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CRIMES AND OFFENSES

Controlled Substances: Amend the Listings of Controlled Substances and Dangerous Drugs

CODE SECTIONS:	O.C.G.A. §§ 16-13-26 to -28, -71 (amended)
BILL NUMBER:	HB 1181
ACT NUMBER:	822
GEORGIA LAWS:	2000 Ga. Laws 1317
SUMMARY:	The Act amends several sections of the Georgia Code by changing the listings of controlled substances and dangerous drugs.
EFFECTIVE DATE:	May 1, 2000 ¹

History

Under Code sections 16-13-26 to -28 and -71, the Georgia Code provides a listing of those drugs deemed to be dangerous or controlled substances in Georgia.² Georgia is the only state that provides such a listing.³ Dangerous drugs are those substances that may be dispensed only by prescription.⁴ Controlled substances are those drugs that are addictive or likely to be abused.⁵

1. See 2000 Ga. Laws 1317, §§ 7-8, at 1320. The Act took effect upon approval by the Governor. *See id.*

2. See O.C.G.A. §§ 16-13-26 to -28, -71 (Supp. 2000).

3. See Telephone Interview with Rick Allen, Pharmacist, Georgia Drugs and Narcotics Agency (June 8, 2000) [hereinafter Allen Interview].

4. See *id.*; see also 1980 Ga. Laws 1746, § 2, at 1749-50 (formerly found at O.C.G.A. § 16-13-71(a) (1999)) (“A ‘dangerous drug’ means any drug other than a drug contained in any schedule of the Georgia Controlled Substances Act, which, under the Federal Food, Drug, and Cosmetic Act . . . may be dispensed only upon prescription.”). Additionally, “a certification from the Food and Drug Administration . . . attesting to the fact that a drug . . . is a dangerous drug that federal law prohibits dispensing of without a prescription . . . shall be admissible as prima-facie proof that such drug is a ‘dangerous drug.’” *Id.*

5. See Allen Interview, *supra* note 3. The Code defines ‘controlled substance’ as “a drug, substance, or immediate precursor in Schedules I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of 21 C.F.R. Part 1308.” 1980 Ga. Laws 1555, § 1, at 1555 (codified at O.C.G.A. § 16-13-21(4) (1999)).

Each year, the Georgia General Assembly amends these Code sections to include those drugs recently approved by the Food and Drug Administration.⁶ Drugs deemed “controlled substances” are assigned to one of five schedules.⁷ The lower the schedule number, the more likely the drug is highly addictive and highly abused.⁸ Thus, a Schedule I drug is highly addictive and highly abused, whereas a Schedule IV or V drug is less addictive and less likely to be abused.⁹ Additionally, a Schedule I drug has no accepted medical use as treatment in the United States.¹⁰ In contrast, a Schedule II drug can be prescribed for medical use, but only without refills.¹¹ A Schedule III drug can be prescribed for medical use with refills.¹²

HB 1181

Representatives Bobby Parham, David Graves, Ralph Twiggs, Ron Stephens, Jim Martin, and Butch Parrish, of the 122nd, 125th, 8th, 150th, 145th, and 144th Districts, respectively, sponsored HB 1181, which was engrossed.¹³ The bill was introduced on the House floor on January 14, 2000.¹⁴ The House assigned the bill to its Health and Ecology Committee, which

6. See Allen Interview, *supra* note 3; see also 1974 Ga. Laws 221, § 1, at 230 (codified at O.C.G.A. § 16-13-24(a) (1999)) (“The schedules [of controlled substances] . . . shall be updated and republished by the Board of Pharmacy on an annual basis. . .”).

7. See Allen Interview, *supra* note 3; see also 1974 Ga. Laws 221, § 1, at 229-30 (codified at O.C.G.A. § 16-13-24 (1999)). Pursuant to the procedures of the Georgia Administrative Procedure Act, the State Board of Pharmacy adds the substances to the schedules or reschedules all substances enumerated in the schedules. See 1974 Ga. Laws 221, § 1, at 228 (codified at O.C.G.A. § 16-13-22(a) (1999)). In determining to which schedule each drug should be assigned, the Board considers a number of factors, including the actual or relative potential for abusing the drug and the risk to public health. See *id.*

8. See Allen Interview, *supra* note 3; see also 1974 Ga. Laws 221, § 1, at 230-31 (codified at O.C.G.A. § 16-13-24(b)(1)-(5) (1999)).

9. See Allen Interview, *supra* note 3; see also 1974 Ga. Laws 221, § 1, at 230-31 (codified at O.C.G.A. § 16-13-24(b)(1), (4)-(5) (1999)).

10. See Allen Interview, *supra* note 3; 1974 Ga. Laws 221, § 1, at 230 (codified at O.C.G.A. § 16-13-24(b)(1)(B) (1999)).

11. See Allen Interview, *supra* note 3; 1974 Ga. Laws 221, § 1, at 230 (codified at O.C.G.A. § 16-13-24(b)(2)(B) (1999)).

12. See Allen Interview, *supra* note 3; 1974 Ga. Laws 221, § 1, at 231 (codified at O.C.G.A. § 16-13-24(b)(3)(B) (1999)).

13. See HB 1181, as introduced, 2000 Ga. Gen. Assem.

14. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

favorably reported the bill on January 27, 2000.¹⁵ The House unanimously passed the bill on February 1, 2000.¹⁶ On February 2, 2000, the bill was assigned to the Senate Judiciary Committee, which favorably reported the bill on February 17, 2000.¹⁷ The Senate unanimously passed the bill on February 23, 2000.¹⁸ The General Assembly forwarded the bill to Governor Roy Barnes, who signed HB 1181 into law on May 1, 2000.¹⁹

The Act

The Act amends Code section 16-13-26 by removing synthetic Dronabinol from the controlled substances listed under Schedule II.²⁰ The Act amends Code section 16-13-27 by adding “Dronabinol (synthetic) in sesame oil and encapsulated in a U.S. Food and Drug Administration approved drug product also known as Marinol” to the controlled substances included in Schedule III.²¹ The Act amends Code section 16-13-28 by adding Zaleplon to the controlled substances listed under Schedule IV.²²

The Act amends Code section 16-13-71 by removing Amrinone lactate,²³ Metformin,²⁴ and Terbinafine from a listing of dangerous drugs.²⁵ The Act further amends this Code section by adding the following new substances to the list of dangerous drugs: Alitretinoin; Aminolevulinic acid; Amprenavir; Amrinone; Calfactant; Cefdinir; Celecoxib; Dalfopristin;

15. *See id.*

16. *See Georgia House of Representatives Voting Record, HB 1181 (Feb. 1, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.*

17. *See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.*

18. *See Georgia Senate Voting Record, HB 1181 (Feb. 23, 2000).*

19. *See 2000 Ga. Laws 1317, § 8, at 1320.*

20. *Compare 1987 Ga. Laws 261, § 2, at 262 (formerly found at O.C.G.A. § 16-13-26 (1999)), with O.C.G.A. § 16-13-26 (Supp. 2000).*

21. *Compare 1998 Ga. Laws 778, § 1, at 779 (formerly found at O.C.G.A. § 16-13-27 (1999)), with O.C.G.A. § 16-13-27 (Supp. 2000).*

22. *Compare 1994 Ga. Laws 169, § 5, at 171 (formerly found at O.C.G.A. § 16-13-28 (1999)), with O.C.G.A. § 16-13-28 (Supp. 2000).*

23. *Compare 1985 Ga. Laws 1221, § 8, at 1222 (formerly found at O.C.G.A. § 16-13-71 (1999)), with O.C.G.A. § 16-13-71 (Supp. 2000).*

24. *Compare 1999 Ga. Laws 644, § 3, at 645 (formerly found at O.C.G.A. § 16-13-71 (1999)), with O.C.G.A. § 16-13-71 (Supp. 2000).*

25. *Compare 1993 Ga. Laws 593, § 5, at 595 (formerly found at O.C.G.A. § 16-13-71 (1999)), with O.C.G.A. § 16-13-71 (Supp. 2000).*

Dofetilide; Doxercalciferol; Entacapone; Epirubicin; Exemestane; Ganirelix; Ketotifen; Levalbuterol; Levetiracetam; Levobupivacine; Moxifloxacin; Nicotine transdermal system (see exceptions); Orlistat; Oseltamivir; Pemirolast; Pioglitazone; Quinupristin; Rabeprazole; Rapacuronium; Rofecoxib; Rosiglitazone; Sacrosidase; Simethicone coated cellulose suspension; Sirolimus; Tazobacam; Temozolomide; Terbinafine (see exceptions); and Zanamivir.²⁶ The Act also excepts from the dangerous drug list in this Code section Nicotine transdermal system (when used in a strength of 21 mg or less per patch) and Terbinafine (when used with a strength of 1 percent or less in a topical antifungal cream).²⁷

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26. Compare 1999 Ga. Laws 643, § 3, at 644-46 (formerly found at O.C.G.A. § 16-13-71 (1999)), with O.C.G.A. § 16-13-71 (Supp. 2000).

27. Compare 1999 Ga. Laws 643, § 5, at 646 (formerly found at O.C.G.A. § 16-13-71 (1999)), with O.C.G.A. § 16-13-71 (Supp. 2000).