (13) (a) of the statutes, as affected by 1993 Wisconsin Act 377, is amended to read:

48.34 (13) (a) If the report prepared under s. 48.33 (1) recommends that the child is in need of treatment for the use or abuse of alcohol beverages ~~or~~ controlled substances or controlled substance analogs and its medical, personal, family or social effects, the court may order the child to enter an outpatient alcohol and other drug abuse treatment program at an approved treatment facility. The approved treatment facility shall, under the terms of a service agreement between the county and the approved treatment facility, or with the written informed consent of the child or the child's parent if the child has not attained the age of 12, report to the agency primarily responsible for providing services to the child as to whether the child is cooperating with the treatment and whether the treatment appears to be effective.

**SECTION 47.** 48.34 (13) (b) of the statutes, as affected by 1993 Wisconsin Act 377, is amended to read:

48.34 (13) (b) If the report prepared under s. 48.33 (1) recommends that the child is in need of education relating to the use of alcohol beverages ~~or~~ controlled substances or controlled substance analogs, the court may order the child to participate in an alcohol or other drug abuse education program approved by the court. The person or agency that provides the education program shall, under the terms of a service agreement between the county and the education program, or with the written informed consent of the child or the child's parent if the child has not attained the age of 12, report to the agency primarily

responsible for providing services to the child about the child's attendance at the program.

**SECTION 48.** 48.343 (10) (intro.) of the statutes is amended to read:

48.343 (10) (intro.) If the violation is related to the use or abuse of alcohol beverages or controlled substances or controlled substance analogs, order the child to do any of the following:

**SECTION 49.** 48.344 (2e) (a) (intro.) of the statutes is amended to read:

48.344 (2e) (a) (intro.) If a court finds a child committed a violation under s. ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2), or a local ordinance that strictly conforms to one of those statutes, it shall suspend or revoke the child's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

**SECTION 50.** 48.344 (2e) (b) of the statutes is amended to read:

48.344 (2e) (b) Whenever a court suspends or revokes a child's operating privilege under this subsection, the court shall immediately take possession of any suspended or revoked license and forward it to the department of transportation, together with the notice of suspension or revocation clearly stating that the suspension or revocation is for a violation under s. ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2), or a local ordinance that strictly conforms to one of those statutes.

**SECTION 51.** 48.344 (3) of the statutes is amended to read:

48.344 (3) If the child alleged to have committed the violation is within 3 months of his or her 18th birthday, the court assigned to exercise jurisdiction under this chapter may, at the request of the district attorney or on its own motion, dismiss the citation without prejudice and refer the matter to the district attorney for prosecution under s. 125.07 (4). The child is entitled to a hearing only on the issue of his or her age. This subsection does not apply to violations under s. ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

**SECTION 52.** 48.345 (13) (a) of the statutes, as affected by 1995 Wisconsin Act 77, section 263, is amended to read:

48.345 (13) (a) If the report prepared under s. 48.33 (1) recommends that the child is in need of treatment for the use or abuse of alcohol beverages or controlled substances or controlled substance analogs and its medical, personal, family or social effects, the court may order the child to enter an outpatient alcohol and other drug abuse treatment program at an approved treatment facility. The approved treatment facility shall, under the terms of a service agreement between the county and the approved

treatment facility, or with the written informed consent of the child or the child's parent if the child has not attained the age of 12, report to the agency primarily responsible for providing services to the child as to whether the child is cooperating with the treatment and whether the treatment appears to be effective.

**SECTION 53.** 48.345 (13) (b) of the statutes, as affected by 1995 Wisconsin Act 77, section 263, is amended to read:

48.345 (13) (b) If the report prepared under s. 48.33 (1) recommends that the child is in need of education relating to the use of alcohol beverages or controlled substances or controlled substance analogs, the court may order the child to participate in an alcohol or other drug abuse education program approved by the court. The person or agency that provides the education program shall, under the terms of a service agreement between the county and the education program, or with the written informed consent of the child or the child's parent if the child has not attained the age of 12, report to the agency primarily responsible for providing services to the child about the child's attendance at the program.

**SECTION 54.** 48.396 (1m) of the statutes is amended to read:

48.396 (1m) If requested by the school district administrator of a public school district, a law enforcement agency may provide to the school district administrator any information in its records relating to the use, possession or distribution of alcohol or a controlled substance or a controlled substance analog by a pupil enrolled in the public school district. The information may be used by the school district only as provided under s. 118.127 (2). In this subsection, "controlled substance" has the meaning given in s. ~~161.01 961.01 (4)~~, and "controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 55.** 48.396 (2) (c) of the statutes is amended to read:

48.396 (2) (c) Upon request of a law enforcement agency to review court records for the purpose of investigating a crime that might constitute criminal gang activity, as defined in s. 941.38 (1) (b), the court shall open for inspection by authorized representatives of the law enforcement agency the records of the court relating to any child who has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under ~~ch. 161 or under chs. 939 to 948~~ or 961 if committed by an adult.

**SECTION 56.** 48.396 (7) (b) of the statutes is amended to read:

48.396 (7) (b) If a child is found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under ~~ch. 161 or under chs. 939 to 948~~ or 961 if committed by an adult and is adjudged delinquent

on that basis, within 5 days after the date on which the dispositional order is entered the court clerk shall notify the principal of the child's school and the school board of the school district in which the child is enrolled of the fact that the child has been adjudicated delinquent on that basis.

**SECTION 57.** 48.547 (1) of the statutes is amended to read:

48.547 (1) **LEGISLATIVE FINDINGS AND PURPOSE.** The legislature finds that the use and abuse of alcohol and other drugs by children is a state responsibility of state-wide dimension. The legislature recognizes that there is a lack of adequate procedures to screen, assess and treat children for alcohol and other drug abuse. To reduce the incidence of alcohol and other drug abuse by children, the legislature deems it necessary to experiment with solutions to the problems of the use and abuse of alcohol and other drugs by children by establishing a juvenile alcohol and other drug abuse pilot program in a limited number of counties. The purpose of the program is to develop intake and court procedures that screen, assess and give new dispositional alternatives for children with needs and problems related to the use of alcohol beverages or controlled substances or controlled substance analogs who come within the jurisdiction of a court assigned to exercise jurisdiction under this chapter in the pilot counties selected by the department.

**SECTION 58.** 48.547 (1) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (this act), is repealed and recreated to read:

48.547 (1) **LEGISLATIVE FINDINGS AND PURPOSE.** The legislature finds that the use and abuse of alcohol and other drugs by children is a state responsibility of state-wide dimension. The legislature recognizes that there is a lack of adequate procedures to screen, assess and treat children for alcohol and other drug abuse. To reduce the incidence of alcohol and other drug abuse by children, the legislature deems it necessary to experiment with solutions to the problems of the use and abuse of alcohol and other drugs by children by establishing a juvenile alcohol and other drug abuse pilot program in a limited number of counties. The purpose of the program is to develop intake and court procedures that screen, assess and give new dispositional alternatives for children with needs and problems related to the use of alcohol beverages, controlled substances or controlled substance analogs who come within the jurisdiction of a court assigned to exercise jurisdiction under this chapter and ch. 938 in the pilot counties selected by the department.

**SECTION 59.** 59.07 (107) of the statutes is amended to read:

59.07 (107) **POSSESSION OF MARIJUANA.** Enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in s. ~~161.01~~ 961.01 (14), subject to the exceptions in s. ~~161.41 (3r)~~ 961.41 (3g) (intro.), and provide a forfeiture for a violation of the

ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this state shall not be prosecuted under this subsection. Any ordinance enacted under this subsection does not apply in any city, village or town that has enacted an ordinance prohibiting the possession of marijuana.

**SECTION 60.** 59.20 (5) (b) of the statutes is amended to read:

59.20 (5) (b) For all court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 for the penalty assessment surcharge, the amounts required by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for the crime victim and witness assistance surcharge, the amounts required by s. 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by s. ~~161.41~~ 961.41 (5) for the drug abuse program improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 (1) for the domestic abuse assessment, the amounts required by s. 346.655 (2) (a) and (b) for the driver improvement surcharge, the amounts required by s. 102.85 (4) for the uninsured employer assessment, the amounts required by s. 144.992 for the environmental assessment, the amounts required by s. 29.9965 for the wild animal protection assessment, the amounts required by s. 29.997 for the natural resources assessment surcharge, the amounts required by s. 29.9967 for the fishing shelter removal assessment, the amounts required by s. 350.115 for the snowmobile registration restitution payment and the amounts required by s. 29.998 for natural resources restitution payments, transmit to the state treasurer a statement of all moneys required by law to be paid on the actions so entered during the preceding month on or before the first day of the next succeeding month, certified by the treasurer's personal signature affixed or attached thereto, and at the same time pay to the state treasurer the amount thereof.

**SECTION 61.** 59.395 (5) of the statutes is amended to read:

59.395 (5) Pay monthly to the county treasurer for the use of the state the state's percentage of the fees required to be paid on each civil action, criminal action and special proceeding filed during the preceding month and pay monthly to the county treasurer for the use of the state the percentage of court imposed fines and forfeitures required by law to be deposited in the state treasury, the amounts required by s. 165.87 (2) (b) for the penalty assessment surcharge, the amounts required by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for the crime victim and witness assistance surcharge, the amounts required by s. 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by s. ~~161.41~~ 961.41 (5) for the drug abuse pro-

gram improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by s. 346.655 for the driver improvement surcharge, the amounts required by s. 102.85 (4) for the uninsured employer assessment, the amounts required by s. 144.992 for the environmental assessment, the amounts required under s. 29.9965 for the wild animal protection assessment, the amounts required under s. 29.997 (1) (d) for the natural resources assessment surcharge, the amounts required by s. 29.9967 for the fishing shelter removal assessment, the amounts required by s. 350.115 for the snowmobile registration restitution payment and the amounts required under s. 29.998 (1) (d) for the natural resources restitution payments. The payments shall be made by the 15th day of the month following receipt thereof.

**SECTION 62.** 60.23 (21) of the statutes is amended to read:

60.23 (21) DRUG PARAPHERNALIA. Adopt an ordinance to prohibit conduct that is the same as that prohibited by s. ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2).

**SECTION 63.** 66.051 (1) (bm) of the statutes is amended to read:

66.051 (1) (bm) Enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in s. ~~161.04 961.01~~ (14), subject to the exceptions in s. ~~161.41 (3r)~~ 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this state shall not be prosecuted under this paragraph; and

**SECTION 64.** 100.182 (4) of the statutes is amended to read:

100.182 (4) No person may advertise a drug that the person knows is intentionally manufactured substantially to resemble a controlled substance or that the person represents to be of a nature, appearance or effect that will allow the recipient to display, sell, deliver, distribute or use the drug as a controlled substance, unless the drug is controlled under ch. ~~161 961~~.

**SECTION 65.** 100.37 (1) (hm) of the statutes is amended to read:

100.37 (1) (hm) "Practitioner" has the meaning given in s. ~~161.04 961.01~~ (19).

**SECTION 66.** 101.22 (1m) (g) of the statutes is amended to read:

101.22 (1m) (g) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" does not include the current illegal use of a controlled substance, as defined in s. ~~161.04 961.01~~ (4),

or a controlled substance analog, as defined in s. ~~961.01 (4m)~~, unless the individual is participating in a supervised drug rehabilitation program.

**SECTION 67.** 102.58 of the statutes is amended to read:

**102.58 Decreased compensation.** If injury is caused by the failure of the employe to use safety devices which are provided in accordance with any statute or lawful order of the department and are adequately maintained, and the use of which is reasonably enforced by the employer, or if injury results from the employe's failure to obey any reasonable rule adopted and reasonably enforced by the employer for the safety of the employe and of which the employe has notice, or if injury results from the intoxication of the employe by alcohol beverages, as defined in s. 125.02 (1), or use of a controlled substance, as defined in s. ~~161.04 961.01~~ (4), or a controlled substance analog, as defined in s. ~~961.01 (4m)~~, the compensation and death benefit provided in this chapter shall be reduced 15% but the total reduction may not exceed \$15,000.

**SECTION 68.** 106.04 (1m) (g) of the statutes, as affected by 1995 Wisconsin Act 27, section 3687, is amended to read:

106.04 (1m) (g) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" does not include the current illegal use of a controlled substance, as defined in s. ~~161.04 961.01~~ (4), or a controlled substance analog, as defined in s. ~~961.01 (4m)~~, unless the individual is participating in a supervised drug rehabilitation program.

**SECTION 69.** 106.215 (1) (cg) of the statutes, as affected by 1995 Wisconsin Act 27, section 239d, is amended to read:

106.215 (1) (cg) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" includes any physical disability or developmental disability, as defined in s. 51.01 (5) (a). "Disability" does not include the current illegal use of a controlled substance, as defined in s. ~~161.04 961.01~~ (4), or a controlled substance analog, as defined in s. ~~961.01 (4m)~~, unless the individual is participating in a supervised drug rehabilitation program.

**SECTION 70.** 108.04 (5) of the statutes is amended to read:

108.04 (5) DISCHARGE FOR MISCONDUCT. An employe whose work is terminated by an employing unit for misconduct connected with the employe's work is ineligible to receive benefits until 7 weeks have elapsed since the end of the week in which the discharge occurs and the employe earns wages after the week in which the discharge occurs equal to at least 14 times the employe's

weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment compensation law of any state or the federal government. For purposes of requalification, the employee's weekly benefit rate shall be that rate which would have been paid had the discharge not occurred. The wages paid to an employe by an employer which terminates employment of the employe for misconduct connected with the employe's employment shall be excluded from the employe's base period wages under s. 108.06 (1) for purposes of benefit entitlement. The department shall, by rule, prescribe the conditions under which an employe's possession, use or impairment due to use of a controlled substance, as defined in s. ~~461.04 961.01~~ (4), or a controlled substance analog, as defined in s. 961.01 (4m), or an employe's violation of a work rule relating to controlled substances testing constitutes misconduct. This subsection does not preclude an employe who has employment with an employer other than the employer which terminated the employe for misconduct from establishing a benefit year using the base period wages excluded under this subsection if the employe qualifies to establish a benefit year under s. 108.06 (2) (a). The department shall charge to the fund's balancing account any benefits otherwise chargeable to the account of an employer that is subject to the contribution requirements under ss. 108.17 and 108.18 from which base period wages are excluded under this subsection.

**SECTION 71.** 108.04 (6) of the statutes is amended to read:

108.04 (6) DISCIPLINARY SUSPENSION. An employe whose work is suspended by an employing unit for good cause connected with the employe's work is ineligible to receive benefits until 3 weeks have elapsed since the end of the week in which the suspension occurs or until the suspension is terminated, whichever occurs first. The department shall, by rule, prescribe the conditions under which an employe's possession, use or impairment due to use of a controlled substance, as defined in s. ~~461.04 961.01~~ (4), or a controlled substance analog, as defined in s. 961.01 (4m), or an employe's violation of a work rule relating to controlled substances testing constitutes good cause for suspension. This subsection does not preclude an employe from establishing a benefit year during a period in which the employe is ineligible to receive benefits under this subsection if the employe qualifies to establish a benefit year under s. 108.06 (2) (a).

**SECTION 72.** 111.335 (1) (cs) 1. of the statutes is amended to read:

111.335 (1) (cs) 1. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. ~~461.44 961.41~~ (1).

**SECTION 73.** 111.335 (1) (cs) 2. of the statutes is amended to read:

111.335 (1) (cs) 2. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under s. ~~461.44 961.41~~ (1m).

**SECTION 74.** 111.335 (1) (cs) 3. of the statutes is amended to read:

111.335 (1) (cs) 3. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law that is substantially similar to s. ~~461.44 961.41~~ (1) or (1m).

**SECTION 75.** 111.335 (1) (cs) 4. of the statutes is amended to read:

111.335 (1) (cs) 4. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under the law of another state that is substantially similar to s. ~~461.44 961.41~~ (1) or (1m).

**SECTION 76.** 111.37 (5) (c) of the statutes is amended to read:

111.37 (5) (c) Except as provided in sub. (6), this section does not prohibit the use of a polygraph test by an employer that is authorized to manufacture, distribute or dispense a controlled substance ~~listed~~ included in schedule I, II, III, IV or V under ch. ~~464 961~~ if the test is administered to a prospective employe who would have direct access to the manufacture, storage, distribution or sale of the controlled substance or to a current employe if the test is administered in connection with an ongoing investigation of criminal or other misconduct that involves, or potentially involves, loss or injury to the manufacture, distribution or dispensing of the controlled substance by that employer and the employe had access to the person or property that is the subject of the investigation.

**SECTION 77.** 114.09 (1) (b) of the statutes is amended to read:

114.09 (1) (b) No person may operate an aircraft in the air or on the ground or water while under the influence of intoxicating liquor or controlled substances or controlled substance analogs under ch. ~~464 961~~ or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely operating an aircraft, or under the combined influence of intoxicating liquor and any other drug to a degree which renders him or her incapable of safely operating an aircraft, nor operate an aircraft in the air or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In determining whether the operation was careless or reckless the court shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics. The court shall make a written report of all convictions, including bail or appearance money forfeitures, obtained under this section to the department, which shall send the report to the proper federal agency.

**SECTION 78.** 114.103 (1) (a) of the statutes is amended to read:

114.103 (1) (a) "Controlled substance" has the meaning given in s. ~~461.01 961.01~~ (4).

**SECTION 79.** 114.103 (1) (am) of the statutes is created to read:

114.103 (1) (am) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 80.** 114.103 (2) (a) of the statutes is amended to read:

114.103 (2) (a) If any private security person acting in the course of his or her employment at an airport believes, on the basis of personal observation, that someone possesses a controlled substance or a controlled substance analog, without a prescription or an authorization for that possession, or possesses \$10,000 or more in cash or that a shipment contains a controlled substance or controlled substance analog or \$10,000 or more in cash, the private security person shall report, as soon as practicable and by telephone or in person, to the county sheriff's office or the police department of the municipality in which the airport is located.

**SECTION 81.** 115.35 (1) of the statutes is amended to read:

115.35 (1) A critical health problems education program is established in the department. The program shall be a systematic and integrated program designed to provide appropriate learning experiences based on scientific knowledge of the human organism as it functions within its environment and designed to favorably influence the health, understanding, attitudes and practices of the individual child which will enable him or her to adapt to changing health problems of our society. The program shall be designed to educate youth with regard to critical health problems and shall include, but not be limited to, the following topics as the basis for comprehensive education curricula in all elementary and secondary schools: controlled substances, as defined in s. ~~461.01 961.01~~ (4); controlled substance analogs, as defined in s. 961.01 (4m); alcohol; tobacco; mental health; sexually transmitted diseases, including acquired immunodeficiency syndrome; human growth and development; and related health and safety topics. Participation in the human growth and development topic of the curricula shall be entirely voluntary. The department may not require a school board to use a specific human growth and development curriculum.

**SECTION 82.** 118.01 (2) (d) 2. c. of the statutes is amended to read:

118.01 (2) (d) 2. c. Knowledge of physiology and hygiene, sanitation, the effects of controlled substances under ch. ~~461 961~~ and alcohol upon the human system, symptoms of disease and the proper care of the body. No pupil may be required to take instruction in these subjects if his or her parent files with the teacher a written objection thereto. Instruction in physiology and hygiene shall

include instruction on sexually transmitted diseases and shall be offered in every high school.

**SECTION 83.** 118.01 (2) (d) 6. of the statutes is amended to read:

118.01 (2) (d) 6. Knowledge of the prevention of accidents and promotion of safety on the public highways, including instruction on the relationship between highway safety and the use of alcohol and controlled substances under ch. ~~461 961~~.

**SECTION 84.** 118.01 (2) (d) 7. of the statutes is amended to read:

118.01 (2) (d) 7. The skills needed to make sound decisions, knowledge of the conditions which may cause and the signs of suicidal tendencies, knowledge of the relationship between youth suicide and the use of alcohol and controlled substances under ch. ~~461 961~~ and knowledge of the available community youth suicide prevention and intervention services. Instruction shall be designed to help prevent suicides by pupils by promoting the positive emotional development of pupils.

**SECTION 85.** 118.257 (1) (a) of the statutes is amended to read:

118.257 (1) (a) "Controlled substance" has the meaning specified in s. ~~461.01 961.01~~ (4).

**SECTION 86.** 118.257 (1) (am) of the statutes is created to read:

118.257 (1) (am) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 86m.** 118.257 (1) (at) of the statutes is created to read:

118.257 (1) (at) "Delivery" has the meaning given in s. 961.01 (6).

**SECTION 87.** 118.257 (1) (b) of the statutes is amended to read:

118.257 (1) (b) "Distribute" has the meaning specified in s. ~~461.01 961.01~~ (9).

**SECTION 88.** 118.257 (2) of the statutes is amended to read:

118.257 (2) A school administrator, principal, pupil services professional or teacher employed by a school board is not liable for referring a pupil enrolled in the school district to law enforcement authorities, or for removing a pupil from the school premises or from participation in a school-sponsored activity, for suspicion of possession, distribution, delivery or consumption of an alcohol beverage or a controlled substance or controlled substance analog.

**SECTION 89.** 125.12 (2) (ag) 5. of the statutes is amended to read:

125.12 (2) (ag) 5. The person has been convicted of manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. ~~461.41 961.41~~ (1); of possessing, with intent to manufacture, distribute or delivery deliver, a controlled substance or controlled substance analog under s. ~~461.41 961.41~~ (1m); ~~or of possessing, with intent to manufacture or deliver, or~~

of manufacturing or delivering a controlled substance under s. 161.41 (1m); or of possessing, with intent to manufacture, distribute or delivery deliver, or of manufacturing, distributing or delivering a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state.

**SECTION 90.** 125.12 (2) (ag) 6. of the statutes is amended to read:

125.12 (2) (ag) 6. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture, distribute or deliver, or to manufacture, distribute or deliver a controlled substance or controlled substance analog.

**SECTION 91.** 125.12 (4) (ag) 7. of the statutes is amended to read:

125.12 (4) (ag) 7. That the licensee has been convicted of manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. ~~161.41~~ 961.41 (1); of possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under s. ~~161.41~~ 961.41 (1m); or of possessing, with intent to manufacture, distribute or deliver, or of manufacturing, distributing or delivering a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state.

**SECTION 92.** 125.12 (4) (ag) 8. of the statutes is amended to read:

125.12 (4) (ag) 8. That the licensee knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture, distribute or deliver, or to manufacture, distribute or deliver a controlled substance or controlled substance analog.

**SECTION 93.** 139.34 (1) (c) 3. of the statutes is amended to read:

139.34 (1) (c) 3. The person is addicted to the use of a controlled substance or controlled substance analog under ch. ~~161~~ 961.

**SECTION 94.** 139.37 (1) (c) 3. of the statutes is amended to read:

139.37 (1) (c) 3. Is addicted to the use of a controlled substance or controlled substance analog under ch. ~~161~~ 961;

**SECTION 95.** 139.87 (2) of the statutes is amended to read:

139.87 (2) "Dealer" means a person who in violation of ch. ~~161~~ 961 possesses, manufactures, produces, ships, transports, delivers, distributes, imports, sells or transfers to another person more than 42.5 grams of marijuana material containing tetrahydrocannabinols, more than 5 marijuana plants containing tetrahydrocannabinols, more than 14 grams of mushrooms containing psilocin or psilocybin, more than 100 milligrams of any material

containing lysergic acid diethylamide or more than 7 grams of any other schedule I ~~controlled substance~~ or schedule II controlled substance or of a controlled substance analog of a schedule I or schedule II controlled substance. "Dealer" does not include a person who lawfully possesses ~~marijuana or another~~ a controlled substance or controlled substance analog.

**SECTION 96.** 139.87 (4) of the statutes is repealed.

**SECTION 97.** 139.87 (5) of the statutes is amended to read:

139.87 (5) "Schedule I controlled substance" means a substance listed included in s. ~~161.14~~ 961.14.

**SECTION 98.** 139.87 (6) of the statutes is amended to read:

139.87 (6) "Schedule II controlled substance" means a substance listed included in s. ~~161.16~~ 961.16.

**SECTION 99.** 139.87 (7) of the statutes is created to read:

139.87 (7) "Tetrahydrocannabinols" means a substance included in s. ~~961.14~~ (4) (t).

**SECTION 100.** 139.88 (1) of the statutes is amended to read:

139.88 (1) Per gram or part of a gram of marijuana material containing tetrahydrocannabinols, whether pure or impure, measured when in the dealer's possession, \$3.50.

**SECTION 101.** 139.88 (1d) of the statutes is amended to read:

139.88 (1d) Per marijuana plant containing tetrahydrocannabinols, regardless of weight, counted when in the dealer's possession, \$1,000.

**SECTION 102.** 146.0255 (title) of the statutes is amended to read:

**146.0255 (title) Testing infants for controlled substances or controlled substance analogs.**

**SECTION 103.** 146.0255 (1) of the statutes is renumbered 146.0255 (1) (intro.) and amended to read:

146.0255 (1) (title) ~~DEFINITION DEFINITIONS.~~ (intro.) In this section, "~~controlled~~:"

(a) "Controlled substance" has the meaning given in s. ~~161.01~~ 961.01 (4).

**SECTION 104.** 146.0255 (1) (b) of the statutes is created to read:

146.0255 (1) (b) "Controlled substance analog" has the meaning given in s. ~~961.01~~ (4m).

**SECTION 105.** 146.0255 (2) of the statutes is amended to read:

146.0255 (2) TESTING. Any hospital employe who provides health care, social worker or foster care or treatment foster care intake worker may refer an infant to a physician for testing of the infant's bodily fluids for controlled substances or controlled substance analogs if the hospital employe who provides health care, social worker or foster care or treatment foster care intake worker suspects that the infant has controlled substances or controlled substance analogs in the infant's bodily flu-

ids because of the mother's ingestion of controlled substances or controlled substance analogs while she was pregnant with the infant. The physician may test the infant to ascertain whether or not the infant has controlled substances or controlled substance analogs in the infant's bodily fluids, if the parent or guardian consents to the testing and if the physician determines that there is a serious risk that there are controlled substances or controlled substance analogs in the infant's bodily fluids because of the mother's ingestion of controlled substances or controlled substance analogs while she was pregnant with the infant. If the results of the test indicate that the infant does have controlled substances or controlled substance analogs in the infant's bodily fluids, the physician shall make a report under s. 46.238.

**SECTION 106.** Chapter 161 (title) of the statutes is renumbered chapter 961 (title).

**SECTION 107.** 161.001 (intro.) of the statutes is renumbered 961.001 (intro.).

**SECTION 108.** 161.001 (1) of the statutes is renumbered 961.001 (1r).

**SECTION 109.** 161.001 (2) of the statutes is renumbered 961.001 (2).

**SECTION 110.** 161.001 (3) of the statutes is renumbered 961.001 (3).

**SECTION 111.** Subchapter I (title) of chapter 161 [precedes 161.01] of the statutes is renumbered subchapter I (title) of chapter 961 [precedes 961.01].

**SECTION 112.** 161.01 (intro.) of the statutes is renumbered 961.01 (intro.).

**SECTION 113.** 161.01 (1) of the statutes is renumbered 961.01 (1), and 961.01 (1) (intro.), as renumbered, is amended to read:

961.01 (1) (intro.) "Administer", unless the context otherwise requires, means ~~the direct application of to apply~~ a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

**SECTION 114.** 161.01 (2) of the statutes is renumbered 961.01 (2) and amended to read:

961.01 (2) "Agent", unless the context otherwise requires, means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. ~~It~~ "Agent" does not include a common or contract carrier, public warehouse keeper or employe of the carrier or warehouse keeper while acting in the usual and lawful course of the carrier's or warehouse keeper's business.

**SECTION 115.** 161.01 (3) of the statutes is repealed.

**SECTION 116.** 161.01 (4) of the statutes is renumbered 961.01 (4) and amended to read:

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

**SECTION 117.** 161.01 (5) of the statutes is renumbered 961.01 (5).

**SECTION 118.** 161.01 (6) of the statutes is renumbered 961.01 (6) and amended to read:

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

**SECTION 119.** 161.01 (7) of the statutes is renumbered 961.01 (7).

**SECTION 120.** 161.01 (8) of the statutes is renumbered 961.01 (8).

**SECTION 121.** 161.01 (9) of the statutes is renumbered 961.01 (9) and amended to read:

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

**SECTION 122.** 161.01 (10) of the statutes is renumbered 961.01 (10).

**SECTION 123.** 161.01 (10m) of the statutes is renumbered 961.01 (10m).

**SECTION 124.** 161.01 (11) of the statutes is renumbered 961.01 (11), and 961.01 (11) (a), as renumbered, is amended to read:

961.01 (11) (a) "Drug" means any of the following:

1. ~~Substances~~ A substance recognized as ~~drugs~~ a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary or any supplement to any of them;

2. ~~Substances~~ A substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

3. ~~Substances~~ A substance, other than food, intended to affect the structure or any function of the body of humans or animals; ~~and~~

4. ~~Substances~~ A substance intended for use as a component of any article specified in subd. 1., 2. or 3.

**SECTION 125.** 161.01 (12) of the statutes is renumbered 961.01 (12).

**SECTION 126.** 161.01 (12m) of the statutes is renumbered 961.01 (12m).

**SECTION 127.** 161.01 (13) of the statutes is renumbered 961.01 (13), and 961.01 (13) (intro.), as renumbered, is amended to read:

961.01 (13) (intro.) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of, or to produce, prepare, propagate, compound, convert or process, a controlled substance or controlled substance analog, directly or indirectly, by extraction from substances of natural origin, chemical synthesis or a combination of extraction and chemical synthesis, and includes including to package or repackage or the packaging or repackaging of the substance, or to label or to relabel or the labeling or relabeling of its container. "Manufacture" does not ~~include~~ mean to prepare, compound, package, repackage, label or

relabel or the preparation, compounding, packaging, repackaging, labeling or relabeling of a controlled substance:

**SECTION 128.** 161.01 (14) of the statutes is renumbered 961.01 (14) and amended to read:

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

**SECTION 129.** 161.01 (14m) of the statutes is renumbered 961.01 (14m).

**SECTION 130.** 161.01 (15) (intro.) of the statutes is renumbered 961.01 (15) (intro.).

**SECTION 131.** 161.01 (15) (a) of the statutes is renumbered 961.01 (15) (a) and amended to read:

961.01 (15) (a) Opium and opiate substances derived from opium, and any salt, compound, derivative or preparation of opium or opiate substances derived from opium, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

**SECTION 132.** 161.01 (15) (b) of the statutes is repealed.

**SECTION 133.** 161.01 (15) (c) of the statutes is renumbered 961.01 (15) (c) and amended to read:

961.01 (15) (c) Opium poppy and, poppy straw and concentrate of poppy straw.

**SECTION 134.** 161.01 (16) of the statutes is renumbered 961.01 (16) and amended to read:

961.01 (16) “Opiate” means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It “Opiate” includes opium, substances derived from opium and synthetic opiates. “Opiate” does not include, unless specifically designated scheduled as a controlled substance under s. 461.11 961.11, the dextro-rotatory isomer of 3-methoxy-N-methylmorphinan 3-methoxy-N-methylmorphinan and its salts (dextromethorphan). It “Opiate” does include its the racemic and levorotatory forms of dextromethorphan.

**SECTION 135.** 161.01 (17) of the statutes is renumbered 961.01 (17) and amended to read:

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

**SECTION 136.** 161.01 (18) of the statutes is renumbered 961.01 (18).

**SECTION 137.** 161.01 (19) of the statutes is renumbered 961.01 (19), and 961.01 (19) (a), as renumbered, is amended to read:

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

**SECTION 138.** 161.01 (20) of the statutes is renumbered 961.01 (20) and amended to read:

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

**SECTION 139.** 161.01 (20g) of the statutes is renumbered 961.01 (20g).

**SECTION 140.** 161.01 (20i) of the statutes is renumbered 961.01 (20i).

**SECTION 141.** 161.01 (20m) of the statutes is renumbered 961.01 (2m), and 961.01 (2m) (a), as renumbered, is amended to read:

961.01 (2m) (a) “Anabolic steroid” means any drug or hormonal substance, chemically or pharmacologically related to testosterone (except estrogens, progestin, and corticosteroids), that promotes muscle growth. The term includes all of the substances ~~listed included~~ in s. ~~461.18 961.18~~ (7), and any of their esters, isomers, esters of isomers, salts and salts of esters, isomers and esters of isomers, that are theoretically possible under within the specific chemical designation, and if such esters, isomers, esters of isomers, salts and salts of esters, isomers and esters of isomers promote muscle growth.

**SECTION 142.** 161.01 (21) of the statutes is renumbered 961.01 (21) and amended to read:

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

**SECTION 143.** 161.01 (22) of the statutes is renumbered 961.01 (22).

**SECTION 144.** Subchapter II (title) of chapter 161 [precedes 161.11] of the statutes is renumbered subchapter II (title) of chapter 961 [precedes 961.11].

**SECTION 145.** 161.11 (title) of the statutes is renumbered 961.11 (title).

**SECTION 146.** 161.11 (1) (intro.) of the statutes is renumbered 961.11 (1) (intro.) and amended to read:

961.11 (1) (intro.) The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances ~~enumerated listed~~ in the schedules in ss. ~~161.14, 161.16, 161.18, 161.20 and 161.22~~ 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227.

(1m) In making a determination regarding a substance, the board shall consider the following:

**SECTION 147.** 161.11 (1) (a) to (h) of the statutes are renumbered 961.11 (1m) (a) to (h), and 961.11 (1m) (g), as renumbered, is amended to read:

961.11 (1m) (g) The potential of the substance to produce ~~psychic~~ psychological or physical dependence liability; and

**SECTION 148.** 161.11 (2) of the statutes is renumbered 961.11 (2) and amended to read:

961.11 (2) After considering the factors enumerated in sub. (4) ~~(1m)~~, the controlled substances board shall make findings with respect ~~thereto~~ to them and ~~issue~~ promulgate a rule controlling the substance ~~if it finds upon finding that~~ the substance has a potential for abuse.

**SECTION 149.** 161.11 (3) of the statutes is renumbered 961.11 (3) and amended to read:

961.11 (3) The controlled substances board, without regard to the findings required by sub. (2) or ss. 961.13, 961.15, 961.17, 961.19 and 961.21 or the procedures prescribed by subs. (1), (1m), (1r) and (2), may add an immediate precursor to the same schedule in which the controlled substance of which it is an immediate precursor is included or to any other schedule. If the ~~controlled substances~~ board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

**SECTION 150.** 161.11 (4) of the statutes is renumbered 961.11 (4) and amended to read:

961.11 (4) If ~~any~~ a substance is designated, rescheduled or deleted as a controlled substance under federal law and notice thereof is given to the controlled substances board, the board by affirmative action shall similarly ~~control~~ treat the substance under this chapter after the expiration of 30 days from the date of publication in the federal register of a final order designating a the substance as a controlled substance or rescheduling or deleting a the substance or from the date of issuance of an order of temporary scheduling under 21 USC 811 (h), unless within that 30-day period, the board or an interested party objects to inclusion, rescheduling or deletion. In that case, the treatment of the substance. If no objection is made, the board shall promulgate, without making the determinations or findings required by subs. (1), (1m), (1r) and (2) or s. 961.13, 961.15, 961.17, 961.19 or 961.21, a final rule, for which notice of proposed rule

making is omitted, designating, rescheduling, temporarily scheduling or deleting the substance. If an objection is made the board shall publish notice of receipt of the objection and the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall make a determination with respect to the treatment of the substance as provided in subs. (1), (1m), (1r) and (2) and shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to inclusion, rescheduling or deletion under this chapter the treatment by the board, control action by the board under this chapter is stayed until the board publishes its decision promulgates a rule under sub. (2).

**SECTION 151.** 161.11 (5) of the statutes is renumbered 961.11 (5) and amended to read:

961.11 (5) Authority The authority of the controlled substances board to control under this section does not extend to intoxicating liquors, as defined in s. 139.01 (3), to fermented malt beverages as defined in s. 125.02, or to tobacco.

**SECTION 152.** 161.11 (6) of the statutes is renumbered 961.11 (6), and 961.11 (6) (b), as renumbered, is amended to read:

961.11 (6) (b) If the board finds that any nonnarcotic substance barred from control under this chapter by par. (a) is dangerous to or is being so used as to endanger the public health and welfare, it may request the department of justice in the name of the state to seek a temporary restraining order or temporary injunction under ch. 813 to either ban or regulate the sale and possession of the substance. The order or injunction shall continue until the adjournment of the legislature convened next following its issuance. In making its findings as to nonnarcotic substances under this paragraph, the board shall consider the items specified in sub. (4) ~~(1m)~~.

**SECTION 153.** 161.115 of the statutes is renumbered 961.115.

**SECTION 154.** 161.12 of the statutes is renumbered 961.12 and amended to read:

**961.12 Nomenclature.** The controlled substances listed ~~in or to be listed in~~ added to the schedules in ss. ~~161.14, 161.16, 161.18, 161.20 and 161.22 are included~~ 961.14, 961.16, 961.18, 961.20 and 961.22 may be listed or added by whatever any official, common, usual, chemical or trade name designated used for the substance.

**SECTION 155.** 161.13 (title) of the statutes is renumbered 961.13 (title).

**SECTION 156.** 161.13 of the statutes is renumbered 961.13 (1m) and amended to read:

961.13 (1m) The controlled substances board shall ~~place~~ add a substance ~~in to~~ to schedule I if it finds upon finding that the substance:

- (a) Has high potential for abuse; ~~and~~
- (b) Has no currently accepted medical use in treatment in the United States ~~or lacks;~~ and

(c) ~~Lacks~~ accepted safety for use in treatment under medical supervision.

**SECTION 157.** 161.14 (title) of the statutes is renumbered 961.14 (title).

**SECTION 158.** 161.14 (1) (title) of the statutes is repealed.

**SECTION 159.** 161.14 (1) of the statutes is renumbered 961.14 (intro.) and amended to read:

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

**SECTION 160.** 161.14 (2) of the statutes is renumbered 961.14 (2), and 961.14 (2) (intro.), (b), (cg), (dg), (rj) and (xm), as renumbered, are amended to read:

961.14 (2) (title) ~~OPIATES SYNTHETIC OPIATES.~~ (intro.) Unless specifically excepted under federal regulations or unless listed in another schedule, Any material, compound, mixture or preparation which contains any quantity of any of the following synthetic opiates, or including any of their isomers, esters, ethers, esters and ethers of isomers, salts, and salts of isomers, esters of, ethers and esters and ethers, if isomers, esters, ethers, salts or salts of isomers exist that are theoretically possible within the specified specific chemical designation (for purposes of par. (tg) only, the term isomer includes the optical and geometric isomers):

(b) ~~Alphacetylmethadol (except Levo-alphacetylmethadol levo-alphacetylmethadol (LAAM));~~

(cg) ~~Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl]-4-piperidinyl)-N-phenylpropanamide); (N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);~~

(dg) ~~Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide); (N-[1-(2-hydroxy-2-phenylethyl)-4-piperidinyl]-N-phenylpropanamide);~~

(rj) ~~3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl]-4-piperidinyl)-N-phenylpropanamide); (N-[3-methyl-1-[2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);~~

(xm) ~~Thiofentanyl (N-[1-(2-thienyl)ethyl]-4-piperidinyl)-N-phenylpropanamide); (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);~~

**SECTION 161.** 161.14 (3) of the statutes is renumbered 961.14 (3), and 961.14 (3) (intro.), as renumbered, is amended to read:

961.14 (3) (title) ~~OPIUM DERIVATIVES SUBSTANCES DERIVED FROM OPIUM.~~ (intro.) Unless specifically excepted under federal regulations or unless listed in another schedule, Any material, compound, mixture or preparation which contains any quantity of any of the fol-

lowing substances derived from opium derivatives or, including any of their salts, isomers or and salts of isomers, if salts, isomers or salts of isomers exist that are theoretically possible within the specific chemical designation:

**SECTION 162.** 161.14 (4) of the statutes is renumbered 961.14 (4), and 961.14 (4) (intro.), (bm), (cm), (mn), (w) and (wg), as renumbered, are amended to read:

961.14 (4) ~~HALLUCINOGENIC SUBSTANCES.~~ (intro.) Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture or preparation which contains any quantity of any of the following hallucinogenic substances or, including any of their salts, isomers or and salts of isomers, if salts, isomers or salts of isomers exist that are theoretically possible within the specific chemical designation, in any form including a substance, salt, isomer or salt of an isomer contained in a plant, obtained from a plant or chemically synthesized:

(bm) ~~2,5-dimethoxy-4-ethylamphetamine 4-ethyl-2, 5-dimethoxyamphetamine, commonly known as DOET "DOET";~~

(cm) ~~Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers;~~

(mn) ~~Parahexyl (3-hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo(b, d)pyran);~~

(w) ~~4-bromo-2, 5-dimethoxyamphetamine, commonly known as "DOB";~~

(wg) ~~4-bromo-2,5-dimethoxyphenethylamine 4-bromo-2,5-dimethoxy-beta-phenylethylamine, commonly known as "2C-B" or "Nexus";~~

**SECTION 163.** 161.14 (5) of the statutes is renumbered 961.14 (5), and 961.14 (5) (intro.), as renumbered, is amended to read:

961.14 (5) ~~DEPRESSANTS.~~ (intro.) Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system or, including any of their salts, isomers or and salts of isomers, if salts, isomers or salts of isomers exist that are theoretically possible within the specific chemical designation:

**SECTION 164.** 161.14 (6) of the statutes is renumbered 961.14 (6), and 961.14 (6) (intro.), as renumbered, is amended to read:

961.14 (6) ~~IMMEDIATE PRECURSORS.~~ (intro.) Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture or preparation which contains any quantity of any of the following substances or their salts:

**SECTION 165.** 161.14 (7) of the statutes is renumbered 961.14 (7), and 961.14 (7) (intro.), (ag), (am), (b), (c), (d), (e) and (L), as renumbered, are amended to read:

961.14 (7) STIMULANTS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any~~ Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system, including its any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:

- (ag) Cathinone;
- (am) Aminorex, its salts, optical isomers, and salts of optical isomers;
- (b) Fenethylamine, including its salts, and salts of isomers.
- (c) N-ethylamphetamine, including its salts, and salts of isomers.
- (d) 4-methylaminorex, including its salts and salts of isomers;
- (e) N,N-dimethylamphetamine, including its salts and salts of isomers.
- (L) Methcathinone, including its salts and salts of isomers.

**SECTION 166.** 161.15 (title) of the statutes is renumbered 961.15 (title).

**SECTION 167.** 161.15 of the statutes is renumbered 961.15 (1m), and 961.15 (1m) (intro.) and (c), as renumbered, are amended to read:

961.15 (1m) (intro.) The controlled substances board shall ~~place add~~ add a substance ~~in to~~ to schedule II ~~if it finds upon finding that:~~

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

**SECTION 168.** 161.16 (title) of the statutes is renumbered 961.16 (title).

**SECTION 169.** 161.16 (1) (title) of the statutes is repealed.

**SECTION 170.** 161.16 (1) of the statutes is renumbered 961.16 (intro.) and amended to read:

961.16 (intro.) ~~The Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following~~ controlled substances are listed in this section are included in schedule II:

**SECTION 171.** 161.16 (2) of the statutes is renumbered 961.16 (2) (intro.) and amended to read:

961.16 (2) SUBSTANCES OF PLANT ORIGIN. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, Any material, compound, mixture or preparation which contains any quantity of any of the following substances in any form, including a substance contained in a plant, obtained from a plant or, chemically synthesized or obtained by a combination of extraction from a plant and chemical synthesis:~~

**SECTION 172.** 161.16 (2) (a) of the statutes is renumbered 961.16 (2) (a), and 961.16 (2) (a) (intro.) and 4m., as renumbered, are amended to read:

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

4m. Dihydrocodeine;

**SECTION 173.** 161.16 (2) (b) of the statutes is renumbered 961.16 (2) (b), and 961.16 (2) (b) (intro.), as renumbered, is amended to read:

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

**SECTION 174.** 161.16 (3) of the statutes is renumbered 961.16 (3), and 961.16 (3) (intro.), (s), (t) and (x), as renumbered, are amended to read:

961.16 (3) (title) ~~OPIATES~~ SYNTHETIC OPIATES. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture or preparation which contains any quantity of any of the following synthetic opiates or, including any of their isomers, esters, ethers, esters and ethers of isomers, salts and salts of isomers, if isomers, esters, ethers, salts or salts of isomers exist and esters and ethers of isomers that are theoretically possible within the specific chemical designation:~~

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

(t) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane carboxylic 1-diphenylpropanecarboxylic acid;

(x) Racemorphan;

**SECTION 175.** 161.16 (5) of the statutes is renumbered 961.16 (5) and amended to read:

961.16 (5) STIMULANTS. ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system, including any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation:~~

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

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

(c) Phenmetrazine, its salts, isomers and salts of its isomers;

(d) Methylphenidate, its salts, optical isomers and salts of its optical isomers.

**SECTION 176.** 161.16 (7) of the statutes is renumbered 961.16 (7), and 961.16 (7) (intro.), as renumbered, is amended to read:

961.16 (7) DEPRESSANTS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system ~~or, including any of~~ their salts, isomers ~~or and~~ salts of isomers, if salts, isomers or salts of isomers exist that are theoretically possible within the specific chemical designation:~~

**SECTION 177.** 161.16 (8) of the statutes is renumbered 961.16 (8), and 961.16 (8) (intro.), as renumbered, is amended to read:

961.16 (8) IMMEDIATE PRECURSORS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture or preparation which contains any quantity of the following substances:~~

**SECTION 178.** 161.16 (10) of the statutes is renumbered 961.16 (10) and amended to read:

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

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

**SECTION 179.** 161.17 (title) of the statutes is renumbered 961.17 (title).

**SECTION 180.** 161.17 of the statutes is renumbered 961.17 (1m), and 961.17 (1m) (intro.) and (a), as renumbered, are amended to read:

961.17 (1m) (intro.) The controlled substances board shall ~~place~~ add a substance ~~in~~ to schedule III ~~if it finds upon finding that:~~

(a) The substance has a potential for abuse less than the substances ~~listed~~ included in schedules I and II;

**SECTION 181.** 161.18 (title) of the statutes is renumbered 961.18 (title).

**SECTION 182.** 161.18 (1) (title) of the statutes is repealed.

**SECTION 183.** 161.18 (1) of the statutes is renumbered 961.18 (intro.) and amended to read:

961.18 (intro.) ~~The Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in this section are included in schedule III;~~

**SECTION 184.** 161.18 (2m) of the statutes is renumbered 961.18 (2m), and 961.18 (2m) (intro.), as renumbered, is amended to read:

961.18 (2m) STIMULANTS. (intro.) ~~Unless specifically excepted by federal regulations or unless listed in another schedule, any Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system ~~or, including any of~~ their salts, isomers ~~or and~~ salts of isomers, if salts, isomers or salts of isomers exist that are theoretically possible within the specific chemical designation:~~

**SECTION 185.** 161.18 (3) (intro.) of the statutes is renumbered 961.18 (3) (intro.) and amended to read:

961.18 (3) DEPRESSANTS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system ~~or, including any of~~ their salts, isomers ~~or and~~ salts of isomers, if salts, isomers or salts of isomers exist that are theoretically possible within the specific chemical designation:~~

**SECTION 186.** 161.18 (3) (a) of the statutes is renumbered 961.18 (3) (a) and amended to read:

961.18 (3) (a) Any substance which contains any quantity of a derivative of barbituric acid, ~~or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;~~

**SECTION 187.** 161.18 (3) (b) of the statutes is renumbered 961.18 (3) (b).

**SECTION 188.** 161.18 (3) (d) of the statutes is renumbered 961.18 (3) (d).

**SECTION 189.** 161.18 (3) (e) of the statutes is renumbered 961.18 (3) (e).

**SECTION 190.** 161.18 (3) (f) of the statutes is renumbered 961.18 (3) (f).

**SECTION 191.** 161.18 (3) (h) of the statutes is renumbered 961.18 (3) (h).

**SECTION 192.** 161.18 (3) (j) of the statutes is renumbered 961.18 (3) (j).

**SECTION 193.** 161.18 (3) (k) of the statutes is renumbered 961.18 (3) (k) and amended to read:

961.18 (3) (k) Sulfonylmethane;

**SECTION 194.** 161.18 (3) (km) of the statutes is renumbered 961.18 (3) (km) and amended to read:

961.18 (3) (km) Tiletamine and Zolazepam ~~or any salt thereof~~ in combination;

**SECTION 195.** 161.18 (3) (m) of the statutes is renumbered 961.18 (3) (m) (intro.) and amended to read:

961.18 (3) (m) (intro.) Any compound, mixture, or preparation containing ~~amobarbital, secobarbital, pentobarbital~~ any of the following drugs and one or more other active medicinal ingredients ~~which are not listed included~~ in any schedule.:

**SECTION 196.** 161.18 (3) (n) of the statutes is renumbered 961.18 (3) (n) (intro.) and amended to read:

961.18 (3) (n) (intro.) Any of the following drugs in suppository dosage form ~~containing amobarbital, secobarbital or pentobarbital~~ and approved by the federal food and drug administration for marketing only as a suppository.:

**SECTION 197.** 161.18 (4) of the statutes is renumbered 961.18 (4), and 961.18 (4) (intro.), as renumbered, is amended to read:

961.18 (4) OTHER SUBSTANCES. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any~~ Any material, compound, mixture or preparation which contains any quantity of any of the following substances ~~or, including any of their salts, isomers or and salts of isomers, if salts, isomers or salts of isomers exist under that are theoretically possible within~~ the specific chemical designation:

**SECTION 198.** 161.18 (5) of the statutes is renumbered 961.18 (5), and 961.18 (5) (intro.), (a), (b), (c), (d), (e) and (f), as renumbered, are amended to read:

961.18 (5) NARCOTIC DRUGS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any~~ Any material, compound, mixture or preparation containing any of the following narcotic drugs or their salts, isomers or salts of isomers, calculated as the free anhydrous base or alkaloid, in the following specified limited quantities as follows:

(a) Not more than 1.8 grams of codeine per 100 milliliters or per 100 grams or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.:

(b) Not more than 1.8 grams of codeine per 100 milliliters or per 100 grams or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.:

(c) Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.:

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

(e) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or per 100 grams or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.:

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

**SECTION 199.** 161.18 (6) of the statutes is renumbered 961.18 (6) and amended to read:

961.18 (6) EXCEPTIONS. The controlled substances board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed included in sub. (2m) or (3) from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

**SECTION 200.** 161.18 (7) of the statutes is renumbered 961.18 (7), and 961.18 (7) (intro.), as renumbered, is amended to read:

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

**SECTION 201.** 161.19 (title) of the statutes is renumbered 961.19 (title).

**SECTION 202.** 161.19 of the statutes is renumbered 961.19 (1m), and 961.19 (1m) (intro.), (a) and (c), as renumbered, are amended to read:

961.19 (1m) (intro.) The controlled substances board shall ~~place~~ add a substance ~~in to~~ schedule IV ~~if it finds upon finding~~ that:

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

(c) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in schedule III.

**SECTION 203.** 161.20 (title) of the statutes is renumbered 961.20 (title).

**SECTION 204.** 161.20 (1) (title) of the statutes is repealed.

**SECTION 205.** 161.20 (1) of the statutes is renumbered 961.20 (intro.) and amended to read:

961.20 (intro.) ~~The~~ Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in ~~this section are included in~~ schedule IV.:

**SECTION 206.** 161.20 (2) of the statutes is renumbered 961.20 (2), and 961.20 (2) (intro.) and (h), as renumbered, are amended to read:

961.20 (2) DEPRESSANTS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any~~ Any material, compound, mixture or preparation which contains any quantity of any of the following substances having a depressant effect on the central nervous system ~~or, including any of~~ including any of their salts, isomers ~~or and~~ and salts of isomers, ~~if salts, isomers or salts of isomers exist under that are theoretically possible within~~ the specific chemical designation:

(h) Methylphenobarbital, which is also called mephobarbital;

**SECTION 207.** 161.20 (2m) (intro.) of the statutes is renumbered 961.20 (2m) (intro.) and amended to read:

961.20 (2m) STIMULANTS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any~~ Any material, compound, mixture, or preparation which contains any quantity of any of the following substances having a stimulant effect on the central nervous system ~~or, including any of~~ including any of their salts, isomers ~~or and~~ and salts of isomers, ~~if salts, isomers or salts of isomers exist under that are theoretically possible within~~ the specific chemical designation:

**SECTION 208.** 161.20 (2m) (a) of the statutes is renumbered 961.20 (2m) (a).

**SECTION 209.** 161.20 (2m) (ag) of the statutes is renumbered 961.20 (2m) (ag) and amended to read:

961.20 (2m) (ag) ~~N,N-dimethyl-1-1,2-diphenylethylamine~~ N,N-dimethyl-1,2-diphenylethylamine, commonly known as "SPA";<sub>2</sub>

**SECTION 210.** 161.20 (2m) (ar) of the statutes is renumbered 961.20 (2m) (ar) and amended to read:

961.20 (2m) (ar) ~~Fencamfamine;~~<sub>2</sub>

**SECTION 211.** 161.20 (2m) (b) of the statutes is renumbered 961.20 (4) (am) and amended to read:

961.20 (4) (am) Fenfluramine, including any of its isomers and salts of isomers.

**SECTION 212.** 161.20 (2m) (bm) of the statutes is renumbered 961.20 (2m) (bm) and amended to read:

961.20 (2m) (bm) ~~Mazindol;~~<sub>2</sub>

**SECTION 213.** 161.20 (2m) (c) of the statutes is renumbered 961.20 (2m) (c) and amended to read:

961.20 (2m) (c) Pemoline, including its organo-metallic complexes and chelates.

**SECTION 214.** 161.20 (2m) (d) of the statutes is renumbered 961.20 (2m) (d).

**SECTION 215.** 161.20 (2m) (e) of the statutes is renumbered 961.20 (2m) (e).

**SECTION 216.** 161.20 (3) of the statutes is renumbered 961.20 (3), and 961.20 (3) (intro.), as renumbered, is amended to read:

961.20 (3) NARCOTIC DRUGS CONTAINING NONNARCOTIC ACTIVE MEDICINAL INGREDIENTS. (intro.) Any compound, mixture or preparation containing ~~limited quanti-~~

~~ties of~~ any of the following narcotic drugs or their salts, isomers or salts of isomers, in limited quantities as set forth below, calculated as the free anhydrous base or alkaloid, which also contains one or more nonnarcotic, active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

**SECTION 217.** 161.20 (3m) (title) of the statutes is repealed.

**SECTION 218.** 161.20 (3m) of the statutes is renumbered 961.20 (2m) (ak) and amended to read:

961.20 (2m) (ak) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of ephedrine or a salt of ephedrine, an optical isomer of ephedrine or a salt of an optical isomer of ephedrine. This subsection applies only Ephedrine, if the ephedrine, salt, optical isomer or salt of the optical isomer is the only active medicinal ingredient or if there are only therapeutically insignificant quantities of another active medicinal ingredient.~~

**SECTION 219.** 161.20 (4) of the statutes is renumbered 961.20 (4), and 961.20 (4) (intro.) and (b), as renumbered, are amended to read:

961.20 (4) OTHER SUBSTANCES. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, any~~ Any material, compound, mixture or preparation which contains any quantity of any of the following substances or their salts:

(b) Pentazocine, including any of its isomers and salts of isomers.

**SECTION 220.** 161.20 (5) of the statutes is renumbered 961.20 (5) and amended to read:

961.20 (5) EXCEPTIONS. The controlled substances board may except by rule any compound, mixture or preparation containing any depressant substance ~~listed included~~ in sub. (2) from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are ~~included therein~~ in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

**SECTION 221.** 161.21 (title) of the statutes is renumbered 961.21 (title).

**SECTION 222.** 161.21 of the statutes is renumbered 961.21 (1m), and 961.21 (1m) (intro.), (a) and (c), as renumbered, are amended to read:

961.21 (1m) (intro.) The controlled substances board shall ~~place add~~ add a substance ~~in to~~ to schedule V if it ~~finds upon finding~~ finds that:

(a) The substance has low potential for abuse relative to the controlled substances ~~listed included~~ included in schedule IV;

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

**SECTION 223.** 161.22 (title) of the statutes is renumbered 961.22 (title).

**SECTION 224.** 161.22 (1) (title) of the statutes is repealed.

**SECTION 225.** 161.22 (1) of the statutes is renumbered 961.22 (intro.) and amended to read:

961.22 (intro.) The Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in this section are included in schedule V:

**SECTION 226.** 161.22 (1m) of the statutes is renumbered 961.22 (1m), and 961.22 (1m) (intro.), as renumbered, is amended to read:

961.22 (1m) NARCOTIC DRUGS. (intro.) ~~Unless specifically excepted under federal regulations or unless listed in another schedule, Any material, compound, mixture or preparation containing any quantity of any of the following substances or, including any of their salts, isomers or and salts of isomers, if salts, isomers or salts of isomers exist under that are theoretically possible within the specific chemical designation:~~

**SECTION 227.** 161.22 (2) of the statutes is renumbered 961.22 (2), and 961.22 (2) (intro.), as renumbered, is amended to read:

961.22 (2) NARCOTIC DRUGS CONTAINING NONNARCOTIC ACTIVE MEDICINAL INGREDIENTS. (intro.) Any compound, mixture or preparation containing ~~limited quantities of~~ any of the following narcotic drugs or their salts, isomers or salts of isomers, in limited quantities as set forth below, calculated as the free anhydrous base or alkaloid, which also contains one or more nonnarcotic, active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

**SECTION 228.** 161.23 of the statutes is renumbered 961.23, and 961.23 (4), as renumbered, is amended to read:

961.23 (4) That any person purchasing such a substance at the time of purchase present to the seller that person's correct name and address. The seller shall record the name and address and the name and quantity of the product sold. The purchaser and the seller shall sign the record of this transaction. The giving of a false name or false address by the purchaser shall be prima facie evidence of a violation of s. ~~161.43~~ 961.43 (1) (a).

**SECTION 229.** 161.24 of the statutes is renumbered 961.24 and amended to read:

**961.24 (title) Republishing Publishing of updated schedules.** The controlled substances board shall ~~revise and republish the~~ publish updated schedules annually. The failure of the controlled substances board to publish

an updated schedule under this section is not a defense in any administrative or judicial proceeding under this chapter.

**SECTION 230.** Subchapter III (title) of chapter 161 [precedes 161.31] of the statutes is renumbered subchapter III (title) of chapter 961 [precedes 961.31].

**SECTION 231.** 161.31 of the statutes is renumbered 961.31.

**SECTION 232.** 161.32 of the statutes is renumbered 961.32.

**SECTION 233.** 161.335 of the statutes is renumbered 961.335, and 961.335 (4) (c), as renumbered, is amended to read:

961.335 (4) (c) The controlled substances to be used in the project, by name if included in schedule I, and by name or schedule if included in any other schedule.

**SECTION 234.** 161.36 of the statutes is renumbered 961.36 and amended to read:

**961.36 Diversion control and prevention. (1)** The controlled substances board shall regularly prepare and make available to state regulatory, licensing and law enforcement agencies descriptive and analytic reports on the potential for diversion and actual ~~diversion~~ patterns and trends of distribution, diversion and abuse within the state of certain controlled substances the board selects that are listed in s. ~~161.16, 161.18, 161.20 or 161.22~~ 961.16, 961.18, 961.20 or 961.22.

(2) The controlled substances board shall enter into written agreements with ~~other local, state or and~~ federal agencies to improve the identification of sources of diversion and to improve enforcement of and compliance with this chapter and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent or control drug diversion and drug abuse. The board shall convene periodic meetings to coordinate a state diversion prevention and control program. The board shall assist and promote coordination of cooperation and exchange of information among agencies responsible for ensuring compliance with controlled substances law, to monitor observance of these laws and to monitor cooperation between the agencies and with other states and the federal government.

(3) The controlled substances board shall evaluate the outcome of its program under this section and shall annually submit a report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (3), on its findings with respect to its effect on distribution and abuse of controlled substances, including recommendations for improving control and prevention of the diversion of controlled substances.

**SECTION 235.** 161.38 (title) of the statutes is renumbered 961.38 (title).

**SECTION 236.** 161.38 (1) of the statutes is renumbered 961.38 (1r) and amended to read:

961.38 (1r) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance included in schedule II may be dispensed without the written prescription of a practitioner.

**SECTION 237.** 161.38 (2) of the statutes is renumbered 961.38 (2) and amended to read:

961.38 (2) In emergency situations, as defined by rule of the pharmacy examining board, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with rules of the pharmacy examining board promulgated under s. ~~161.31~~ 961.31. No prescription for a schedule II substance may be refilled.

**SECTION 238.** 161.38 (3) of the statutes is renumbered 961.38 (3).

**SECTION 239.** 161.38 (4) of the statutes is renumbered 961.38 (4) and amended to read:

961.38 (4) A ~~controlled~~ substance included in schedule V ~~shall not~~ may be distributed or dispensed ~~other than~~ only for a medical purpose, including medical treatment or authorized research.

**SECTION 240.** 161.38 (5) of the statutes is renumbered 961.38 (5).

**SECTION 241.** 161.39 of the statutes is renumbered 961.39, and 961.39 (3) (b), as renumbered, is amended to read:

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

**SECTION 242.** Subchapter IV (title) of chapter 161 [precedes 161.41] of the statutes is renumbered subchapter IV (title) of chapter 961 [precedes 961.41].

**SECTION 243.** 161.41 (title) of the statutes is renumbered 961.41 (title).

**SECTION 244.** 161.41 (1) of the statutes is renumbered 961.41 (1) and amended to read:

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

(a) Except as provided in par. (d), a controlled substance ~~classified~~ included in schedule I or II which is a narcotic drug, or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned for not more than 15 years or both;

(b) Except as provided in pars. (cm) and (e) to (h), any other controlled substance ~~classified~~ included in schedule I, II or III, or a controlled substance analog of any other controlled substance included in schedule I or II, may be fined not more than \$15,000 or imprisoned for not more than 5 years or both;

(cm) A ~~controlled substance under s. 161.16 (2) (b) Cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base~~, is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. ~~If the amount manufactured or delivered is 5~~ Five grams or less, the person shall be fined not more than \$500,000 and ~~shall~~ may be imprisoned for not more than 10 years.

2. ~~If the amount manufactured or delivered is more~~ More than 5 grams but not more than 15 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

3. ~~If the amount manufactured or delivered is more~~ More than 15 grams but not more than 40 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 20 years.

4. ~~If the amount manufactured or delivered is more~~ More than 40 grams but not more than 100 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 30 years.

5. ~~If the amount manufactured or delivered is more~~ More than 100 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

(d) Heroin or a controlled substance analog of heroin is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. ~~If the amount manufactured or delivered is 3~~ Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 15 years.

2. ~~If the amount manufactured or delivered is more~~ More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 15 years.

3. ~~If the amount manufactured or delivered is more~~ More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

4. ~~If the amount manufactured or delivered is more~~ More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

5. ~~If the amount manufactured or delivered is more~~ More than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

6. ~~If the amount manufactured or delivered is more~~ More than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

(e) ~~Phencyclidine, amphetamine or, methamphetamine or a controlled substance under s. 161.14 (7)~~ (L) methcathinone, or a controlled substance analog of phencyclidine, amphetamine, methamphetamine or methcathinone, is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. ~~If the amount manufactured or delivered is 3~~ Three grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.

2. ~~If the amount manufactured or delivered is more~~ More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. ~~If the amount manufactured or delivered is more~~ More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

4. ~~If the amount manufactured or delivered is more~~ More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

5. ~~If the amount manufactured or delivered is more~~ More than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

6. ~~If the amount manufactured or delivered is more~~ More than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

(f) Lysergic acid diethylamide or a controlled substance analog of lysergic acid diethylamide is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. ~~If the amount manufactured or delivered is one~~ One gram or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.

2. ~~If the amount manufactured or delivered is more~~ More than one gram but not more than 5 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. ~~If the amount manufactured or delivered is more~~ More than 5 grams, the person shall be fined not less than

\$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

(g) Psilocin or psilocybin, or a controlled substance analog of psilocin or psilocybin, is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. ~~If the amount manufactured or delivered is 100~~ One hundred grams or less, the person shall be fined not less than \$1,000 nor more than \$200,000 and may be imprisoned for not more than 5 years.

2. ~~If the amount manufactured or delivered is more~~ More than 100 grams but not more than 500 grams, the person shall be fined not less than \$1,000 nor more than \$250,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. ~~If the amount manufactured or delivered is more~~ More than 500 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

(h) Tetrahydrocannabinols, listed at included under s. 161.14 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is subject to the following penalties if the amount manufactured, distributed or delivered is:

1. ~~If the amount manufactured or delivered is 500~~ Five hundred grams or less, or 10 marijuana or fewer plants or less containing tetrahydrocannabinols, the person shall be fined not less than \$500 nor more than \$25,000 and may be imprisoned for not more than 3 years.

2. ~~If the amount manufactured or delivered is more~~ More than 500 grams but not more than 2,500 grams, or more than 10 marijuana plants containing tetrahydrocannabinols but not more than 50 marijuana plants containing tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor more than 5 years.

3. ~~If the amount manufactured or delivered is more~~ More than 2,500 grams, or more than 50 marijuana plants containing tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year nor more than 10 years.

(i) A substance classified included in schedule IV, may be fined not more than \$10,000 or imprisoned for not more than 3 years or both;

(j) A substance classified included in schedule V, may be fined not more than \$5,000 or imprisoned for not more than one year or both.

**SECTION 245.** 161.41 (1m) of the statutes is renumbered 961.41 (1m) and amended to read:

961.41 (1m) (title) POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE OR DELIVER. Except as authorized by this chapter, it is unlawful for any person to possess,

with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog. Intent under this subsection may be demonstrated by, without limitation because of enumeration, evidence of the quantity and monetary value of the substances possessed, the possession of manufacturing implements or paraphernalia, and the activities or statements of the person in possession of the controlled substance or a controlled substance analog prior to and after the alleged violation. Any person who violates this subsection with respect to:

(a) Except as provided in par. (d), a controlled substance ~~classified~~ included in schedule I ~~and~~ or II which is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned ~~for~~ not more than 15 years or both.

(b) Except as provided in pars. (cm) and (e) to (h), any other controlled substance ~~classified~~ included in schedule I, II or III, or a controlled substance analog of any other controlled substance included in schedule I or II, may be fined not more than \$15,000 or imprisoned for not more than 5 years or both.

(cm) ~~A controlled substance under s. 161.16 (2) (b) Cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base,~~ is subject to the following penalties if the amount possessed, with intent to manufacture, distribute or deliver, is:

1. ~~If the amount possessed, with intent to manufacture or deliver, is 5~~ Five grams or less, the person shall be fined not more than \$500,000 and shall may be imprisoned for not more than 10 years.

2. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 5 grams but not more than 15 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

3. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 15 grams but not more than 40 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 20 years.

4. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 40 grams but not more than 100 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 30 years.

5. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 100 grams, the person shall be fined not more than \$500,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

(d) Heroin or a controlled substance analog of heroin is subject to the following penalties if the amount possessed, with intent to manufacture, distribute or deliver, is:

1. ~~If the amount possessed, with intent to manufacture or deliver, is 3~~ Three grams or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 15 years.

2. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 15 years.

3. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

4. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

5. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

6. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

(e) Phencyclidine, amphetamine ~~or~~, methamphetamine or a controlled substance under s. 161.14 (7) ~~(L)~~ methcathinone, or a controlled substance analog of phencyclidine, amphetamine, methamphetamine or methcathinone, is subject to the following penalties if the amount possessed, with intent to manufacture, distribute or deliver, is:

1. ~~If the amount possessed, with intent to manufacture or deliver, is 3~~ Three grams or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.

2. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 3 grams but not more than 10 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 10 grams but not more than 50 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

4. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 50 grams but not more than 200 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 3 years nor more than 15 years.

5. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 200 grams but not more than 400 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than 5 years nor more than 15 years.

6. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 400 grams, the person shall be fined not less than \$1,000 nor more than \$1,000,000 and shall be imprisoned for not less than 10 years nor more than 30 years.

(f) Lysergic acid diethylamide or a controlled substance analog of lysergic acid diethylamide is subject to the following penalties if the amount possessed, with intent to manufacture, distribute or deliver, is:

1. ~~If the amount possessed, with intent to manufacture or deliver, is one~~ One gram or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.

2. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than one gram but not more than 5 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 5 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

(g) Psilocin or psilocybin, or a controlled substance analog of psilocin or psilocybin, is subject to the following penalties if the amount possessed, with intent to manufacture, distribute or deliver, is:

1. ~~If the amount possessed, with intent to manufacture or deliver, is 100~~ One hundred grams or less, the person shall be fined not less than \$1,000 nor more than \$100,000 and may be imprisoned for not more than 5 years.

2. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 100 grams but not more than 500 grams, the person shall be fined not less than \$1,000 nor more than \$200,000 and shall be imprisoned for not less than 6 months nor more than 5 years.

3. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 500 grams, the person shall be fined not less than \$1,000 nor more than \$500,000 and shall be imprisoned for not less than one year nor more than 15 years.

(h) Tetrahydrocannabinols, listed at included under s. 461.14 961.14 (4) (t), or a controlled substance analog of tetrahydrocannabinols, is subject to the following penalties if the amount possessed, with intent to manufacture, distribute or deliver, is:

1. ~~If the amount possessed, with intent to manufacture or deliver, is 500~~ Five hundred grams or less, or 10 marijuana or fewer plants or less containing tetrahydrocannabinols, the person shall be fined not less than \$500

nor more than \$25,000 and may be imprisoned for not more than 3 years.

2. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 500 grams but not more than 2,500 grams, or more than 10 marijuana plants containing tetrahydrocannabinols but not more than 50 marijuana plants containing tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor more than \$50,000 and shall be imprisoned for not less than 3 months nor more than 5 years.

3. ~~If the amount possessed, with intent to manufacture or deliver, is more~~ More than 2,500 grams, or more than 50 marijuana plants containing tetrahydrocannabinols, the person shall be fined not less than \$1,000 nor more than \$100,000 and shall be imprisoned for not less than one year nor more than 10 years.

(i) A substance ~~classified~~ included in schedule IV, may be fined not more than \$10,000 or imprisoned for not more than 3 years or both.

(j) A substance ~~classified~~ included in schedule V, may be fined not more than \$5,000 or imprisoned for not more than one year or both.

**SECTION 246.** 161.41 (1p) (a) (intro.) of the statutes is repealed.

**SECTION 247.** 161.41 (1p) (a) 1. of the statutes is renumbered 961.01 (20h).

**SECTION 248.** 161.41 (1p) (a) 2. of the statutes is renumbered 961.01 (21m).

**SECTION 249.** 161.41 (1p) (b) of the statutes is renumbered 961.492, and 961.492 (intro.) and (1), as renumbered, are amended to read:

**961.492** (title) Distribution or possession with intent to deliver certain controlled substances on public transit vehicles. If a person violates ~~sub. s. 961.41~~ (1) or (1m) under all of the following circumstances, the maximum period of imprisonment under ~~sub. s. 961.41~~ (1) or (1m) may be increased by not more than 5 years:

(1) The violation of ~~sub. s. 961.41~~ (1) or (1m) involves the distribute or delivery or the possession, with intent to distribute or deliver, of any controlled substance included in schedule I or II or a controlled substance analog of any controlled substance included in schedule I or II.

**SECTION 250.** 161.41 (1q) of the statutes is renumbered 961.41 (1q) and amended to read:

961.41 (1q) (title) PENALTY RELATING TO TETRAHYDROCANNABINOLS IN CERTAIN CASES. Under subs. (1) (h) and (1m) (h) and s. ~~461.49 961.49~~ (2), if different penalty provisions apply to a person depending on whether the weight of tetrahydrocannabinols or the number of marijuana plants containing tetrahydrocannabinols is considered, the greater penalty provision applies.

**SECTION 251.** 161.41 (1r) of the statutes is renumbered 961.41 (1r) and amended to read:

961.41 (1r) (title) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under subs. (1) and (1m)

and s. ~~161.49~~ 961.49 (2) (b), an amount includes the weight of ~~the controlled substance included under s. 161.16 (2) (b)~~ cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or tetrahydrocannabinols or any controlled substance analog of any of these substances together with any compound, mixture, diluent, plant material or other substance mixed or combined with the controlled substance or controlled substance analog. In addition, in determining amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols means anything ~~covered~~ included under s. ~~161.14~~ 961.14 (4) (t) and includes the weight of any marijuana.

**SECTION 252.** 161.41 (1x) of the statutes is renumbered 961.41 (1x).

**SECTION 253.** 161.41 (2) of the statutes is renumbered 961.41 (2) and amended to read:

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

(a) A counterfeit substance ~~classified~~ included in schedule I or II which is a narcotic drug, may be fined not more than \$25,000 or imprisoned for not more than 15 years or both;

(b) Any other counterfeit substance ~~classified~~ included in schedule I, II or III, may be fined not more than \$15,000 or imprisoned for not more than 5 years or both;

(c) A counterfeit substance ~~classified~~ included in schedule IV, may be fined not more than \$10,000 or imprisoned for not more than 3 years or both;

(d) A counterfeit substance ~~classified~~ included in schedule V, may be fined not more than \$5,000 or imprisoned for not more than one year or both.

**SECTION 254.** 161.41 (2m) of the statutes is renumbered 961.41 (4) (bm) and amended to read:

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

**SECTION 255.** 161.41 (2r) (a) of the statutes is renumbered 961.41 (3g) (intro.) and amended to read:

961.41 (3g) (title) POSSESSION. (intro.) Except as provided in par. (b), it is unlawful for any person to No person may possess or attempt to possess a controlled

~~substance classified in schedule I or II that is a narcotic drug or a controlled substance analog unless the substance was obtained~~ person obtains the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner ~~while who is~~ who is acting in the course of his or her professional practice, or ~~except as unless the person is~~ otherwise authorized by this chapter to possess the substance or the analog. Any person who violates this ~~paragraph~~ subsection is subject to the following penalties:

(a) 1. Except as provided in subd. 2., if the person possesses a controlled substance included in schedule I or II which is a narcotic drug, or possesses a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug, the person may, upon a first conviction, ~~may~~ be fined not more than \$5,000 or imprisoned for not more than one year or both, and for a 2nd or subsequent offense, the person may be fined not more than \$10,000 or imprisoned for not more than 2 years or both.

**SECTION 256.** 161.41 (2r) (b) of the statutes is renumbered 961.41 (3g) (a) 2. and amended to read:

961.41 (3g) (a) 2. ~~It is unlawful for any person to possess or attempt~~ If the person possesses or attempts to possess heroin ~~unless it was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.~~ Any or a controlled substance analog of heroin, the person who violates this paragraph may be fined not more than \$5,000 or imprisoned for not more than one year or both.

**SECTION 257.** 161.41 (2r) (c) of the statutes is renumbered 961.41 (3g) (a) 3. and amended to read:

961.41 (3g) (a) 3. For purposes of this ~~subsection~~ paragraph, an offense is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, marijuana or depressant, stimulant or hallucinogenic drugs.

**SECTION 258.** 161.41 (3) of the statutes is renumbered 961.41 (3g) (b) and amended to read:

961.41 (3g) (b) Except as provided in subs. (3m), (3n), (3p) and (3r), ~~it is unlawful for any pars. (c), (d) and (e), if the person to possess or attempt~~ possesses or attempts to possess a controlled substance or controlled substance analog, other than a controlled substance ~~classified~~ included in schedule I or II that is a narcotic drug, ~~unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.~~ Any or a controlled substance analog of a controlled substance included in schedule I or II that is a narcotic drug,

~~the person who violates this subsection is guilty of a misdemeanor, punishable under s. 939.61.~~

**SECTION 259.** 161.41 (3m) of the statutes is renumbered 961.41 (3g) (c) and amended to read:

961.41 (3g) (c) ~~It is unlawful for any person to possess or attempt~~ If a person possess or attempts to possess a controlled substance included under s. 161.16 (2) (b), unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine base, the person who violates this subsection shall be fined not more than \$5,000 and may be imprisoned for not more than one year in the county jail.

**SECTION 260.** 161.41 (3n) of the statutes is renumbered 961.41 (3g) (d) and amended to read:

961.41 (3g) (d) ~~It is unlawful for any person to possess or attempt~~ If a person possesses or attempts to possess lysergic acid diethylamide, phencyclidine, amphetamine, methamphetamine, methcathinone, psilocin or psilocybin unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any, or a controlled substance analog of lysergic acid diethylamide, phencyclidine, amphetamine, methamphetamine, methcathinone, psilocin or psilocybin, the person who violates this subsection may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both.

**SECTION 261.** 161.41 (3p) of the statutes is repealed.

**SECTION 262.** 161.41 (3r) of the statutes is renumbered 961.41 (3g) (e) and amended to read:

961.41 (3g) (e) ~~It is unlawful for any person to possess or attempt~~ If a person possesses or attempts to possess tetrahydrocannabinols, listed at included under s. ~~161.14~~ 961.14 (4) (t), unless it was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any or a controlled substance analog of tetrahydrocannabinols, the person who violates this subsection may be fined not more than \$1,000 or imprisoned for not more than 6 months or both.

**SECTION 263.** 161.41 (4) (a) of the statutes is renumbered 961.41 (4) (am) 1. and amended to read:

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

a. ~~The~~ That the substance is a controlled substance; ~~or,~~

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

**SECTION 264.** 161.41 (4) (b) of the statutes is renumbered 961.41 (4) (am) 2., and 961.41 (4) (am) 2. (intro.) and d., as renumbered, are amended to read:

961.41 (4) (am) 2. Proof of any of the following is prima facie evidence of a representation specified in ~~par. (a) 1. or 2.~~ subd. 1. a. or b.:

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

**SECTION 265.** 161.41 (4) (c) of the statutes is renumbered 961.41 (4) (am) 3. and amended to read:

961.41 (4) (am) 3. A person convicted of violating this subsection paragraph may be fined not more than \$5,000 or imprisoned for not more than one year or both.

**SECTION 266.** 161.41 (5) of the statutes is renumbered 961.41 (5).

**SECTION 267.** 161.42 of the statutes is renumbered 961.42.

**SECTION 268.** 161.43 of the statutes is renumbered 961.43, and 961.43 (1) (b) (intro.) and 1., as renumbered, are amended to read:

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

1. To make a counterfeit a drug substance; or

**SECTION 269.** 161.435 of the statutes is renumbered 961.435 and amended to read:

**961.435 Specific penalty.** Any person who violates s. ~~161.38~~ 961.38 (5) may be fined not more than \$500 or imprisoned not more than 30 days or both.

**SECTION 270.** 161.438 of the statutes is renumbered 961.438.

**SECTION 271.** 161.44 of the statutes is renumbered 961.44.

**SECTION 272.** 161.45 of the statutes is renumbered 961.45.

**SECTION 273.** 161.455 (title) of the statutes is renumbered 961.455 (title).

**SECTION 274.** 161.455 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 961.455 (1) and amended to read:

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

or uses a person who is 17 years of age or under for the purpose of violating s. ~~461.41~~ 961.41 (1) may be fined not more than \$50,000 or imprisoned for not more than 10 years or both.

**SECTION 275.** 161.455 (2), (3) and (4) of the statutes are renumbered 961.455 (2), (3) and (4), and 961.455 (4), as renumbered, is amended to read:

961.455 (4) If the conduct described under sub. (1) results in a violation under s. ~~461.41~~ 961.41 (1), the actor is subject to prosecution and conviction under s. ~~461.41~~ 961.41 (1) or this section or both.

**SECTION 276.** 161.46 (title) of the statutes is renumbered 961.46 (title).

**SECTION 277.** 161.46 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 961.46 (1) and amended to read:

961.46 (1) Except as provided in sub. (3), any person 17 years of age or over who violates s. ~~461.41~~ 961.41 (1) by distributing or delivering a controlled substance ~~listed included~~ in schedule I or II which is a narcotic drug or a controlled substance analog of a controlled substance included in schedule I or II which is a narcotic drug to a person 17 years of age or under who is at least 3 years his or her junior is punishable by the fine authorized by s. ~~461.41~~ 961.41 (1) (a) or a term of imprisonment of up to twice that authorized by s. ~~461.41~~ 961.41 (1) (a), or both.

**SECTION 278.** 161.46 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 961.46 (2) and amended to read:

961.46 (2) Except as provided in sub. (3), any person 17 years of age or over who violates s. ~~461.41~~ 961.41 (1) by distributing or delivering any other controlled substance ~~listed included~~ in schedule I, II, III, IV or V or a controlled substance analog of any other controlled substance included in schedule I or II to a person 17 years of age or under who is at least 3 years his or her junior is punishable by the fine authorized by s. ~~461.41~~ 961.41 (1) (b), (i) or (j) or a term of imprisonment of up to twice that authorized by s. ~~461.41~~ 961.41 (1) (b), (i) or (j) or both.

**SECTION 279.** 161.46 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 961.46 (3) and amended to read:

961.46 (3) If any person 17 years of age or over violates s. ~~461.41~~ 961.41 (1) (cm), (d), (e), (f), (g) or (h) by distributing ~~a controlled substance included under s. 461.14 (7) (L) or 461.16 (2) (b)~~ or delivering cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or any form of tetrahydrocannabinols or a controlled substance analog of any of these substances to a person 17 years of age or under who is at least 3 years his or her junior, any applicable minimum and maximum fines and minimum and maximum periods of imprisonment under s. ~~461.41~~ 961.41 (1) (cm), (d), (e), (f), (g) or (h) are doubled.

**SECTION 280.** 161.465 (title) of the statutes is renumbered 961.465 (title).

**SECTION 281.** 161.465 (1) of the statutes is renumbered 961.465 (1) and amended to read:

961.465 (1) Except as provided in sub. (2), any person who violates s. ~~461.41~~ 961.41 (1) or (1m) by delivering, distributing or possessing with intent to deliver or distribute a controlled substance or controlled substance analog to a prisoner within the precincts of any prison, jail or house of correction is subject to the applicable fine under s. ~~461.41~~ 961.41 (1) or (1m) or a term of imprisonment of up to twice that authorized by s. ~~461.41~~ 961.41 (1) or (1m) or both.

**SECTION 282.** 161.465 (2) of the statutes is renumbered 961.465 (2) and amended to read:

961.465 (2) If a person violates s. ~~461.41~~ 961.41 (1) (cm), (d), (e), (f), (g) or (h) or (1m) (cm), (d), (e), (f), (g) or (h) by delivering, distributing or possessing with intent to deliver ~~a controlled substance included under s. 461.14 (7) (L) or 461.16 (2) (b)~~ or distribute cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or any form of tetrahydrocannabinols, or a controlled substance analog of any of these substances, to a prisoner within the precincts of any prison, jail or house of correction, any applicable minimum and maximum fines and minimum and maximum periods of imprisonment under s. ~~461.41~~ 961.41 (1) (cm), (d), (e), (f), (g) or (h) or (1m) (cm), (d), (e), (f), (g) or (h) are doubled.

**SECTION 283.** 161.465 (2m) of the statutes is renumbered 961.465 (2m) and amended to read:

961.465 (2m) A person may be subject to increased penalties under both this section and s. ~~461.49~~ 961.49 regarding the same unlawful act.

**SECTION 284.** 161.465 (3) of the statutes is renumbered 961.465 (3).

**SECTION 285.** 161.47 of the statutes is renumbered 961.47, and 961.47 (1), as renumbered, is amended to read:

961.47 (1) Whenever any person who has not previously been convicted of any offense under this chapter, or of any offense under any statute of the United States or of any state or of any county ordinance relating to controlled substances or controlled substance analogs, narcotic drugs, marijuana or stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. ~~461.41~~ (3) 961.41 (3g) (b), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him or her on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the

terms and conditions, the court shall discharge the person and dismiss the proceedings against him or her. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for 2nd or subsequent convictions under s. 161.48 961.48. There may be only one discharge and dismissal under this section with respect to any person.

**SECTION 286.** 161.472 of the statutes is renumbered 961.472, and 961.472 (2) and (4), as renumbered, are amended to read:

961.472 (2) Except as provided in sub. (5), if a person pleads guilty or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 161.41 (2r) (b), (3m), (3n) ~~or (3p)~~ 961.41 (3g) (a) 2., (c) or (d), the court shall order the person to comply with an assessment of the person's use of controlled substances. The court's order shall designate a facility that is operated by or pursuant to a contract with the county department established under s. 51.42 and that is certified by the department of health and social services to provide assessment services to perform the assessment and, if appropriate, to develop a proposed treatment plan. The court shall notify the person that noncompliance with the order limits the court's ability to determine whether the treatment option under s. 161.475 961.475 is appropriate. The court shall also notify the person of the fee provisions under s. 46.03 (18) (fm).

(4) The court shall consider the assessment report in determining whether the treatment option under s. 161.475 961.475 is appropriate.

**SECTION 287.** 161.475 of the statutes is renumbered 961.475 and amended to read:

**961.475 Treatment option.** Whenever any person pleads guilty to or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 161.41 (2r), (3), (3m), (3n), (3p) ~~or (3r)~~ 961.41 (3g), the court may, upon request of the person and with the consent of a treatment facility with special inpatient or outpatient programs for the treatment of drug dependent persons, allow the person to enter the treatment programs voluntarily for purposes of treatment and rehabilitation. Treatment shall be for the period the treatment facility feels is necessary and required, but shall not exceed the maximum sentence allowable unless the person consents to the continued treatment. At the end of the necessary and required treatment, with the consent of the court, the person may be released from sentence. If treatment efforts are ineffective or the person ceases to cooperate with treatment rehabilitation efforts, the person may be remanded to the court for completion of sentencing.

**SECTION 288.** 161.48 of the statutes is renumbered 961.48, and 961.48 (2), (3) and (4), as renumbered, are amended to read:

961.48 (2) If any person is convicted of a 2nd or subsequent offense under this chapter that is specified in s. 161.41 961.41 (1) (cm), (d), (e), (f), (g) or (h), (1m) (cm), (d), (e), (f), (g) or (h), ~~(2r) (b), (3m), (3n), (3p) or (3r)~~ or (3g) (a) 2., (c), (d) or (e), any applicable minimum and maximum fines and minimum and maximum periods of imprisonment under s. 161.41 961.41 (1) (cm), (d), (e), (f), (g) or (h), (1m) (cm), (d), (e), (f), (g) or (h), ~~(2r) (b), (3m), (3n), (3p) or (3r)~~ or (3g) (a) 2., (c), (d) or (e) are doubled. A 2nd or subsequent offense under s. 161.41 ~~(3m), (3n), (3p) or (3r)~~ 961.41 (3g) (c), (d) or (e) is a felony and the person may be imprisoned in state prison.

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

(4) This section does not apply to offenses under s. 161.41 ~~(2r)~~ 961.41 (3g) (a) 1. and (3) (b).

**SECTION 289.** 161.49 of the statutes is renumbered 961.49 and amended to read:

**961.49 Distribution of or possession with intent to deliver a controlled substance on or near certain places.** (1) If any person violates s. 161.41 961.41 (1) (cm), (d), (e), (f), (g) or (h) by delivering or distributing, or violates s. 161.41 961.41 (1m) (cm), (d), (e), (f), (g) or (h) by possessing with intent to deliver, ~~a controlled substance included under s. 161.14 (7) (L) or 161.16 (2) (b) or distribute, cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, methcathinone or any form of tetrahydrocannabinols or a controlled substance analog of any of these substances~~ while in or on the premises of a scattered-site public housing project, while in or on or otherwise within 1,000 feet of a state, county, city, village or town park, a jail or correctional facility, a multiunit public housing project, a swimming pool open to members of the public, a youth center or a community center, while in or on or otherwise within 1,000 feet of any private or public school premises or while in or on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years.

(2) (a) Except as provided in par. (b), if any person violates s. 161.41 961.41 (1) by delivering or distributing, or violates s. 161.41 961.41 (1m) by possessing with intent to deliver or distribute, a controlled substance listed included in schedule I or II or a controlled substance analog of a controlled substance included in schedule I or II while in or on the premises of a scattered-site public housing project, while in or on or otherwise within 1,000 feet of a state, county, city, village or town park, a jail or correctional facility, a multiunit public

housing project, a swimming pool open to members of the public, a youth center or a community center, while in or on or otherwise within 1,000 feet of any private or public school premises or while in or on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court shall sentence the person to at least 3 years in prison, but otherwise the penalties for the crime apply. Except as provided in s. ~~461.438~~ 961.438, the court shall not place the person on probation. The person is not eligible for parole until he or she has served at least 3 years, with no modification by the calculation under s. 302.11 (1).

(b) If the conduct described in par. (a) involves only the delivery or distribution, or the possession with intent to deliver or distribute, of not more than 25 grams of tetrahydrocannabinols, ~~listed at s. 461.14~~ included in s. 961.14 (4) (t), or not more than 5 ~~marijuana~~ plants containing tetrahydrocannabinols, the court shall sentence the person to at least one year in prison, but otherwise the penalties for the crime apply. Except as provided in s. ~~461.438~~ 961.438, the court shall not place the person on probation. The person is not eligible for parole until he or she has served at least one year, with no modification by the calculation under s. 302.11 (1).

**SECTION 290.** 161.495 of the statutes is renumbered 961.495 and amended to read:

**961.495 Possession or attempted possession of a controlled substance on or near certain places.** If any person violates s. ~~461.41 (2r), (3), (3m), (3n), (3p) or (3r)~~ 961.41 (3g) by possessing or attempting to possess a controlled substance ~~listed~~ included in schedule I or II or a controlled substance analog of a controlled substance included in schedule I or II while in or on the premises of a scattered-site public housing project, while in or on or otherwise within 1,000 feet of a state, county, city, village or town park, a jail or correctional facility, a multiunit public housing project, a swimming pool open to members of the public, a youth center or a community center, while in or on or otherwise within 1,000 feet of any private or public school premises or while in or on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court shall, in addition to any other penalties that may apply to the crime, impose 100 hours of community service work for a public agency or a non-profit charitable organization. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this section has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.

**SECTION 291.** 161.50 of the statutes is renumbered 961.50.

**SECTION 292.** Subchapter V (title) of chapter 161 [precedes 161.51] of the statutes is renumbered subchapter V (title) of chapter 961 [precedes 961.51].

**SECTION 293.** 161.51 of the statutes is renumbered 961.51.

**SECTION 294.** 161.52 of the statutes is renumbered 961.52, and 961.52 (2) (a) 1. and 2., as renumbered, are amended to read:

961.52 (2) (a) 1. Places where persons authorized under s. ~~461.32~~ 961.32 to possess controlled substances in this state are required by federal law to keep records; and

2. Places including factories, warehouses, establishments and conveyances in which persons authorized under s. ~~461.32~~ 961.32 to possess controlled substances in this state are permitted by federal law to hold, manufacture, compound, process, sell, deliver or otherwise dispose of any controlled substance.

**SECTION 295.** 161.53 of the statutes is renumbered 961.53.

**SECTION 296.** 161.54 of the statutes is renumbered 961.54, and 961.54 (3), as renumbered, is amended to read:

961.54 (3) Cooperate with the bureau by establishing a centralized unit to accept, catalog, file and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes. It shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under s. ~~461.335~~ 961.335 (7); and

**SECTION 297.** 161.55 (title) of the statutes is renumbered 961.55 (title).

**SECTION 298.** 161.55 (1) of the statutes is renumbered 961.55 (1), and 961.55 (1) (a), (b), (c), (d) (intro.) and 3. and (g), as renumbered, are amended to read:

961.55 (1) (a) All controlled substances or controlled substance analogs which have been manufactured, delivered, distributed, dispensed or acquired in violation of this chapter;

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, distributing, importing or exporting any controlled substance or controlled substance analog in violation of this chapter;

(c) All property which is used, or intended for use, as a container for property described in pars. (a) and (b);

(d) (intro.) All vehicles, ~~as defined in s. 939.22 (44)~~, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in pars. (a) and (b) or for the purpose of transporting any property or weapon

used or to be used or received in the commission of any felony under this chapter, but:

3. A vehicle is not subject to forfeiture for a violation of s. ~~161.41 (3), (3m), (3n), (3p) or (3r)~~ 961.41 (3g) (b), (c), (d) or (e); and

(g) Any drug paraphernalia, as defined in s. ~~161.571 961.571~~, used in violation of this chapter.

**SECTION 299.** 161.55 (2) of the statutes is renumbered 961.55 (2), and 961.55 (2) (intro.), as renumbered, is amended to read:

961.55 (2) (intro.) Property subject to forfeiture under this chapter may be seized by any officer or employe designated in s. ~~161.51 961.51~~ (1) or (2) or a law enforcement officer upon process issued by any court of record having jurisdiction over the property. Seizure without process may be made if:

**SECTION 300.** 161.55 (3) of the statutes is renumbered 961.55 (3), and 961.55 (3) (intro.), as renumbered, is amended to read:

961.55 (3) (intro.) In the event of seizure under sub. (2), proceedings under sub. (4) shall be instituted promptly. All dispositions and forfeitures under this section and ss. ~~161.555 961.555~~ and ~~161.56 961.56~~ shall be made with due provision for the rights of innocent persons under sub. (1) (d) 1., 2. and 4. Any property seized but not forfeited shall be returned to its rightful owner. Any person claiming the right to possession of property seized may apply for its return to the circuit court for the county in which the property was seized. The court shall order such notice as it deems adequate to be given the district attorney and all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the property returned if:

**SECTION 301.** 161.55 (4) of the statutes is renumbered 961.55 (4).

**SECTION 302.** 161.55 (5) of the statutes is renumbered 961.55 (5).

**SECTION 303.** 161.55 (6) of the statutes is renumbered 961.55 (6) and amended to read:

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

**SECTION 304.** 161.55 (7) of the statutes is renumbered 961.55 (7).

**SECTION 305.** 161.55 (8) of the statutes is renumbered 961.55 (8) and amended to read:

961.55 (8) The failure, upon demand by any officer or employe designated in s. ~~161.51 961.51~~ (1) or (2), of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate federal registration, or proof that the person is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

**SECTION 306.** 161.555 of the statutes is renumbered 961.555, and 961.555 (1), (3) and (4) (intro.), as renumbered, are amended to read:

961.555 (1) TYPE OF ACTION; WHERE BROUGHT. In an action brought to cause the forfeiture of any property seized under s. ~~161.55 961.55~~, the court may render a judgment in rem or against a party personally, or both. The circuit court for the county in which the property was seized shall have jurisdiction over any proceedings regarding the property when the action is commenced in state court. Any property seized may be the subject of a federal forfeiture action.

(3) BURDEN OF PROOF. The state shall have the burden of satisfying or convincing to a reasonable certainty by the greater weight of the credible evidence that the property is subject to forfeiture under s. ~~161.55 961.55~~.

(4) ACTION AGAINST OTHER PROPERTY OF THE PERSON. (intro.) The court may order the forfeiture of any other property of a defendant up to the value of property found by the court to be subject to forfeiture under s. ~~161.55 961.55~~ if the property subject to forfeiture meets any of the following conditions:

**SECTION 307.** 161.56 of the statutes is renumbered 961.56.

**SECTION 308.** 161.565 of the statutes is renumbered 961.565.

**SECTION 309.** Subchapter VI (title) of chapter 161 [precedes 161.571] of the statutes is renumbered subchapter VI (title) of chapter 961 [precedes 961.571].

**SECTION 310.** 161.571 of the statutes is renumbered 961.571, and 961.571 (1) (a) (intro.), 1., 2., 4., 5., 6., 8., 9. and 10., as renumbered, are amended to read:

961.571 (1) (a) (intro.) "Drug paraphernalia" means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of this chapter. "Drug paraphernalia" includes, but is not limited to, any of the following:

1. Kits used, designed for use or primarily intended for use in planting, propagating, cultivating, growing or

harvesting of any species of plant that is a controlled substance or from which a controlled substance or controlled substance analog can be derived.

2. Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.

4. Testing equipment used, designed for use or primarily intended for use in identifying, or in analyzing the strength, effectiveness or purity of, controlled substances or controlled substance analogs.

5. Scales and balances used, designed for use or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use or primarily intended for use in cutting controlled substances or controlled substance analogs.

8. Blenders, bowls, containers, spoons and mixing devices used, designed for use or primarily intended for use in compounding controlled substances or controlled substance analogs.

9. Capsules, balloons, envelopes and other containers used, designed for use or primarily intended for use in packaging small quantities of controlled substances or controlled substance analogs.

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

**SECTION 311.** 161.572 of the statutes is renumbered 961.572, and 961.572 (1) (c) and (d), as renumbered, are amended to read:

961.572 (1) (c) The proximity of the object to controlled substances or controlled substance analogs.

(d) The existence of any residue of controlled substances or controlled substance analogs on the object.

**SECTION 312.** 161.573 (title) of the statutes is renumbered 961.573 (title).

**SECTION 313.** 161.573 (1) of the statutes is renumbered 961.573 (1) and amended to read:

961.573 (1) No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter. Any person who violates this section may be fined not more than \$500 or imprisoned for not more than 30 days or both.

**SECTION 314.** 161.573 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 961.573 (2).

**SECTION 315.** 161.574 (title) of the statutes is renumbered 961.574 (title).

**SECTION 316.** 161.574 (1) of the statutes is renumbered 961.574 (1) and amended to read:

961.574 (1) No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this chapter. Any person who violates this section may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

**SECTION 317.** 161.574 (2) of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 961.574 (2).

**SECTION 318.** 161.575 of the statutes, as affected by 1995 Wisconsin Act 27, is renumbered 961.575, and 961.575 (1), as renumbered, is amended to read:

961.575 (1) Any person 17 years of age or over who violates s. ~~161.574~~ 961.574 by delivering drug paraphernalia to a person 17 years of age or under who is at least 3 years younger than the violator may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

**SECTION 319.** 161.576 of the statutes is renumbered 961.576.

**SECTION 320.** 161.577 of the statutes is renumbered 961.577 and amended to read:

**961.577 Municipal ordinances.** Nothing in this subchapter precludes a city, village or town from prohibiting conduct that is the same as that prohibited by s. ~~161.573~~ 961.573 (2), ~~161.574~~ 961.574 (2) or ~~161.575~~ 961.575 (2).

**SECTION 321.** Subchapter VII (title) of chapter 161 [precedes 161.61] of the statutes is renumbered subchapter VII (title) of chapter 961 [precedes 961.61].

**SECTION 322.** 161.61 of the statutes is renumbered 961.61.

**SECTION 323.** 161.62 of the statutes is renumbered 961.62.

**SECTION 324.** 165.70 (1) (b) of the statutes is amended to read:

165.70 (1) (b) Enforce chs. ~~161 and 945~~ and 961 and ss. 940.20 (3), 941.25 to 941.27, 943.01 (2) (c), 943.27, 943.28, 943.30, 944.30, 944.31, 944.32, 944.33, 944.34, 946.65, 947.02 (3) and (4) and 948.08.

**SECTION 325.** 165.72 (3) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

165.72 (3) **REWARD PAYMENT PROGRAM.** The department shall administer a reward payment program. Under the program, the department may offer and pay rewards from the appropriation under s. 20.455 (2) (e) for information under sub. (2) (a) leading to the arrest and conviction of a person for a violation of ch. ~~161~~ 961.

**SECTION 326.** 165.83 (2) (a) 2. of the statutes is amended to read:

165.83 (2) (a) 2. For an offense which is a misdemeanor or a violation of an ordinance involving burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances or controlled substance analogs under ch. ~~461~~ 961, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks.

**SECTION 327.** 302.11 (1g) (a) 1. of the statutes is amended to read:

302.11 (1g) (a) 1. Any felony under s. ~~461.41~~ 961.41 (1), (1m) or (1x) if the felony is punishable by a maximum prison term of 30 years or more.

**SECTION 328.** 302.11 (1p) of the statutes is amended to read:

302.11 (1p) An inmate serving a term subject to s. ~~461.49~~ 961.49 (2) is entitled to mandatory release, except the inmate may not be released before he or she has complied with s. ~~461.49~~ 961.49 (2).

**SECTION 329.** 302.375 (1) (b) of the statutes is amended to read:

302.375 (1) (b) Wilfully permits a prisoner to have any controlled substance, controlled substance analog or intoxicating liquor.

**SECTION 330.** 302.375 (4) (a) of the statutes is amended to read:

302.375 (4) (a) "Controlled substance" has the meaning ~~designated for the term given~~ in s. ~~461.01~~ 961.01 (4).

**SECTION 331.** 302.375 (4) (am) of the statutes is created to read:

302.375 (4) (am) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 332.** 304.06 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27, section 6405, is amended to read:

304.06 (1) (b) Except as provided in sub. (1m) or s. ~~461.49~~ (2), 302.045 (3), 961.49 (2) or 973.0135, the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. Except as provided in s. 939.62 (2m) or 973.014, the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension using the formulas under s. 302.11 (2). The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the per-

son has been confined at least 60 days following sentencing.

**SECTION 333.** 304.06 (1) (b) of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (this act), is repealed and recreated to read:

304.06 (1) (b) Except as provided in sub. (1m) or s. 302.045 (3), 961.49 (2) or 973.0135, the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. The parole commission may parole a participant in the serious juvenile offender program under s. 938.538 when he or she has participated in that program for 2 years. Except as provided in s. 939.62 (2m) or 973.014, the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension using the formulas under s. 302.11 (2). The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

**SECTION 334.** 304.06 (4) (a) of the statutes is amended to read:

304.06 (4) (a) If any person convicted of a misdemeanor or traffic offense, any person convicted of a criminal offense and sentenced to 2 years or less in a house of correction or any person committed to a house of correction for treatment and rehabilitation for addiction to a controlled substance or controlled substance analog under ch. ~~461~~ 961, during the period of confinement or treatment appears to have been rehabilitated or cured to the extent, in the opinion of the superintendent of the house of correction or the person in charge of treatment and rehabilitation of a prisoner at that institution, that the prisoner may be released, the prisoner may be released upon conditional parole. Before a person is released on conditional parole under this paragraph, the superintendent or person in charge of treatment and rehabilitation shall so notify the municipal police department and county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

**SECTION 335.** 304.071 (2) of the statutes, as affected by 1995 Wisconsin Act 48, is amended to read:

304.071 (2) If a prisoner is not eligible for parole under s. ~~461.49 (2)~~, 939.62 (2m), ~~961.49 (2)~~, 973.014 (1) (c) or 973.032 (5), he or she is not eligible for parole under this section.

**SECTION 336.** 340.01 (9m) of the statutes is amended to read:

340.01 (9m) “Controlled substance” has the meaning specified for the term given in s. ~~461.01~~ 961.01 (4).

**SECTION 337.** 340.01 (9n) of the statutes is created to read:

340.01 (9n) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

**SECTION 338.** 343.06 (1) (d) of the statutes is amended to read:

343.06 (1) (d) To any person whose dependence on alcohol has attained such a degree that it interferes with his or her physical or mental health or social or economic functioning, or who is addicted to the use of controlled substances or controlled substance analogs, except that the secretary may issue a license if the person submits to an examination, evaluation or treatment in a treatment facility meeting the standards prescribed in s. 51.45 (8) (a), as directed by the secretary, in accordance with s. 343.16 (5).

**SECTION 339.** 343.10 (1) (a) of the statutes is amended to read:

343.10 (1) (a) If a person’s license or operating privilege is revoked or suspended under this chapter or s. ~~461.50~~ 961.50 and if the person is engaged in an occupation, including homemaking or full-time or part-time study, or a trade making it essential that he or she operate a motor vehicle, the person, after payment of the fee provided in sub. (6), may file a petition setting forth in detail the need for operating a motor vehicle.

**SECTION 340.** 343.10 (5) (a) 1. of the statutes is amended to read:

343.10 (5) (a) 1. In addition to any restrictions appearing on the former operator’s license of the petitioner, the order for issuance of an occupational license shall contain definite restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60, type of occupation and areas or routes of travel which are permitted under the license. The order may permit travel to and from church during specified hours if the travel does not exceed the restrictions as to hours of the day and hours per week in this subdivision. The order may permit travel necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305 if the travel does not exceed the restrictions as to hours of the day and hours per week in this subdivision. The order may contain restrictions on the use of alcohol and of controlled substances and controlled substance analogs in violation of s. ~~461.41~~ 961.41.

**SECTION 341.** 343.10 (5) (b) of the statutes is amended to read:

343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations specified in ss. ~~461.50~~, 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b) and (em), 343.31 (3m) and, 343.32 (1m) and 961.50.

**SECTION 342.** 343.16 (5) (a) of the statutes is amended to read:

343.16 (5) (a) The secretary may require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the secretary may direct to determine incompetency, physical or mental disability, disease or any other condition which might prevent such applicant or licensed person from exercising reasonable and ordinary control over a motor vehicle. When the department requires the applicant to submit to an examination, the applicant shall pay the cost thereof. If the department receives an application for a renewal or duplicate license after voluntary surrender under s. 343.265 or receives a report from a physician or optometrist under s. 146.82 (3), or if the department has a report of 2 or more arrests within a one-year period for any combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the department shall determine, by interview or otherwise, whether the operator should submit to an examination under this section. The examination may consist of an assessment. If the examination indicates that education or treatment for a disability, disease or condition concerning the use of alcohol ~~or~~, a controlled substance or a controlled substance analog is appropriate, the department may order a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with assessment or the driver safety plan, the department shall suspend the person’s operating privilege in the manner specified in s. 343.30 (1q) (d).

**SECTION 343.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

343.30 (1q) (c) 1. (intro.) Except as provided in subd. 1. a. or b., the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person’s use of alcohol ~~or~~, controlled substances or controlled substance analogs and development of a driver safety plan for the person. The court shall notify the department of transportation of the assessment order. The court shall notify the person that noncompliance with assessment or the driver safety plan will result in license suspension until the person is in compliance. The assessment order shall:

**SECTION 344.** 343.30 (1q) (d) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

343.30 (1q) (d) The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victim's family. The driver safety plan may include treatment for the person's misuse, abuse or dependence on alcohol or controlled substances or controlled substance analogs, or attendance at a school under s. 345.60, or both. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year. The county department under s. 51.42 shall assure notification of the department of transportation and the person of the person's compliance or noncompliance with assessment and with treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42 and the person of the person's compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee or, if the person has the ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order. If the department is notified of any noncompliance, it shall suspend the person's operating privilege until the county department under s. 51.42 or the school under s. 345.60 notifies the department that the person is in compliance with assessment or the driver safety plan. The department shall notify the person of the suspension, the reason for the suspension and the person's right to a review. A person may request a review of a suspension based upon failure to comply with a driver safety plan within 10 days of notification. The review shall be handled by the subunit of the department of transportation designated by the secretary. The issues at the review are limited to whether the driver safety plan, if challenged, is appropriate and whether the person is in compliance with the assessment order or the driver safety plan. The review shall be conducted within 10 days after a request is received. If the driver safety plan is determined to be inappropriate, the department shall order a reassessment and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If the person is determined to be in compliance with the assessment or driver safety plan, and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If there is no decision within the 10-day period, the department shall issue an order reinstating the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

**SECTION 345.** 343.30 (5) of the statutes is amended to read:

343.30 (5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 48, 345 or 351 or s. ~~461.50~~ 961.50. When a court

revokes, suspends or restricts a child's operating privilege under ch. 48, the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

**SECTION 346.** 343.30 (5) of the statutes, as affected by 1995 Wisconsin Act 77, is repealed and recreated to read:

343.30 (5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 345, 351 or 938 or s. 961.50. When a court revokes, suspends or restricts a child's operating privilege under ch. 938, the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

**SECTION 347.** 343.303 of the statutes is amended to read:

**343.303 Preliminary breath screening test.** If a law enforcement officer has probable cause to believe that the person is violating or has violated s. 346.63 (1) or (2m) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25 or s. 940.09 where the offense involved the use of a vehicle, or if the officer detects any presence of alcohol, a controlled substance, controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe that the person is violating or has violated s. 346.63 (7) or a local ordinance in conformity therewith, the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the department for this purpose. The result of this preliminary breath screening test may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of s. 346.63 (1), (2m), (5) or (7) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6), 940.09 (1) or 940.25 and whether or not to require or request chemical tests as authorized under s. 343.305 (3). The result of the preliminary breath screening test shall not be admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to prove that a chemical test was properly required or requested of

a person under s. 343.305 (3). Following the screening test, additional tests may be required or requested of the driver under s. 343.305 (3). The general penalty provision under s. 939.61 (1) does not apply to a refusal to take a preliminary breath screening test.

**SECTION 348.** 343.305 (2) of the statutes is amended to read:

343.305 (2) **IMPLIED CONSENT.** Any person who is on duty time with respect to a commercial motor vehicle or drives or operates a motor vehicle upon the public highways of this state, or in those areas enumerated in s. 346.61, is deemed to have given consent to one or more tests of his or her breath, blood or urine, for the purpose of determining the presence or quantity in his or her blood or breath, of alcohol, controlled substances, ~~a combination of alcohol and controlled substances,~~ controlled substance analogs or other drugs, or a any combination of alcohol and controlled substances, controlled substance analogs and other drugs, when requested to do so by a law enforcement officer under sub. (3) (a) or (am) or when required to do so under sub. (3) (b). Any such tests shall be administered upon the request of a law enforcement officer. The law enforcement agency by which the officer is employed shall be prepared to administer, either at its agency or any other agency or facility, 2 of the 3 tests under sub. (3) (a) or (am), and may designate which of the tests shall be administered first.

**SECTION 349.** 343.305 (3) (am) of the statutes is amended to read:

343.305 (3) (am) Prior to arrest, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2) whenever a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person is violating or has violated s. 346.63 (7). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. For the purposes of this paragraph, “law enforcement officer” includes inspectors in the performance of duties under s. 110.07 (3).

**SECTION 350.** 343.305 (3) (b) of the statutes is amended to read:

343.305 (3) (b) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated s. 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or detects any presence of alcohol, controlled substance, controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial

motor vehicle or has reason to believe the person has violated s. 346.63 (7), one or more samples specified in par. (a) or (am) may be administered to the person.

**SECTION 351.** 343.305 (5) (b) of the statutes is amended to read:

343.305 (5) (b) Blood may be withdrawn from the person arrested for violation of s. 346.63 (1), (2), (2m), (5) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1), (2m) or (5), or as provided in sub. (3) (am) or (b) to determine the presence or quantity of alcohol, a controlled substance, ~~a combination of alcohol and a controlled substance,~~ a controlled substance analog or any other drug, or a any combination of alcohol ~~and, controlled substance, controlled substance analog~~ and any other drug in the blood only by a physician, registered nurse, medical technologist, physician assistant or person acting under the direction of a physician.

**SECTION 352.** 343.305 (5) (d) of the statutes is amended to read:

343.305 (5) (d) At the trial of any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have been driving or operating a motor vehicle while under the influence of an intoxicant ~~or, a controlled substance, a controlled substance analog~~ or any other drug, or a under the influence of any combination of alcohol ~~and, a controlled substance, under the influence of a controlled substance analog~~ and any other drug, to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or having a prohibited alcohol concentration, or alleged to have been driving or operating or on duty time with respect to a commercial motor vehicle while having any measured alcohol concentration above 0.0 or possessing an intoxicating beverage, regardless of its alcohol content, or within 4 hours of having consumed or having been under the influence of an intoxicating beverage, regardless of its alcohol content, or of having an alcohol concentration of 0.04 or more, the results of a test administered in accordance with this section are admissible on the issue of whether the person was under the influence of an intoxicant ~~or, a controlled substance, a controlled substance analog~~ or any other drug, or a under the influence of any combination of alcohol ~~and, a controlled substance, under the influence of a controlled substance analog~~ and any other drug, to a degree which renders him or her incapable of safely driving or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or any issue relating to the person’s alcohol concentration. Test results shall be given the effect required under s. 885.235.

**SECTION 353.** 343.305 (6) (a) of the statutes is amended to read:

343.305 (6) (a) Chemical analyses of blood or urine to be considered valid under this section shall have been performed substantially according to methods approved by the laboratory of hygiene and by an individual possessing a valid permit to perform the analyses issued by the department of health and social services. The department of health and social services shall approve laboratories for the purpose of performing chemical analyses of blood or urine for alcohol ~~or~~ controlled substances or controlled substance analogs and shall develop and administer a program for regular monitoring of the laboratories. A list of approved laboratories shall be provided to all law enforcement agencies in the state. Urine specimens are to be collected by methods specified by the laboratory of hygiene. The laboratory of hygiene shall furnish an ample supply of urine and blood specimen containers to permit all law enforcement officers to comply with the requirements of this section.

**SECTION 354.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the person was driving or operating a motor vehicle while under the influence of alcohol, a controlled substance or a controlled substance analog or any combination of both alcohol, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders the person incapable of safely driving, or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of safely driving or having a prohibited alcohol concentration or, if the person was driving or operating a commercial motor vehicle, an alcohol concentration of 0.04 or more and whether the person was lawfully placed under arrest for violation of s. 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or (6), 940.09 (1) or 940.25.

**SECTION 355.** 343.305 (9) (a) 5. c. of the statutes is amended to read:

343.305 (9) (a) 5. c. Whether the person refused to permit the test. The person shall not be considered to have refused the test if it is shown by a preponderance of evidence that the refusal was due to a physical inability to submit to the test due to a physical disability or disease unrelated to the use of alcohol, controlled substances, controlled substance analogs or other drugs.

**SECTION 356.** 343.305 (9) (am) 5. a. of the statutes is amended to read:

343.305 (9) (am) 5. a. Whether the officer detected any presence of alcohol, controlled substance, controlled substance analog or other drug, or a combination thereof, on the person or had reason to believe that the person was violating or had violated s. 346.63 (7).

**SECTION 357.** 343.305 (9) (am) 5. c. of the statutes is amended to read:

343.305 (9) (am) 5. c. Whether the person refused to permit the test. The person shall not be considered to

have refused the test if it is shown by a preponderance of evidence that the refusal was due to a physical inability to submit to the test due to a physical disability or disease unrelated to the use of alcohol, controlled substances, controlled substance analogs or other drugs.

**SECTION 358.** 343.305 (10) (c) 1. (intro.) of the statutes is amended to read:

343.305 (10) (c) 1. (intro.) Except as provided in subd. 1. a. or b., the court shall order the person to submit to and comply with an assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for examination of the person's use of alcohol ~~or~~ controlled substances or controlled substance analogs and development of a driver safety plan for the person. The court shall notify the person and the department of transportation of the assessment order. The court shall also notify the person that noncompliance with assessment or the driver safety plan will result in license suspension until the person is in compliance. The assessment order shall:

**SECTION 359.** 343.305 (10) (d) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

343.305 (10) (d) The assessment report shall order compliance with a driver safety plan. The report shall inform the person of the fee provisions under s. 46.03 (18) (f). The driver safety plan may include a component that makes the person aware of the effect of his or her offense on a victim and a victim's family. The driver safety plan may include treatment for the person's misuse, abuse or dependence on alcohol ~~or~~ controlled substances or controlled substance analogs, attendance at a school under s. 345.60, or both. If the plan requires inpatient treatment, the treatment shall not exceed 30 days. A driver safety plan under this paragraph shall include a termination date consistent with the plan which shall not extend beyond one year. The county department under s. 51.42 shall assure notification of the department of transportation and the person of the person's compliance or noncompliance with assessment and treatment. The school under s. 345.60 shall notify the department, the county department under s. 51.42 and the person of the person's compliance or noncompliance with the requirements of the school. Nonpayment of the assessment fee or, if the person has the ability to pay, nonpayment of the driver safety plan fee is noncompliance with the court order. If the department is notified of noncompliance, it shall suspend the person's operating privilege until the county department under s. 51.42 or the school under s. 345.60 notifies the department that the person is in compliance with assessment or the driver safety plan. The department shall notify the person of the suspension, the reason for the suspension and the person's right to a review. A person may request a review of a suspension based upon failure to comply with a driver safety plan within 10 days of notification. The review shall be handled by the subunit of the department of transportation designated by the secretary. The issues at the review are

limited to whether the driver safety plan, if challenged, is appropriate and whether the person is in compliance with the assessment order or the driver safety plan. The review shall be conducted within 10 days after a request is received. If the driver safety plan is determined to be inappropriate, the department shall order a reassessment and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If the person is determined to be in compliance with the assessment or driver safety plan, and if the person is otherwise eligible, the department shall reinstate the person's operating privilege. If there is no decision within the 10-day period, the department shall issue an order reinstating the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

**SECTION 360.** 343.307 (1) (d) of the statutes is amended to read:

343.307 (1) (d) Convictions under the law of another jurisdiction that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

**SECTION 361.** 343.307 (2) (e) of the statutes is amended to read:

343.307 (2) (e) Convictions under the law of another jurisdiction that prohibits refusal of chemical testing or use of a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

**SECTION 362.** 343.31 (1) (am) of the statutes is amended to read:

343.31 (1) (am) Injury by the operation of a vehicle while under the influence of an intoxicant ~~or~~, a controlled substance or a controlled substance analog, or any combination of an intoxicant ~~and~~, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or while the person has a prohibited alcohol concentration and which is criminal under s. 346.63 (2).

**SECTION 363.** 343.31 (1) (b) of the statutes is amended to read:

343.31 (1) (b) Upon the 2nd or any subsequent conviction for operation of a motor vehicle while under the influence of an intoxicant ~~or~~, controlled substance, con-

trolled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, in accordance with the order of the court. This paragraph does not apply to a law of a federally recognized American Indian tribe or band in this state.

**SECTION 364.** 343.31 (2) of the statutes is amended to read:

343.31 (2) The department shall revoke or suspend, respectively, the operating privilege of any resident upon receiving notice of the conviction of such person in another jurisdiction for an offense therein which, if committed in this state, would have been cause for revocation or suspension under this section or under s. 343.30 (1q). Such offenses shall include violation of any law of another jurisdiction that prohibits use of a motor vehicle while intoxicated or under the influence of a controlled substance or controlled substance analog, or a combination thereof, or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws. Upon receiving similar notice with respect to a nonresident, the department shall revoke or suspend, respectively, the privilege of the nonresident to operate a motor vehicle in this state. Such suspension or revocation shall not apply to the operation of a commercial motor vehicle by a nonresident who holds a valid commercial driver license issued by another state.

**SECTION 365.** 343.31 (3) (b) of the statutes is amended to read:

343.31 (3) (b) If the suspension results from a first conviction of operation of a motor vehicle while under the influence of an intoxicant ~~or~~, controlled substance, controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving and the conviction occurs in another jurisdiction, the period of suspension shall be 6 months.

**SECTION 366.** 343.315 (2) (a) 1. of the statutes is amended to read:

343.315 (2) (a) 1. Section 346.63 (1) (a) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) (a) or the law of another jurisdiction prohibiting driving or operating a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance, a controlled substance analog or a combination thereof, or under the influence of any drug which renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

**SECTION 367.** 343.315 (2) (a) 6. of the statutes is amended to read:

343.315 (2) (a) 6. Section 346.63 (2) or (6), 940.09 (1) or 940.25 or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (2) or (6), 940.09 (1) or 940.25, or the law of another jurisdiction prohibiting causing or inflicting injury, great bodily harm or death through use of a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance, a controlled substance analog or a combination thereof, or with an alcohol concentration of 0.04 or more or with an excess or specified range of alcohol concentration, or under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

**SECTION 368.** 343.315 (2) (e) of the statutes is amended to read:

343.315 (2) (e) A person is disqualified for life from operating a commercial motor vehicle if the person uses a commercial motor vehicle on or after July 1, 1987, in the commission of a felony involving the manufacture, distribution, delivery or dispensing of a controlled substance or controlled substance analog, or possession with intent to manufacture, distribute, deliver or dispense a controlled substance or controlled substance analog. No person who is disqualified under this paragraph is eligible for reinstatement under par. (d).

**SECTION 369.** 343.32 (1m) (b) (intro.) of the statutes is amended to read:

343.32 (1m) (b) (intro.) The secretary shall suspend or revoke a person's operating privilege for not less than 6 months nor more than 5 years whenever notice has been received of the conviction of such person under federal law or the law of a federally recognized American Indian tribe or band in this state or the law of another jurisdiction for any offense therein which, if the person had committed the offense in this state and been convicted of the offense under the laws of this state, would have required suspension or revocation of such person's operating privilege under s. ~~461.50~~ 961.50. The person is eligible for an occupational license under s. 343.10 as follows:

**SECTION 370.** 343.32 (1m) (c) of the statutes is amended to read:

343.32 (1m) (c) For purposes of counting the number of convictions under par. (b), convictions of any violation of ch. ~~461~~ 961 shall be counted and given the effect specified under par. (b). The 5-year period under this subsection shall be measured from the dates of the violations which resulted in the convictions.

**SECTION 371.** 346.63 (1) (a) of the statutes is amended to read:

346.63 (1) (a) Under the influence of an intoxicant ~~or~~, a controlled substance, a controlled substance analog or a any combination of an intoxicant ~~and~~, a controlled substance and a controlled substance analog, under the influ-

ence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving; or

**SECTION 372.** 346.63 (2) (a) 1. of the statutes is amended to read:

346.63 (2) (a) 1. Under the influence of an intoxicant ~~or~~, a controlled substance, a controlled substance analog or a any combination of an intoxicant ~~and~~, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving; or

**SECTION 373.** 346.63 (2) (b) of the statutes is amended to read:

346.63 (2) (b) In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant ~~or~~, a controlled substance, a controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or did not have a blood alcohol concentration described under par. (a) 2.

**SECTION 374.** 346.63 (6) (c) of the statutes is amended to read:

346.63 (6) (c) Under par. (a), the person charged has a defense if it appears by a preponderance of the evidence that the injury would have occurred even if he or she had not been under the influence of an intoxicant ~~or~~, a controlled substance, a controlled substance analog or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or did not have an alcohol concentration described under par. (a).

**SECTION 375.** 346.637 (1) of the statutes is amended to read:

346.637 (1) The laws relating to operating a motor vehicle and drinking alcohol ~~or~~, using controlled substances or controlled substance analogs, or ~~both~~ using any combination of alcohol, controlled substances and controlled substance analogs.

**SECTION 376.** 346.637 (2) of the statutes is amended to read:

346.637 (2) The effects of alcohol ~~or~~, controlled substances or controlled substance analogs, or ~~both~~ the use of them in any combination, on a person's ability to operate a motor vehicle.

**SECTION 377.** 346.64 (1) of the statutes is amended to read:

346.64 (1) No person who owns or has direct control of a commercial motor vehicle or any vehicle operated upon a highway for the conveyance of passengers for hire shall employ as an operator of such vehicle and retain in the person's employment any person who is addicted to the excessive use of intoxicating liquor or to the use of a controlled substance or controlled substance analog under ch. ~~161.961~~. In addition to being subject to fine or imprisonment as prescribed by law, such person shall forfeit \$5 for each day such operator is retained in the person's employ.

**SECTION 378.** 349.02 (2) (b) 2. of the statutes is amended to read:

349.02 (2) (b) 2. Chapter ~~161.961~~ and local ordinances that strictly conform to s. ~~161.573 (2), 161.574 (2) or 161.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2).

**SECTION 379.** 349.13 (5) (b) 5. of the statutes is amended to read:

349.13 (5) (b) 5. The personal property is subject to forfeiture under ss. ~~161.55 to 161.56~~ 961.55 to 961.56 and 973.075 to 973.077.

**SECTION 380.** 350.01 (2) of the statutes is amended to read:

350.01 (2) "Controlled substance" has the meaning designated in s. ~~161.01 961.01~~ (4).

**SECTION 381.** 350.01 (2d) of the statutes is created to read:

350.01 (2d) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

**SECTION 382.** 350.01 (9) of the statutes is amended to read:

350.01 (9) "Intoxicant" means any alcohol beverage, controlled substance, controlled substance analog or other drug or any combination thereof.

**SECTION 383.** 350.11 (3) (d) of the statutes is amended to read:

350.11 (3) (d) (title) *Alcohol ~~or~~ controlled substances or controlled substance analogs; assessment.* In addition to any other penalty or order, a person who violates s. 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or 940.25 if the violation involves the operation of a snowmobile, shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol ~~or~~ controlled substances or controlled substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

**SECTION 384.** 351.02 (1) (a) 10. of the statutes is amended to read:

351.02 (1) (a) 10. Any offense under the law of another jurisdiction prohibiting conduct described in sections 6–207, 6–302, 6–303, 10–102, 10–103, 10–104,

11–901, 11–902, 11–907 or 11–908 of the uniform vehicle code and model traffic ordinance (1987), or prohibiting homicide or manslaughter resulting from the operation of a motor vehicle, use of a motor vehicle in the commission of a felony, reckless or careless driving or driving a motor vehicle with wilful or wanton disregard for the safety of persons or property, driving or operating a motor vehicle while under the influence of alcohol, a controlled substance, a controlled substance analog or any other drug or a combination thereof as prohibited, refusal to submit to chemical testing, operating a motor vehicle while the operating privilege or operator's license is revoked or suspended, perjury or the making false statements or affidavits to a governmental agency in connection with the ownership or operation of a motor vehicle, failing to stop and identify oneself as the driver or operator in the event of a motor vehicle accident with a person or an attended motor vehicle or fleeing from or attempting to elude a police, law enforcement or other peace officer, as those or substantially similar terms are used in that jurisdiction's laws.

**SECTION 385.** 441.16 (1) (b) 2. of the statutes is amended to read:

441.16 (1) (b) 2. Controlled substances, as defined in s. ~~161.01 961.01~~ (4).

**SECTION 386.** 447.07 (3) (L) of the statutes is amended to read:

447.07 (3) (L) Violated ch. ~~161 or~~ 450 or 961.

**SECTION 387.** 448.01 (11) of the statutes is amended to read:

448.01 (11) "Unprofessional conduct" means those acts or attempted acts of commission or omission defined as unprofessional conduct by the board under the authority delegated to the board by s. 15.08 (5) (b) and any act by a physician or podiatrist in violation of ch. ~~161 or~~ 450 or 961.

**SECTION 388.** 450.01 (4) of the statutes is amended to read:

450.01 (4) "Controlled substance" has the meaning designated in s. ~~161.01 961.01~~ (4).

**SECTION 389.** 450.01 (20) (b) of the statutes is amended to read:

450.01 (20) (b) Any controlled substance listed included in schedules II to V of ch. ~~161 961~~, whether by statute or rule, except substances which by law may be dispensed without the prescription order of a practitioner. Controlled substances are included within this definition for purposes of s. 450.11 (3), (4) (a) and (8) only and for violations thereof punishable under s. 450.11 (9).

**SECTION 390.** 450.02 (3) (d) of the statutes is amended to read:

450.02 (3) (d) Necessary for the administration and enforcement of this chapter and ch. ~~161 961~~.

**SECTION 391.** 450.10 (1) (a) 2. of the statutes is amended to read:

450.10 (1) (a) 2. Violating this chapter or, subject to s. 961.38 (4r), ch. ~~464~~ 961 or any federal or state statute or rule which substantially relates to the practice of the licensee.

**SECTION 392.** 450.10 (3) (b) of the statutes is amended to read:

450.10 (3) (b) Any health care professional who in good faith provides another health care professional with information concerning a violation of this chapter or ch. ~~464~~ 961 by any person shall be immune from any civil or criminal liability that results from any act or omission in providing such information. In any administrative or court proceeding, the good faith of the health care professional providing such information shall be presumed.

**SECTION 393.** 450.17 of the statutes is amended to read:

**450.17 Violations.** Each member of the board shall investigate and institute actions for violations of this chapter by any person and for violation of ch. ~~464~~ 961 by pharmacists. The district attorney of the proper county shall promptly prosecute any such violation upon notice from any source.

**SECTION 394.** 453.04 of the statutes is amended to read:

**453.04 Violations.** The chairperson of the examining board shall institute actions for violations of this chapter by any person and for violations of ch. ~~464~~ or 450 or 961 by veterinarians. The district attorney of the county in which the offense is committed shall promptly prosecute any such violation upon being informed thereof, from any source.

**SECTION 395.** 632.32 (6) (b) 4. of the statutes is amended to read:

632.32 (6) (b) 4. Any use of the motor vehicle for unlawful purposes, or for transportation of liquor in violation of law, or while the driver is under the influence of an intoxicant or a controlled substance or controlled substance analog under ch. ~~464~~ 961 or a combination thereof, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or any use of the motor vehicle in a reckless manner. In this subdivision, "drug" has the meaning specified in s. 450.01 (10).

**SECTION 396.** 753.061 (2) of the statutes is amended to read:

753.061 (2) The chief judge of the 1st judicial administrative district shall designate 2 circuit court branches that will primarily handle cases that involve a violation of ch. ~~464~~ 961 involving a controlled substance included in schedule I or II under ch. ~~464~~ 961 or a controlled substance analog of a controlled substance included in schedule I or II under ch. 961.

**SECTION 397.** 778.25 (1) (a) 1. of the statutes is amended to read:

778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), ~~461.573 (2), 461.574 (2) or 461.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming to one of those statutes brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under ch. 48.

**SECTION 398.** 778.25 (1) (a) 1. of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (this act), is repealed and recreated to read:

778.25 (1) (a) 1. Under s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2) or 961.575 (2) or under a local ordinance strictly conforming to one of those statutes brought against an adult in circuit court or against a minor in the court assigned to exercise jurisdiction under chs. 48 and 938.

**SECTION 399.** 814.60 (2) (cn) of the statutes is amended to read:

814.60 (2) (cn) Drug abuse program improvement surcharge imposed by s. ~~461.44~~ 961.41 (5).

**SECTION 400.** 818.02 (7) of the statutes is amended to read:

818.02 (7) In an action for a forfeiture under s. ~~461.573 (2), 461.574 (2) or 461.575 (2)~~ 961.573 (2), 961.574 (2) or 961.575 (2), or a local ordinance strictly conforming to one of those statutes.

**SECTION 401.** 823.113 (1) of the statutes is amended to read:

823.113 (1) Any building or structure that is used to facilitate the delivery, distribution or manufacture, as defined in s. ~~461.04~~ 961.01 (6), (9) and (13) respectively, of a controlled substance, as defined in s. ~~461.04~~ 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m), and any building or structure where those acts take place, is a public nuisance and may be proceeded against under this section.

**SECTION 402.** 885.235 (1) (a) 1. of the statutes is amended to read:

885.235 (1) (a) 1. The fact that the analysis shows that there was more than 0.0% but less than 0.08% by weight of alcohol in the person's blood or more than 0.0 grams but less than 0.08 grams of alcohol in 210 liters of the person's breath is relevant evidence on the issue of being under the combined influence of alcohol and a controlled substance, a controlled substance analog or any other drug, but, except as provided in par. (d) or sub. (1m), is not to be given any prima facie effect.

**SECTION 403.** 885.235 (1) (a) 2. of the statutes is amended to read:

885.235 (1) (a) 2. The fact that the analysis shows that there was more than 0.0% but less than 0.1% by weight of alcohol in the person's blood or more than 0.0 grams but less than 0.1 grams of alcohol in 210 liters of the person's breath is relevant evidence on the issue of being under the combined influence of alcohol and a controlled substance, controlled substance analog or any

other drug but, except as provided in par. (d) or sub. (1m), is not to be given any prima facie effect.

**SECTION 404.** 885.235 (5) (b) of the statutes is amended to read:

885.235 (5) (b) “Controlled substance” has the meaning specified in s. ~~161.01~~ 961.01 (4).

**SECTION 405.** 885.235 (5) (bd) of the statutes is created to read:

885.235 (5) (bd) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

**SECTION 406.** 895.437 (1) (b) of the statutes is amended to read:

895.437 (1) (b) “Controlled substance” has the meaning given in s. ~~161.01~~ 961.01 (4).

**SECTION 407.** 895.437 (1) (bd) of the statutes is created to read:

895.437 (1) (bd) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

**SECTION 408.** 895.437 (2) (b) of the statutes is amended to read:

895.437 (2) (b) Illegal use of a controlled substance or controlled substance analog.

**SECTION 409.** 895.437 (3) of the statutes is amended to read:

895.437 (3) An owner or employe of a lodging establishment may deny lodging to an adult if the owner or employe reasonably believes that consumption of an alcohol beverage by an underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or illegal use of a controlled substance or controlled substance analog, may occur in the area of the lodging establishment procured.

**SECTION 410.** 895.53 (2) of the statutes is amended to read:

895.53 (2) Any person withdrawing blood at the request of a traffic officer, law enforcement officer or conservation warden for the purpose of determining the presence or quantity of alcohol, controlled substances, controlled substance analogs or ~~both~~ any combination of alcohol, controlled substances and controlled substance analogs is immune from any civil or criminal liability for the act, except for civil liability for negligence in the performance of the act.

**SECTION 411.** 938.02 (1p) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.02 (1p) “Alcohol or other drug abuse impairment” means a condition of a person which is exhibited by characteristics of habitual lack of self-control in the use of alcohol beverages, controlled substances or controlled substance analogs to the extent that the person’s health is substantially affected or endangered or the person’s social or economic functioning is substantially disrupted.

**SECTION 412.** 938.02 (2d) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.02 (2d) “Controlled substance” has the meaning given in s. 961.01 (4).

**SECTION 413.** 938.02 (2e) of the statutes is created to read:

938.02 (2e) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

**SECTION 414.** 938.17 (2) (c) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.17 (2) (c) The citation procedures described in ch. 800 shall govern proceedings involving juveniles in municipal court, except that this chapter shall govern the taking and holding of a juvenile in custody and par. (cg) shall govern the issuing of a summons to the juvenile’s parent, guardian or legal custodian. When a juvenile is before the court assigned to exercise jurisdiction under this chapter and ch. 48 upon a citation alleging the juvenile to have violated a civil law or municipal ordinance, the procedures specified in s. 938.237 shall apply. If a citation is issued to a juvenile, the issuing agency shall notify the juvenile’s parent, guardian and legal custodian within 7 days. The agency issuing a citation to a juvenile who is 12 to 15 years of age for a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2) or 961.575 (2) or an ordinance conforming to one of those statutes shall send a copy to an intake worker under s. 938.24 for informational purposes only.

**SECTION 415.** 938.17 (2) (d) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.17 (2) (d) If a municipal court finds that the juvenile violated a municipal ordinance other than an ordinance enacted under s. 118.163 or an ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter any of the dispositional orders permitted under s. 938.343 that are authorized under par. (cm). If a juvenile fails to pay the forfeiture imposed by the municipal court, the court may not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile’s operating privilege, as defined in s. 340.01 (40), for not less than 30 days nor more than 5 years. If a court suspends a license or privilege under this section, the court shall immediately take possession of the applicable license and forward it to the department that issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the period of suspension, the court shall immediately notify

the department, which shall thereupon return the license to the person.

**SECTION 416.** 938.17 (2) (e) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.17 (2) (e) If a municipal court finds that a juvenile violated a municipal ordinance that conforms to s. 125.07 (4) (a) or (b), 125.085 (3) (b), 125.09 (2), 961.573 (2), 961.574 (2) or 961.575 (2), the court shall enter a dispositional order under s. 938.344 that is authorized under par. (cm).

**SECTION 417.** 938.18 (1) (a) 1. of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.18 (1) (a) 1. If the juvenile is alleged to have violated s. 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31, 943.10 (2), 943.32 (2) or 961.41 (1) on or after the juvenile's 14th birthday.

**SECTION 418.** 938.18 (1) (a) 2. of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.18 (1) (a) 2. If the juvenile is alleged to have committed, on or after the juvenile's 14th birthday, a violation, at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would constitute a felony under chs. 939 to 948 or 961 if committed by an adult.

**SECTION 419.** 938.24 (2m) (a) 1. of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.24 (2m) (a) 1. Any juvenile alleged to have committed a violation specified under ch. 961.

**SECTION 420.** 938.24 (2m) (a) 3. of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.24 (2m) (a) 3. Any juvenile alleged to have committed any offense which appears to the intake worker to be directly motivated by the juvenile's need to purchase or otherwise obtain alcohol beverages, controlled substances or controlled substance analogs.

**SECTION 421.** 938.245 (2) (a) 3. of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.245 (2) (a) 3. That the juvenile submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under s. 938.547 (4) and that is conducted by an approved treatment facility for an examination of the juvenile's use of alcohol beverages, controlled substances or controlled substance analogs and any medical, personal, family or social effects caused by its use, if the multidisciplinary screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages, controlled substances or controlled substance analogs and its medical, personal, family or social effects.

**SECTION 422.** 938.295 (1c) (b) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.295 (1c) (b) The juvenile was adjudicated delinquent on the basis of an offense specified in ch. 961.

**SECTION 423.** 938.295 (1c) (c) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.295 (1c) (c) The greater weight of the evidence at the fact-finding hearing indicates that any offense which formed the basis for the adjudication was motivated by the juvenile's need to purchase or otherwise obtain alcohol beverages, controlled substances or controlled substance analogs.

**SECTION 424.** 938.295 (1g) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.295 (1g) If the court orders an alcohol or other drug abuse assessment under sub. (1), the approved treatment facility shall, within 14 days after the court order, report the results of the assessment to the court, except that, upon request by the approved treatment facility and if the juvenile is not held in secure or nonsecure custody, the court may extend the period for assessment for not more than 20 additional working days. The report shall include a recommendation as to whether the juvenile is in need of treatment, intervention or education relating to the use or abuse of alcohol beverages, controlled substances or controlled substance analogs and, if so, shall recommend a service plan and appropriate treatment from an approved treatment facility, intervention from a court-approved pupil assistance program or education from a court-approved alcohol or other drug abuse education program.

**SECTION 425.** 938.32 (1g) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.32 (1g) (intro.) If the petition alleges that the juvenile committed a violation specified under ch. 961 and if the multidisciplinary screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages, controlled substances or controlled substance analogs and its medical, personal, family and social effects, the judge or juvenile court commissioner may establish as a condition under sub. (1) any of the following:

**SECTION 426.** 938.34 (6r) (a) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (6r) (a) If the report prepared under s. 938.33 (1) recommends that the juvenile is in need of treatment for the use or abuse of alcohol beverages, controlled substances or controlled substance analogs and its medical, personal, family or social effects, the court may order the

juvenile to enter an outpatient alcohol and other drug abuse treatment program at an approved treatment facility. The approved treatment facility shall, under the terms of a service agreement between the county and the approved treatment facility, or with the written informed consent of the juvenile or the juvenile's parent if the juvenile has not attained the age of 12, report to the agency primarily responsible for providing services to the juvenile as to whether the juvenile is cooperating with the treatment and whether the treatment appears to be effective.

**SECTION 427.** 938.34 (6r) (b) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (6r) (b) If the report prepared under s. 938.33 (1) recommends that the juvenile is in need of education relating to the use of alcohol beverages, controlled substances or controlled substance analogs, the court may order the juvenile to participate in an alcohol or other drug abuse education program approved by the court. The person or agency that provides the education program shall, under the terms of a service agreement between the county and the education program, or with the written informed consent of the juvenile or the juvenile's parent if the juvenile has not attained the age of 12, report to the agency primarily responsible for providing services to the juvenile about the juvenile's attendance at the program.

**SECTION 428.** 938.34 (6s) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (6s) If the report under s. 938.33 (1) indicate that the juvenile is in need of treatment for the use or abuse of controlled substances or controlled substance analogs, order the juvenile to submit to drug testing under a drug testing program that the department shall promulgate by rule.

**SECTION 429.** 938.34 (14r) (title) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (14r) (title) VIOLATIONS RELATING TO CONTROLLED SUBSTANCES OR CONTROLLED SUBSTANCE ANALOGS.

**SECTION 430.** 938.34 (14r) (a) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (14r) (a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated ch. 961, the court shall suspend or revoke the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. The court shall immediately take possession of any suspended or revoked license and forward it to the department of transportation together with the notice of suspension or revocation clearly stating that the suspension or revocation is for a violation of ch. 961.

**SECTION 431.** 938.34 (14r) (b) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (14r) (b) This subsection does not apply to violations under s. 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

**SECTION 432.** 938.34 (14s) (title) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (14s) (title) POSSESSION OF CONTROLLED SUBSTANCES OR CONTROLLED SUBSTANCE ANALOGS.

**SECTION 433.** 938.34 (14s) (a) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (14s) (a) (intro.) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated s. 961.41 (3g), the court shall order one of the following penalties:

**SECTION 434.** 938.34 (14s) (am) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (14s) (am) (intro.) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated s. 961.41 (1) or (1m), the court shall order one of the following penalties:

**SECTION 435.** 938.34 (14t) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.34 (14t) POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE ANALOG ON OR NEAR CERTAIN PREMISES. If the juvenile is adjudicated delinquent under a violation of s. 961.41 (3g) by possessing or attempting to possess a controlled substance included in schedule I or II under ch. 961 or a controlled substance analog of a controlled substance included in schedule I or II under ch. 961 while in or on the premises of a scattered-site public housing project, as defined in s. 961.01 (20i), while in or on or otherwise within 1,000 feet of a state, county, city, village or town park, a jail or correctional facility, as defined in s. 961.01 (12m), a multiunit public housing project, as defined in s. 961.01 (14m), a swimming pool open to members of the public, a youth center, as defined in s. 961.01 (22), or a community center, while in or on or otherwise within 1,000 feet of any private or public school premises or while in or on or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court shall require that the juvenile participate for 100 hours in a supervised work program or other community service work under sub. (5g).

**SECTION 436.** 938.343 (10) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.343 (10) (intro.) If the violation is related to the use or abuse of alcohol beverages, controlled substances

or controlled substance analogs, order the juvenile to do any of the following:

**SECTION 437.** 938.344 (2e) (a) (intro.) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.344 (2e) (a) (intro.) If a court finds a juvenile committed a violation under s. 961.573 (2), 961.574 (2) or 961.575 (2), or a local ordinance that strictly conforms to one of those statutes, the court shall suspend or revoke the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

**SECTION 438.** 938.344 (2e) (b) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.344 (2e) (b) Whenever a court suspends or revokes a juvenile's operating privilege under this subsection, the court shall immediately take possession of any suspended or revoked license and forward it to the department of transportation, together with the notice of suspension or revocation clearly stating that the suspension or revocation is for a violation under s. 961.573 (2), 961.574 (2) or 961.575 (2), or a local ordinance that strictly conforms to one of those statutes.

**SECTION 439.** 938.344 (3) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.344 (3) If the juvenile alleged to have committed the violation is within 3 months of his or her 17th birthday, the court assigned to exercise jurisdiction under this chapter and ch. 48 may, at the request of the district attorney or on its own motion, dismiss the citation without prejudice and refer the matter to the district attorney for prosecution under s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age. This subsection does not apply to violations under s. 961.573 (2), 961.574 (2) or 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

**SECTION 440.** 938.396 (1m) (a) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.396 (1m) (a) If requested by the school district administrator of a public school district, a law enforcement agency may provide to the school district administrator any information in its records relating to the use, possession or distribution of alcohol or a controlled substance or controlled substance analog by a pupil enrolled in the public school district. The information shall be used by the school district as provided under s. 118.127 (2).

**SECTION 441.** 938.396 (2) (c) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.396 (2) (c) Upon request of a law enforcement agency to review court records for the purpose of investigating a crime that might constitute criminal gang activ-

ity, as defined in s. 941.38 (1) (b), the court shall open for inspection by authorized representatives of the law enforcement agency the records of the court relating to any juvenile who has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under chs. 939 to 948 or 961 if committed by an adult.

**SECTION 442.** 938.396 (7) (b) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.396 (7) (b) If a juvenile is found to have committed a delinquent act at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9), that would have been a felony under chs. 939 to 948 or 961 if committed by an adult and is adjudged delinquent on that basis, within 5 days after the date on which the dispositional order is entered the court clerk shall notify the school board of the school district in which the juvenile is enrolled or the school board's designee of the fact that the juvenile has been adjudicated delinquent on that basis, the nature of the violation committed by the juvenile and the disposition imposed on the juvenile under s. 938.34 as a result of that violation.

**SECTION 443.** 938.547 (1) of the statutes, as created by 1995 Wisconsin Act 77, is repealed and recreated to read:

938.547 (1) **LEGISLATIVE FINDINGS AND PURPOSE.** The legislature finds that the use and abuse of alcohol and other drugs by juveniles is a state responsibility of statewide dimension. The legislature recognizes that there is a lack of adequate procedures to screen, assess and treat juveniles for alcohol and other drug abuse. To reduce the incidence of alcohol and other drug abuse by juveniles, the legislature deems it necessary to experiment with solutions to the problems of the use and abuse of alcohol and other drugs by juveniles by establishing a juvenile alcohol and other drug abuse pilot program in a limited number of counties. The purpose of the program is to develop intake and court procedures that screen, assess and give new dispositional alternatives for juveniles with needs and problems related to the use of alcohol beverages, controlled substances or controlled substance analogs who come within the jurisdiction of a court assigned to exercise jurisdiction under this chapter and ch. 48 in the pilot counties selected by the department.

**SECTION 444.** 939.22 (21) (a) of the statutes is amended to read:

939.22 (21) (a) Manufacture, distribution or delivery of a controlled substance or controlled substance analog, as prohibited in s. ~~461.41~~ 961.41 (1).

**SECTION 445.** 939.22 (42) of the statutes is amended to read:

939.22 (42) "Under the influence of an intoxicant" means that the actor's ability to operate a vehicle or handle a firearm or airgun is materially impaired because of

his or her consumption of an alcohol beverage ~~or~~ of a controlled substance or controlled substance analog under ch. ~~461 or both, 961, of any combination of an alcohol beverage, controlled substance and controlled substance analog,~~ or of any other drug or of an alcohol beverage and any other drug.

**SECTION 446.** 939.30 (1) of the statutes is amended to read:

939.30 (1) Except as provided in sub. (2) and ss. ~~461.455 and 948.35 and 961.455,~~ whoever, with intent that a felony be committed, advises another to commit that crime under circumstances that indicate unequivocally that he or she has the intent is guilty of a Class D felony.

**SECTION 447.** 939.31 of the statutes is amended to read:

**939.31 Conspiracy.** Except as provided in ss. ~~461.41 (1x), 940.43 (4) and, 940.45 (4) and 961.41 (1x),~~ whoever, with intent that a crime be committed, agrees or combines with another for the purpose of committing that crime may, if one or more of the parties to the conspiracy does an act to effect its object, be fined or imprisoned or both not to exceed the maximum provided for the completed crime; except that for a conspiracy to commit a crime for which the penalty is life imprisonment, the actor is guilty of a Class B felony.

**SECTION 448.** 939.62 (2m) (a) 1. of the statutes is amended to read:

939.62 (2m) (a) 1. Any felony under s. ~~461.41 961.41~~ (1), (1m) or (1x) if the felony is punishable by a maximum prison term of 30 years or more.

**SECTION 449.** 939.625 (1) (a) of the statutes is amended to read:

939.625 (1) (a) If a person is convicted of a crime under ~~ch. 461 or under~~ chs. 939 to 948 or 961 committed for the benefit of, at the direction of or in association with any criminal gang, with the specific intent to promote, further or assist in any criminal conduct by criminal gang members, the penalties for the underlying crime are increased as provided in par. (b).

**SECTION 450.** 939.63 (1) (c) of the statutes is amended to read:

939.63 (1) (c) This subsection applies only to crimes specified under chs. ~~461 and 939 to 951 and 961.~~

**SECTION 451.** 940.02 (2) (a) of the statutes is amended to read:

940.02 (2) (a) By manufacture, distribution or delivery, in violation of s. 961.41, of a controlled substance classified included in schedule I or II under ch. ~~461 in violation of s. 461.41 which 961 or of a controlled substance analog of a controlled substance included in schedule I or II under ch. 961,~~ if another human being uses the controlled substance or controlled substance analog and dies as a result of that use. This paragraph applies:

1. Whether the human being dies as a result of using the controlled substance or controlled substance analog

by itself or with any compound, mixture, diluent or other substance mixed or combined with the controlled substance or controlled substance analog.

2. Whether or not the controlled substance or controlled substance analog is mixed or combined with any compound, mixture, diluent or other substance after the violation of s. ~~461.41 961.41~~ occurs.

3. To any distribution or delivery described in this paragraph, regardless of whether the distribution or delivery is made directly to the human being who dies. If possession of the controlled substance classified included in schedule I or II under ch. ~~461 961 or of the controlled substance analog of the controlled substance included in schedule I or II under ch. 961~~ is transferred more than once prior to the death as described in this paragraph, each person who distributes or delivers the controlled substance or controlled substance analog in violation of s. ~~461.41 961.41~~ is guilty under this paragraph.

**SECTION 452.** 940.02 (2) (b) of the statutes is amended to read:

940.02 (2) (b) By administering or assisting in administering a controlled substance classified included in schedule I or II under ch. ~~461 961 or a controlled substance analog of a controlled substance included in schedule I or II of ch. 961,~~ without lawful authority to do so, to another human being and that human being dies as a result of the use of the substance. This paragraph applies whether the human being dies as a result of using the controlled substance or controlled substance analog by itself or with any compound, mixture, diluent or other substance mixed or combined with the controlled substance or controlled substance analog.

**SECTION 453.** 941.296 (2) (intro.) of the statutes is amended to read:

941.296 (2) (intro.) Whoever uses or possesses a handgun during the commission of a crime under chs. ~~461 or 939 to 948 or 961~~ is guilty of a Class E felony under any of the following circumstances.

**SECTION 454.** 941.38 (1) (b) 1. of the statutes is amended to read:

941.38 (1) (b) 1. Manufacture, distribution or delivery of a controlled substance or controlled substance analog, as prohibited in s. ~~461.41 961.41~~ (1).

**SECTION 455.** 946.82 (4) of the statutes, as affected by 1995 Wisconsin Act 133, is amended to read:

946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. ~~461 and 945 and 961~~ and ss. 49.49, 134.05, 139.44 (1), 180.0129, 181.69, 184.09 (2), 185.825, 215.12, 221.17, 221.31, 221.39, 221.40, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (3) to (6), 940.20, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31,

941.32, 943.01 (2) or (2g), 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d), 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30, 943.32, 943.34 (1) (b) and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (b) and (c), 943.60, 943.70, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03, 945.04, 945.05, 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 947.015, 948.05, 948.08, 948.12 and 948.30.

**SECTION 456.** 948.015 (6) of the statutes is amended to read:

948.015 (6) Sections ~~161.01~~ 961.01 (6) and (9) and ~~161.49~~ 961.49, relating to delivering and distributing controlled substances or controlled substance analogs to children.

**SECTION 457.** 948.07 (6) of the statutes is amended to read:

948.07 (6) Giving or selling to the child a controlled substance or controlled substance analog in violation of ch. ~~161~~ 961.

**SECTION 458.** 948.35 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

948.35 (1) (a) Except as provided in pars. (b) to (d) or s. ~~161.455~~ 961.455, any person who has attained the age of 17 years and who, with the intent that a felony be committed and under circumstances that indicate unequivocally that he or she has the intent, knowingly solicits, advises, hires, directs or counsels a person 17 years of age or under to commit that felony may be fined or imprisoned or both, not to exceed the maximum penalty for the felony.

**SECTION 459.** 949.08 (2) (e) of the statutes is amended to read:

949.08 (2) (e) Is an adult passenger in the offender's vehicle and the crime involved is specified in s. 346.63 (2) or 940.25 and the passenger knew the offender was under the influence of an intoxicant, a controlled substance, a controlled substance analog or both any combination of an intoxicant, controlled substance and controlled substance analog, or had a prohibited alcohol concentration, as defined in s. 340.01 (46m). This paragraph does not apply if the victim is also a victim of a crime specified in s. 940.30, 940.305, 940.31 or 948.30.

**SECTION 460.** 949.08 (2) (em) of the statutes is amended to read:

949.08 (2) (em) Is an adult passenger in the offender's commercial motor vehicle and the crime involved is specified in s. 346.63 (6) or 940.25 and the passenger knew the offender was under the influence of an intoxicant, a controlled substance, a controlled substance analog or both any combination of an intoxicant, controlled substance and controlled substance analog, or had an alcohol concentration of 0.04 or more but less than 0.1. This paragraph does not apply if the victim is also a vic-

tim of a crime specified in s. 940.30, 940.305, 940.31 or 948.30.

**SECTION 461.** 951.06 of the statutes is amended to read:

**951.06 Use of poisonous and controlled substances.** No person may expose any domestic animal owned by another to any known poisonous substance ~~or any controlled substance listed in s. 161.14 included in schedule I, II, III, IV or V of ch. 961, or any controlled substance analog of a controlled substance included in schedule I or II of ch. 961~~, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practices.

**SECTION 462.** 961.001 (1g) of the statutes is created to read:

961.001 (1g) Many of the controlled substances included in this chapter have useful and legitimate medical and scientific purposes and are necessary to maintain the health and general welfare of the people of this state.

**SECTION 463.** 961.001 (1m) of the statutes is created to read:

961.001 (1m) The manufacture, distribution, delivery, possession and use of controlled substances for other than legitimate purposes have a substantial and detrimental effect on the health and general welfare of the people of this state.

**SECTION 464.** 961.01 (4m) of the statutes is created to read:

961.01 (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.

**SECTION 465.** 961.01 (11m) of the statutes is created to read:

961.01 (11m) “Drug enforcement administration” means the drug enforcement administration of the U.S. department of justice or its successor agency.

**SECTION 466.** 961.01 (12g) of the statutes is created to read:

961.01 (12g) “Isomer” means an optical isomer, but in ss. 961.14 (2) (er) and (qs) and 961.16 (2) (b) 1. “isomer” includes any geometric isomer; in ss. 961.14 (2) (cg), (tg) and (xm) and 961.20 (4) (am) “isomer” includes any positional isomer; and in ss. 961.14 (2) (rj) and (4) and 961.18 (2m) “isomer” includes any positional or geometric isomer.

**SECTION 467.** 961.01 (15) (bm) of the statutes is created to read:

961.01 (15) (bm) Synthetic opiate, and any derivative of synthetic opiate, including any of their isomers, esters, ethers, esters and ethers of isomers, salts and salts of isomers, esters, ethers and esters and ethers of isomers that are theoretically possible within the specific chemical designation.

**SECTION 468.** 961.01 (15) (d) of the statutes is created to read:

961.01 (15) (d) Any compound, mixture or preparation containing any quantity of any substance included in pars. (a) to (c).

**SECTION 469.** 961.11 (1r) of the statutes is created to read:

961.11 (1r) The controlled substances board may consider findings of the federal food and drug administration or the drug enforcement administration as prima facie evidence relating to one or more of the determinative factors.

**SECTION 470.** 961.11 (4m) of the statutes is created to read:

961.11 (4m) The controlled substances board, by rule and without regard to the requirements of sub. (1m), may schedule a controlled substance analog as a substance in schedule I regardless of whether the substance is substantially similar to a controlled substance in schedule I or II, if the board finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under 21 USC 355. Upon receipt of notice under s. 961.25, the board shall initiate scheduling of the controlled substance analog on an emergency basis under this subsection. The scheduling of a controlled substance analog under this subsection expires one year after the adoption of the scheduling rule. With

respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors under sub. (1m) (d), (e) and (f), and may also consider clandestine importation, manufacture or distribution, and, if available, information concerning the other factors under sub. (1m). The board may not promulgate a rule under this subsection until it initiates a rule-making proceeding under subs. (1), (1m), (1r) and (2) with respect to the controlled substance analog. A rule promulgated under this subsection lapses upon the conclusion of the rule-making proceeding initiated under subs. (1), (1m), (1r) and (2) with respect to the substance.

**SECTION 471.** 961.13 (2m) of the statutes is created to read:

961.13 (2m) The controlled substances board may add a substance to schedule I without making the findings required under sub. (1m) if the substance is controlled under schedule I of 21 USC 812 (c) by a federal agency as the result of an international treaty, convention or protocol.

**SECTION 472.** 961.15 (2m) of the statutes is created to read:

961.15 (2m) The controlled substances board may add a substance to schedule II without making the findings required under sub. (1m) if the substance is controlled under schedule II of 21 USC 812 (c) by a federal agency as the result of an international treaty, convention or protocol.

**SECTION 473.** 961.16 (3) (cm) of the statutes is created to read:

961.16 (3) (cm) Carfentanyl;

**SECTION 474.** 961.17 (2m) of the statutes is created to read:

961.17 (2m) The controlled substances board may add a substance to schedule III without making the findings required under sub. (1m) if the substance is controlled under schedule III of 21 USC 812 (c) by a federal agency as the result of an international treaty, convention or protocol.

**SECTION 475.** 961.18 (3) (m) 1., 2. and 3. of the statutes are created to read:

- 961.18 (3) (m) 1. Amobarbital.
2. Secobarbital.
3. Pentobarbital.

**SECTION 476.** 961.18 (3) (n) 1., 2. and 3. of the statutes are created to read:

- 961.18 (3) (n) 1. Amobarbital.
2. Secobarbital.
3. Pentobarbital.

**SECTION 477.** 961.19 (2m) of the statutes is created to read:

961.19 (2m) The controlled substances board may add a substance to schedule IV without making the findings required under sub. (1m) if the substance is controlled under schedule IV of 21 USC 812 (c) by a federal

agency as the result of an international treaty, convention or protocol.

**SECTION 478.** 961.20 (2m) (ad) of the statutes is created to read:

961.20 (2m) (ad) Cathine.

**SECTION 479.** 961.20 (2m) (br) of the statutes is created to read:

961.20 (2m) (br) Mefenorex.

**SECTION 480.** 961.21 (2m) of the statutes is created to read:

961.21 (2m) The controlled substances board may add a substance to schedule V without making the findings required by sub. (1m) if the substance is controlled under schedule V of 21 USC 811 (c) by a federal agency as the result of an international treaty, convention or protocol.

**SECTION 481.** 961.22 (3) of the statutes is created to read:

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

(a) Pyrovalerone.

**SECTION 482.** 961.25 of the statutes is created to read:

**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.

**SECTION 483.** 961.38 (1g) of the statutes is created to read:

961.38 (1g) In this section, “medical treatment” includes dispensing or administering a narcotic drug for pain, including intractable pain.

**SECTION 484.** 961.38 (4g) of the statutes is created to read:

961.38 (4g) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner’s profession.

**SECTION 485.** 961.38 (4r) of the statutes is created to read:

961.38 (4r) A pharmacist is immune from any civil or criminal liability and from discipline under s. 450.10 for any act taken by the pharmacist in reliance on a rea-

sonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

**SECTION 486.** 961.395 of the statutes is created to read:

**961.395 Limitation on advanced practice nurses.**

(1) An advanced practice nurse who is certified under s. 441.16 may prescribe controlled substances only as permitted by the rules promulgated under s. 441.16 (3).

(2) An advanced practice nurse certified under s. 441.16 shall include with each prescription order the advanced practice nurse prescriber certification number issued to him or her by the board of nursing.

(3) An advanced practice nurse certified under s. 441.16 may dispense a controlled substance only by prescribing or administering the controlled substance or as otherwise permitted by the rules promulgated under s. 441.16 (3).

**SECTION 487.** 961.41 (1n) of the statutes is created to read:

961.41 (1n) PIPERIDINE POSSESSION. (a) No person may possess any quantity of piperidine or its salts with the intent to use the piperidine or its salts to manufacture a controlled substance or controlled substance analog in violation of this chapter.

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

(c) A person who violates par. (a) or (b) may be fined not more than \$250,000 or imprisoned for not more than 10 years or both.

**SECTION 488.** 961.41 (1x) (title) of the statutes is created to read:

961.41 (1x) (title) CONSPIRACY.

**SECTION 489.** 961.41 (4) (title) of the statutes is created to read:

961.41 (4) (title) IMITATION CONTROLLED SUBSTANCES.

**SECTION 490.** 961.41 (5) (title) of the statutes is created to read:

961.41 (5) (title) DRUG ABUSE PROGRAM IMPROVEMENT SURCHARGE.

**SECTION 491.** 961.49 (3) of the statutes is created to read:

961.49 (3) A person who violates sub. (1) may be subject to increased penalties under both subs. (1) and (2) regarding the same unlawful act.

**SECTION 492.** 961.573 (2) of the statutes, as affected by 1995 Wisconsin Acts 77, section 494, and .... (this act), is repealed and recreated to read:

961.573 (2) Any person who violates this section who is under 17 years of age is subject to a disposition under s. 938.344 (2e).

**SECTION 493.** 961.574 (2) of the statutes, as affected by 1995 Wisconsin Acts 77, section 495, and .... (this act), is repealed and recreated to read:

961.574 (2) Any person who violates this section who is under 17 years of age is subject to a disposition under s. 938.344 (2e).

**SECTION 494.** 961.575 (2) of the statutes, as affected by 1995 Wisconsin Acts 77, section 496, and .... (this act), is repealed and recreated to read:

961.575 (2) Any person who violates this section who is under 17 years of age is subject to a disposition under s. 938.344 (2e).

**SECTION 495.** 967.055 (1) (a) of the statutes is amended to read:

967.055 (1) (a) The legislature intends to encourage the vigorous prosecution of offenses concerning the operation of motor vehicles by persons under the influence of an intoxicant, a controlled substance, a controlled substance analog or both any combination of an intoxicant, controlled substance and controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or having a prohibited alcohol concentration, as defined in s. 340.01 (46m), or offenses concerning the operation of commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

**SECTION 496.** 967.055 (1) (b) of the statutes is amended to read:

967.055 (1) (b) The legislature intends to encourage the vigorous prosecution of offenses concerning the operation of motorboats by persons under the influence of an intoxicant, a controlled substance, a controlled substance analog or both any combination of an intoxicant, controlled substance and controlled substance analog to a degree which renders him or her incapable of operating a motorboat safely, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of operating a motorboat safely or having a blood alcohol concentration of 0.1% or more.

**SECTION 497.** 967.055 (2) (a) of the statutes, as affected by 1995 Wisconsin Act 113, is amended to read:

967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply to the court. The application shall state the reasons for the proposed amendment or dismissal. The court may approve the application only if the court finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motor vehicles by persons who are under the influence of an intoxicant, a controlled substance, a controlled substance analog or

both any combination of an intoxicant, controlled substance and controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving, or in deterring the operation of commercial motor vehicles by persons with an alcohol concentration of 0.04 or more. The court may not approve an application to amend the vehicle classification from a commercial motor vehicle to a noncommercial motor vehicle unless there is evidence in the record that the motor vehicle being operated by the defendant at the time of his or her arrest was not a commercial motor vehicle.

**SECTION 498.** 967.055 (2) (b) of the statutes is amended to read:

967.055 (2) (b) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss or amend a charge under s. 30.681 (1) or a local ordinance in conformity therewith, a charge under s. 30.681 (2), a charge under s. 30.684 (5) or a local ordinance in conformity therewith or a charge under s. 940.09 or 940.25 if the offense involved the use of a motorboat, except a sailboat operating under sail alone, the prosecutor shall apply to the court. The application shall state the reasons for the proposed amendment or dismissal. The court may approve the application only if the court finds that the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motorboats by persons who are under the influence of an intoxicant, a controlled substance, a controlled substance analog or both any combination of an intoxicant, controlled substance and controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of operating a motorboat safely, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of operating a motorboat safely.

**SECTION 499.** 968.13 (1) (a) of the statutes, as affected by 1995 Wisconsin Act 11, is amended to read:

968.13 (1) (a) Contraband, which includes without limitation because of enumeration lottery tickets, gambling machines or other gambling devices, lewd, obscene or indecent written matter, pictures, sound recordings or motion picture films, forged money or written instruments and the tools, dies, machines or materials for making them, and controlled substances, as defined in s. 461.04 961.01 (4), and controlled substance analogs, as defined in s. 961.01 (4m), and the implements for smoking or injecting them. Gambling machines or other gambling devices possessed by a shipbuilding business that complies with s. 945.095 are not subject to this section.

**SECTION 500.** 968.28 of the statutes is amended to read:

**968.28 Application for court order to intercept communications.** The attorney general together with the district attorney of any county may approve a request

of an investigative or law enforcement officer to apply to the chief judge of the judicial administrative district for the county where the interception is to take place for an order authorizing or approving the interception of wire, electronic or oral communications. The chief judge may under s. 968.30 grant an order authorizing or approving the interception of wire, electronic or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense for which the application is made. The authorization shall be permitted only if the interception may provide or has provided evidence of the commission of the offense of homicide, felony murder, kidnapping, commercial gambling, bribery, extortion or dealing in controlled substances or controlled substance analogs, a computer crime that is a felony under s. 943.70, or any conspiracy to commit any of the foregoing offenses.

**SECTION 501.** 970.035 of the statutes is amended to read:

**970.035 Preliminary examination; child younger than 16 years old.** Notwithstanding s. 970.03, if a preliminary examination under s. 970.03 is held regarding a child who was waived under s. 48.18 for a violation which is alleged to have occurred prior to his or her 16th birthday, the court may bind the child over for trial only if there is probable cause to believe that a crime under s. 940.01 has been attempted or committed, that a crime under s. ~~161.41 (1),~~ 940.02, 940.05, 940.06, 940.225 (1), 940.305, 940.31 or 943.10 (2) or 961.41 (1) has been committed or that a crime that would constitute a felony under ~~ch. 161 or~~ under chs. 939 to 948 or 961 if committed by an adult has been committed at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9). If the court does not make any of those findings, the court shall order that the child be discharged but proceedings may be brought regarding the child under ch. 48.

**SECTION 502.** 970.035 of the statutes, as affected by 1995 Wisconsin Acts 77 and .... (this act), is repealed and recreated to read:

**970.035 Preliminary examination; child younger than 16 years old.** Notwithstanding s. 970.03, if a preliminary examination under s. 970.03 is held regarding a child who was waived under s. 938.18 for a violation which is alleged to have occurred prior to his or her 15th birthday, the court may bind the child over for trial only if there is probable cause to believe that a crime under s. 940.03, 940.06, 940.225 (1) or (2), 940.305, 940.31 or 943.10 (2), 943.32 (2) or 961.41 (1) has been committed or that a crime that would constitute a felony under chs. 939 to 948 or 961 if committed by an adult has been committed at the request of or for the benefit of a criminal gang, as defined in s. 939.22 (9). If the court does not make any of those findings, the court shall order that the child be discharged but proceedings may be brought regarding the child under ch. 938.

**SECTION 503.** 971.17 (1) of the statutes is amended to read:

971.17 (1) **COMMITMENT PERIOD.** When a defendant is found not guilty by reason of mental disease or mental defect, the court shall commit the person to the department of health and social services for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed under s. 973.15 (2) (a) against an offender convicted of the same crime or crimes, including imprisonment authorized by ss. ~~161.48,~~ 939.62, 939.621, 939.63, 939.635, 939.64, 939.641 ~~and~~ 939.645 and 961.48 and other penalty enhancement statutes, as applicable, subject to the credit provisions of s. 973.155. If the maximum term of imprisonment is life, the commitment period specified by the court may be life, subject to termination under sub. (5).

**SECTION 504.** 971.365 (1) (a) of the statutes is amended to read:

971.365 (1) (a) In any case under s. ~~161.41~~ 961.41 (1) (cm), (d), (e), (f), (g) or (h) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

**SECTION 505.** 971.365 (1) (b) of the statutes is amended to read:

971.365 (1) (b) In any case under s. ~~161.41~~ 961.41 (1m) (cm), (d), (e), (f), (g) or (h) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

**SECTION 506.** 971.365 (1) (c) of the statutes is amended to read:

971.365 (1) (c) In any case under s. ~~161.41 (2r) (b), (3m), (3n), (3p) or (3r)~~ 961.41 (3g) (a) 2., (c), (d) or (e) involving more than one violation, all violations may be prosecuted as a single crime if the violations were pursuant to a single intent and design.

**SECTION 507.** 971.365 (2) of the statutes is amended to read:

971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent prosecution for any acts in violation of s. ~~161.41~~ 961.41 (1) (cm), (d), (e), (f), (g) or (h), (1m) (cm), (d), (e), (f), (g) or (h), ~~(2r) (b), (3m), (3n), (3p) or (3r)~~ or (3g) (a) 2., (c), (d) or (e) on which no evidence was received at the trial on the original charge.

**SECTION 508.** 973.0135 (1) (b) 1. of the statutes is amended to read:

973.0135 (1) (b) 1. Any felony under s. ~~161.41~~ 961.41 (1), (1m) or (1x) if the felony is punishable by a maximum prison term of 30 years or more.

**SECTION 509.** 973.03 (5) (c) of the statutes is amended to read:

973.03 (5) (c) A court may not sentence a person under par. (b) regarding any violation under ch. ~~161~~ 961 or the commission of a serious crime.

**SECTION 510.** 973.05 (1) of the statutes is amended to read:

973.05 (1) When a defendant is sentenced to pay a fine, the court may grant permission for the payment of the fine, of the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (1), the crime victim and witness assistance surcharge under s. 973.045, any applicable deoxyribonucleic acid analysis surcharge under s. 973.046, any applicable drug abuse program improvement surcharge imposed by s. ~~161.41~~ 961.41 (5), any applicable domestic abuse assessment imposed by s. 971.37 (1m) (c) 1. or 973.055, any applicable driver improvement surcharge imposed by s. 346.655, any applicable weapons assessment imposed by s. 167.31, any applicable uninsured employer assessment imposed by s. 102.85 (4), any applicable environmental assessment imposed by s. 144.992, any applicable wild animal protection assessment imposed by s. 29.9965, any applicable natural resources assessment imposed by s. 29.997 and any applicable natural resources restitution payment imposed by s. 29.998 to be made within a period not to exceed 60 days. If no such permission is embodied in the sentence, the fine, the penalty assessment, the jail assessment, the crime victim and witness assistance surcharge, any applicable deoxyribonucleic acid analysis surcharge, any applicable drug abuse program improvement surcharge, any applicable domestic abuse assessment, any applicable driver improvement surcharge, any applicable weapons assessment, any applicable uninsured employer assessment, any applicable environmental assessment, any applicable wild animal protection assessment, any applicable natural resources assessment and any applicable natural resources restitution payment shall be payable immediately.

**SECTION 511.** 973.06 (1) (am) 1. of the statutes, as created by 1995 Wisconsin Act 53, is amended to read:

973.06 (1) (am) 1. The agency expended the moneys to purchase a controlled substance or controlled substance analog that was distributed in violation of ch. ~~161~~ 961.

**SECTION 512.** 973.075 (6) of the statutes is amended to read:

973.075 (6) Sections 973.075 to 973.077 do not apply to crimes committed under ch. ~~161~~ 961.

**SECTION 513.** 978.05 (6) (a) of the statutes is amended to read:

978.05 (6) (a) Institute, commence or appear in all civil actions or special proceedings under and perform

the duties set forth for the district attorney under ss. 17.14, 30.03 (2), 48.09 (1), (2) and (5), 48.18, 48.355 (6) (b) and (6g) (a), 59.073, 59.77, 70.36, 103.50 (8), 103.92 (4), 109.09, ~~161.55~~ (5), 343.305 (9) (a), 453.08, 806.05, 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in connection with court proceedings in a court assigned to exercise jurisdiction under ch. 48 as the judge may request and perform all appropriate duties and appear if the district attorney is designated in specific statutes, including matters within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits the authority of the county board to designate, under s. 48.09 (2) or (5), that the corporation counsel provide representation as specified in s. 48.09 (2) or (5) or to designate, under s. 48.09 (6), the district attorney as an appropriate person to represent the interests of the public under s. 48.14.

**SECTION 514.** 978.13 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

978.13 (1) (b) In counties having a population of 500,000 or more, the salary and fringe benefit costs of 2 clerk positions providing clerical services to the prosecutors in the district attorney's office handling cases involving felony violations under ch. ~~161~~ 961. The state treasurer shall pay the amount authorized under this paragraph to the county treasurer pursuant to a voucher submitted by the district attorney to the department of administration from the appropriation under s. 20.475 (1) (h). The amount paid under this paragraph may not exceed \$65,800 in the 1995–96 fiscal year and \$68,100 in the 1996–97 fiscal year.

**SECTION 515. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 48.345 (13) (a) and (b), 106.04 (1m) (g) and 106.215 (1) (cg) of the statutes, the creation of section 938.02 (2e) of the statutes and the repeal and recreation of sections 48.31 (4), 48.547 (1), 304.06 (1) (b), 343.30 (5), 778.25 (1) (a) 1., 938.02 (1p) and (2d), 938.17 (2) (c), (d) and (e), 938.18 (1) (a) 1. and 2., 938.24 (2m) (a) 1. and 3., 938.245 (2) (a) 3., 938.295 (1c) (b) and (c) and (1g), 938.32 (1g) (intro.), 938.34 (6r) (a) and (b), (6s), (14r) (title), (a) and (b), (14s) (title), (a) (intro.) and (am) (intro.) and (14t), 938.343 (10) (intro.), 938.344 (2e) (a) (intro.) and (b) and (3), 938.396 (1m) (a), (2) (c) and (7) (b), 938.547 (1), 961.573 (2), 961.574 (2), 961.575 (2) and 970.035 take effect on July 1, 1996, or on the day after publication, whichever is later.