AN ACT
RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE, TO
REVISE THE DEFINITION OF "MARIJUANA" AND TO DEFINE "CANNABIDIOL OIL";
AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 37-2701, Idaho Code, be, and the same is hereby
amended to read as follows:

37-2701. DEFINITIONS. As used in this chapter:
(a) "Administer" means the direct application of a controlled sub-
stance whether by injection, inhalation, ingestion, or any other means, to
the body of a patient or research subject by:
(1) A practitioner or, in his presence, by his authorized agent; or
(2) The patient or research subject at the direction and in the presence
of the practitioner.
(b) "Agent" means an authorized person who acts on behalf of or at the
direction of a manufacturer, distributor or dispenser. It does not include
a common or contract carrier, public warehouseman or employee of the carrier
or warehouseman.
(c) "Board" means the state board of pharmacy created in chapter 17, title 54, Idaho Code, or its successor agency.
(d) "Bureau" means the drug enforcement administration, United States
department of justice, or its successor agency.
(e) "Controlled substance" means a drug, substance or immediate pre-
cursor in schedules I through VI of article II of this chapter.
(f) "Counterfeit substance" means a controlled substance which, or the
container or labeling of which, without authorization, bears the trademark,
trade name, or other identifying mark, imprint, number or device, or any
likeness thereof, of a manufacturer, distributor or dispenser other than the
person who in fact manufactured, distributed or dispensed the substance.
(g) "Deliver" or "delivery" means the actual, constructive, or at-
ttempted transfer from one (1) person to another of a controlled substance,
whether or not there is an agency relationship.
(h) "Director" means the director of the Idaho state police.
(i) "Dispense" means to deliver a controlled substance to an ultimate
user or research subject by or pursuant to the lawful order of a practi-
tioner, including the prescribing, administering, packaging, labeling, or
compounding necessary to prepare the substance for that delivery.
(j) "Dispenser" means a practitioner who dispenses.
(k) "Distribute" means to deliver other than by administering or dis-
ensing a controlled substance.
(l) "Distributor" means a person who distributes.
(m) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances, other than food, intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed 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 in violation of this chapter. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
(ii) Water pipes;
(iii) Carburetion tubes and devices;
(iv) Smoking and carburetion masks;
(v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
(vi) Miniature cocaine spoons, and cocaine vials;
(vii) Chamber pipes;
(viii) Carburetor pipes;
(ix) Electric pipes;
(x) Air-driven pipes;
(xi) Chillums;
(xii) Bongs;
(xiii) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this chapter;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the com-

munity;


(o) "Financial institution" means any bank, trust company, savings and
loan association, savings bank, mutual savings bank, credit union, or loan
company under the jurisdiction of the state or under the jurisdiction of an
agency of the United States.

(p) "Immediate precursor" means a substance which the board has found
to be and by rule designates as being the principal compound commonly used or
produced primarily for use, and which is an immediate chemical intermediary
used or likely to be used in the manufacture of a controlled substance, the
control of which is necessary to prevent, curtail or limit manufacture.

(q) "Isomer" means the optical isomer, except as used in section

37-2705(d), Idaho Code.

(r) "Law enforcement agency" means a governmental unit of one (1) or
more persons employed full-time or part-time by the state or a political sub-
division of the state for the purpose of preventing and detecting crime and
enforcing state laws or local ordinances, employees of which unit are author-
rized to make arrests for crimes while acting within the scope of their au-

rity.

(s) "Manufacture" means the production, preparation, propagation,
compounding, conversion or processing of a controlled substance, and in-
cludes extraction, directly or indirectly, from substances of natural
origin, or independently by means of chemical synthesis, or by a combina-
tion of extraction and chemical synthesis, and includes any packaging or
repackaging of the substance or labeling or relabeling of its container,
except that this term does not include the preparation or compounding of a
controlled substance:

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

(2) By a practitioner, or by his authorized agent under his supervi-
sion, for the purpose of, or as an incident to, research, teaching, or
chemical analysis and not for delivery.

(t) "Marijuana" means all parts of the plant of the genus Cannabis, re-
gardless of species, and whether growing or not; the seeds thereof; the resin
extracted from any part of such plant; and every compound, manufacture,
salt, derivative, mixture, or preparation of such plant, its seeds or resin.
It does not include cannabidiol oil, the mature stalks of the plant unless
the same are intermixed with prohibited parts thereof, fiber produced from
the stalks, oil or cake made from the seeds or the achene of such plant, any
other compound, manufacture, salt, derivative, mixture, or preparation of
the mature stalks, except the resin extracted therefrom or where the same are
intermixed with prohibited parts of such plant, fiber, oil, or cake, or the
sterilized seed of such plant which is incapable of germination. Evidence
that any plant material or the resin or any derivative thereof, regardless
of form other than cannabidiol oil, contains any of the chemical substances
classified as tetrahydrocannabinols shall create a presumption that such
material is "marijuana" as defined and prohibited herein. As used in this
title, "cannabidiol oil" means an extract from a cannabis plant or a mixture
or preparation containing cannabis plant material that:
(1) Is composed of no more than three-tenths percent (0.3%) tetrahydro-
cannabinol by weight;  
(2) is composed of at least fifteen (15) times more cannabidiol than THC  
by weight; and  
(3) Contains no other psychoactive substance.  
(u) "Narcotic drug" means any of the following, whether produced di-
rectly or indirectly by extraction from substances of vegetable origin, or  
independently by means of chemical synthesis, or by a combination of extrac-
tion and chemical synthesis:  
(1) Opium and opiate, and any salt, compound, derivative, or prepara-
tion of opium or opiate.  
(2) Any salt, compound, isomer, derivative, or preparation thereof  
which is chemically equivalent or identical with any of the substances  
referred to in clause 1, but not including the isoquinoline alkaloids of  
opium.  
(3) Opium poppy and poppy straw.  
(4) Coca leaves and any salt, compound, derivative, or preparation of  
coca leaves, and any salt, compound, isomer, derivative, or preparation  
thereof which is chemically equivalent or identical with any of these  
substances, but not including decocainized coca leaves or extractions  
of coca leaves which do not contain cocaine or ecgonine.  
(v) "Opate" means any substance having an addiction-forming or add-
diction-sustaining liability similar to morphine or being capable of  
conversion into a drug having addiction-forming or addiction-sustaining  
liability. It does not include, unless specifically designated as con-
trolled under section 37-2702, Idaho Code, the dextrorotatory isomer of  
3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does in-
clude its racemic and levorotatory forms.  
(w) "Opium poppy" means the plant of the species Papaver somniferum L.,  
extcept its seeds.  
(x) "Peace officer" means any duly appointed officer or agent of a law  
enforcement agency, as defined herein, including, but not limited to, a duly  
appointed investigator or agent of the Idaho state police, an officer or em-
ployee of the board of pharmacy, who is authorized by the board to enforce  
this chapter, an officer of the Idaho state police, a sheriff or deputy sherr-
iff of a county, or a marshal or policeman of any city.  
(y) "Person" means individual, corporation, government, or governmen-
tal subdivision or agency, business trust, estate, trust, partnership or as-
association, or any other legal entity.  
(z) "Poppy straw" means all parts, except the seeds, of the opium poppy,  
after mowing.  
(aa) "Practitioner" means:  
(1) A physician, dentist, veterinarian, scientific investigator, or  
other person licensed, registered or otherwise permitted to distrib-
ute, dispense, conduct research with respect to or to administer a  
controlled substance in the course of his professional practice or re-
search in this state;  
(2) A pharmacy, hospital, or other institution licensed, registered,  
or otherwise permitted to distribute, dispense, conduct research with
respect to or to administer a controlled substance in the course of its professional practice or research in this state.

(bb) "Prescriber" means an individual currently licensed, registered or otherwise authorized to prescribe and administer controlled substances in the course of professional practice.

(cc) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(dd) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

1. Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;
2. Statements made to the recipient that the substance may be resold for inordinate profit; or
3. Whether the substance is packaged in a manner normally used for illicit controlled substances.

(ee) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

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

(gg) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.