

1 SB259  
2 190575-1  
3 By Senator Whatley  
4 RFD: Health and Human Services  
5 First Read: 30-JAN-18

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, certain controlled  
9 substances are enumerated in schedules by statute.  
10 Also under existing law, the State Board of Health  
11 adopts a Controlled Substances List that enumerates  
12 certain controlled substances in schedules and is  
13 required to update the Controlled Substances List  
14 annually.

15 This bill would repeal the statutory  
16 controlled substances schedules and would provide  
17 that the Controlled Substances List adopted by the  
18 State Board of Health is the official list of  
19 scheduled controlled substances.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 Relating to controlled substances; to amend Sections  
26 20-2-20 and 20-2-32, Code of Alabama 1975, to provide that the  
27 State Board of Health, by rule, may add substances to or

1 delete or reschedule substances enumerated in the Controlled  
2 Substances List adopted by the board; to provide that the  
3 Controlled Substances List adopted by the State Board of  
4 Health supersedes the statutory schedules of controlled  
5 substances; and to repeal Sections 20-2-23, 20-2-25, 20-2-27,  
6 20-2-29, and 20-2-31, Code of Alabama 1975.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 20-2-20 and 20-2-32, Code of  
9 Alabama 1975, are amended to read as follows:

10 "§20-2-20.

11 "(a) The State Board of Health, unless otherwise  
12 specified, shall administer this chapter and, by rule, may add  
13 substances to or delete or reschedule all substances  
14 enumerated in the schedules ~~in Sections 20-2-23, 20-2-25,~~  
15 ~~20-2-27, 20-2-29, or 20-2-31 pursuant to the procedures of the~~  
16 ~~State Board of Health~~ of the Controlled Substances List, shown  
17 as the Appendix to Chapter 420-7-2 of the Alabama  
18 Administrative Code. In making a determination regarding a  
19 substance, the State Board of Health shall consider the  
20 standards for promulgation established under Sections 20-2-22,  
21 20-2-24, 20-2-26, 20-2-28, and 20-2-30, and all of the  
22 following:

23 "(1) The actual or relative potential for abuse.

24 "(2) The scientific evidence of its pharmacological  
25 effect, if known.

26 "(3) The state of current scientific knowledge  
27 regarding the substance.

1           "(4) The history and current pattern of abuse.

2           "(5) The scope, duration, and significance of abuse.

3           "(6) The risk to the public health.

4           "(7) The potential of the substance to produce  
5           psychic or physiological dependence liability.

6           "(8) Whether the substance is an immediate precursor  
7           of a substance already controlled under this chapter.

8           "(b) After considering the factors enumerated in  
9           subsection (a), the State Board of Health shall make findings  
10           ~~with respect thereto~~ based on these factors and ~~issue~~ adopt a  
11           rule controlling the substance if it finds the substance has a  
12           potential for abuse. The schedules of the Controlled  
13           Substances List adopted by the State Board of Health, included  
14           in the Appendix to Chapter 420-7-2 of the Alabama  
15           Administrative Code, in effect on the effective date of the  
16           act adding this amendatory language shall be the controlling  
17           schedule and shall supersede the schedules under Sections  
18           20-2-23, 20-2-25, 20-2-27, 20-2-29, and 20-2-31. The schedules  
19           of the Controlled Substances List may be amended by the board  
20           as provided in Section 20-2-32.

21           "(c) If any substance is designated, rescheduled, or  
22           deleted as a controlled substance under federal law and notice  
23           thereof is given to the State Board of Health, the State Board  
24           of Health shall similarly control the substance under this  
25           chapter after the expiration of 30 days from publication in  
26           the federal register of a final order designating a substance  
27           as a controlled substance or rescheduling or deleting a

1 substance, unless within that 30-day period, the State Board  
2 of Health objects to inclusion, rescheduling, or deletion. In  
3 that case, the State Board of Health shall publish the reasons  
4 for objection and afford all interested parties an opportunity  
5 to be heard. At the conclusion of the hearing, the State Board  
6 of Health shall publish its decision, which shall be final  
7 unless altered by statute. Upon publication of objection to  
8 inclusion, rescheduling, or deletion under this chapter by the  
9 State Board of Health, control under this chapter is stayed  
10 until the State Board of Health publishes its decision.

11 "(d) Authority to control under this section does  
12 not extend to distilled spirits, wine, malt beverages, or  
13 tobacco.

14 "(e) The State Board of Health shall exclude any  
15 nonnarcotic substance from a schedule if ~~such~~ the substance,  
16 under the federal Food, Drug and Cosmetic Act, the federal  
17 Comprehensive Drug Abuse Prevention and Control Act of 1970,  
18 and the law of this state may be lawfully sold over the  
19 counter without a prescription.

20 "§20-2-32.

21 "The State Board of Health, by rule, shall revise  
22 and republish the schedules annually or more frequently as  
23 determined by the board."

24 Section 2. Sections 20-2-23, 20-2-25, 20-2-27,  
25 20-2-29, and 20-2-31, Code of Alabama 1975, relating to  
26 Schedules of Controlled Substances, are repealed.

1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.