

AN ACT TO AMEND CHAPTER 14 OF THE NEW PENAL LAW OF LIBERIA UNDER TITLE
“OFFENSE INVOLVING DANGER TO THE PERSON“ BY ADDING THERETO SUBCHAPTER
(E) UNDER THE TITLE “CONTROLLED DRUG AND SUBSTANCES ACT OF 2014

It is enacted by the Senate and House of Representatives of the Republic of Liberia Legislature Assembled:

SECTION 1: Repealer. Sections 41.22, 41.23, 41.24, 41.25, 41.26, 41.27, and 41.28, Chapter 41 Control of Narcotic Drugs, Part V Regulation of Drugs, Public Health Law, Liberian Code of Laws Revised, are hereby repealed. Section 17.5, Chapter 17 Offenses Against Public Order, Penal Law of the Liberian Code of Laws Revised is hereby amended by deleting there from the words "narcotics or other drug, not therapeutically administered".

SECTION 2: Amendment. Chapter 14 Offenses Involving Danger to the Person, Penal Law, Liberian Code of Laws Revised is hereby amended to add thereto Subchapter E Controlled Drugs and Substances, to read as follows:

Chapter 14 OFFENSES INVOLVING DANGER TO THE PERSON

Subchapter E. Controlled Drugs and substances

§14. 100. Definitions

§14. 101. Unlicensed importation of controlled drugs or substances

§14. 102. Unlicensed exportation of controlled drugs or substances

§14. 103. Unlicensed sale, trading, administration, dispensation, delivery, distribution, dispatch in transit, and transportation of controlled drug or substance

§14. 104. Unlicensed manufacture of controlled drugs or substances

§14. 105. Unlicensed chemical diversion of controlled precursors and essential chemicals

§14. 106. Unlicensed manufacture, transport or distribution of equipment, instrument, apparatus

and other paraphernalia for controlled drug or substance

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§14. 100. Definitions

In addition to the General Definitions set forth in Section 1.7 of the Penal Law, as used in this Subchapter, unless the context otherwise requires:

"administer" means any act of introducing any controlled substances into the body of a person, with or without the knowledge of that person, by way of injection, inhalation, ingestion or other means;

"child" or "children" means an individual or individuals under 18 years;

"controlled drug or substance" means any of the drugs or substances in Schedules I, II, III, IV contained in the Annex to this subchapter and as may be amended from time to time by the Minister;

"controlled precursors and essential chemicals" means any of the precursors and essential chemicals listed in Tables I and II annexed to this subchapter and as may be amended from time to time by the Minister;

"cultivation" means the cultivation of the opium poppy, coca bush or cannabis plant; "diversion" "diversion" means the sale, distribution, supply or transport of imported, in-transit, manufactured or procured controlled precursors and essential chemicals, in diluted, mixtures or in concentrated form, to any person or entity manufacturing any controlled drug or substance, and shall include packaging, repackaging, labeling, relabeling or concealment of such transaction through fraud, destruction of documents, fraudulent use of permits;;

"concealing" means to disguise:

(a) the nature, source or location of the property; or

(b) any movement of the property; or

(c) someone's rights in relation to the property; or

(d) the identity of any owner of the property;

"equipment" means the paraphernalia, apparatus, materials or appliances when used, intended for use or designed for use in the manufacture of any dangerous drug and/or controlled precursor and essential chemical, such as reaction vessel, preparative/purifying equipment, fermentors, separatory funnel, flask, heating mantle, gas generator, or their substitute;

"export" or "exportation" means the physical transfer of drugs or substances from Liberia to another country;

"import" or "importation" means the physical transfer of drugs or substances to Liberia from another country;

"juvenile" means a child 14 years or more up to 18 years;

"license" and "licensed" means to have a written certificate or permit issued by the Ministry of Health and Social Welfare for the purposes of this subchapter.

"manufacture" means all processes, other than production, by which drugs or substances may be obtained and includes refining as well as the transformation of drugs or substances into other drugs or substances. The term also includes the making of preparations other than those made on prescription in pharmacies;

"Minister" means the Minister of Health and Social Welfare;

"practitioner" means a medical doctor or nurse, duly authorized to practice as such under the laws of Liberia;

"preparation" means any solution or mixture, in whatever physical state, containing one or more substances or in dosage form.

"proceeds" means any property derived from or obtained directly or indirectly, through the commission of an offense established in accordance with this subchapter.

"property" means assets of every kind, whether corporeal or incorporeal, movable or immovable tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets.

"production" means the separation of opium, coca leaves, cannabis and cannabis resin from the plants from which they are obtained;

"traffic" and "trafficking" means, in respect of a controlled substance included in Schedules I, II, III, and IV, and Table I and II contained in the Annex to this subchapter:

(a) to sell, administer, give, provide, transfer, transport, send or deliver the substance by any means; or

(b) to sell an authorization to obtain the substance; or

(c) to offer to do anything mentioned in (a) or (b);

"Schedule I", "Schedule II", "Schedule III" and "Schedule IV" mean the corresponding numbered lists of drugs and substances contained in the Annex to this subchapter pursuant to the 1961 United Nations Single Convention on Narcotic Drugs as amended by the 1972 Protocol, and the 1971 United Nations Single Convention on Psychotropic Substances and as may be amended from time to time by the Minister of Health and Social Welfare;

"sell" includes offer to sell, expose for sale, barter or exchange, delivery of possession in the expectation of future receipt of money or other value, and to have in possession for sale or any act of giving away any drug or controlled precursor and essential chemical whether for money or any other consideration;

"Table I" and "Table II" mean the correspondingly numbered list of precursors and essential chemicals contained in the Annex to this Subchapter pursuant to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and as may be amended from time to time by the Minister of Health and Social Welfare.

§14. 101. Unlicensed importation of controlled drugs or substances

1. Offense. A person commits an offense if the person knowingly imports into Liberia any controlled drugs or substances listed in Schedules I, II, III or IV, or precursor or essential chemical listed in Table I and Table II and contained in the Annex to this subchapter without a license from the Minister.

2. Grading. The offense of unlicensed importing of controlled drugs or substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony .

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14. 102. Unlicensed exportation of controlled drugs or substances

1. Offense. A person commits an offense if the person exports out of Liberia any controlled drug or substance listed in Schedules I, II, III or IV or precursor or essential chemical listed in Table I or Table II herein, or exports consignments of such controlled drugs and substances to a post office box other than the person named on the authorization, or exports consignment of such drugs to a bonded warehouse or possesses said drugs or substance for the purpose of exporting it out of Liberia without a license issued by the Minister.

2. Grading. The offense of unlicensed exporting of controlled drugs or substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14.103. Unlicensed sale, trading, administration, dispensation, delivery, distribution, dispatch in transit, and transportation of controlled drug or substance

1. Offense. A person commits an offense if the person sells or offers for sale, or trades, or administers, or dispenses, or delivers or gives away to another, or distributes, or dispatches in transit, or transports any controlled drug or substance listed in Schedules I, II, III, and IV or acts as a broker in any of such transactions without a license from the Minister; and no consignment of such drugs or controlled substance while in transit or being stored in a bonded warehouse shall be subjected to any process which would change the nature of the drug in question.

2. Grading. The offense of unlicensed sale, trading, administration, dispensation, delivery, dispatch in transit and transportation of controlled drugs or substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14.104. Unlicensed manufacture of controlled drugs or substances

1. Offense. A person commits an offense if the person engages in the manufacture or preparation of any drugs or substances listed in Schedules I, II, III, IV or precursor or essential chemical listed in Table I and Table II without a license from the Minister.

2. Grading. The offense of unlicensed manufacture of controlled drugs or substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14.105. Unlawful diversion of controlled precursors and essential chemicals

1. Offense. Except permitted or authorized by law, a person commits an offense if the person diverts any controlled precursor or essential chemical listed in Table I and Table II without a license from the Minister knowing that such substances are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or substances.

2. Grading. The offense of unlawful chemical diversion of controlled precursors and essential chemicals shall be graded as follows:

Where the subject matter of the offense is a precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

§14.106. Unlicensed manufacture, transport or distribution of equipment, instrument, apparatus and other paraphernalia for controlled drug or substance

1. Offense. A person commits an offense if the person delivers, possesses, or manufactures equipment, or transports or distributes any instrument, apparatus and other paraphernalia for controlled drugs or substances knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, extract, produce, process, prepare, test, analyze, pack, repack, store, or contain any controlled drug or substance without a license issued by the Minister.

2. Grading. The offense of manufacture or delivery of equipment, instrument, apparatus, and other paraphernalia for controlled drugs or substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

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§14.107. Unlicensed possession of controlled drugs or substances

1. Offense. A person commits an offense if the person possesses or purchases controlled drugs or substances in Schedules I, II, III, and IV or precursor or essential chemical listed in Table I and Table II without a license issued by the Minister.

2. Grading. The offense of possession of controlled drug or substance shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14.108. Unlicensed cultivation or culture, or production of plants

1. Offense. A person commits an offense if the person plants, cultivates, or cultures or engages in production of plants which are controlled drugs or substances listed in Schedules I, II, III, IV or a precursor or essential chemical listed in Table I and Table II, without a license issued by the Minister.

2. Grading. The offense of cultivation or culture or production of plants which are controlled drugs or sources thereof shall be graded as follows:

(a) Where the subject matter of the offense is drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14.109. Use of controlled drugs or substances

1. Offense. Except permitted or authorized by law, a person who consumes or uses controlled drugs or substances commits an offense.

2. Grading. The offense of use of controlled drugs or substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II the person shall be guilty of a first degree misdemeanor, and if apprehended for the second time, a third degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV the person shall be guilty of a second degree misdemeanor and if apprehended for the second time, a first degree misdemeanor.

(c) As an alternative to conviction or punishment, a court may order that such user undergoes measures of treatment, education, after-care, or rehabilitation.

§14.110. Prescription abuse

1. Offense. A person commits an offense if he or she supplies, administers or dispenses for use by individuals without a prescription the controlled drugs or substances listed in Schedules I, II, III, and IV or precursor or essential chemical listed in Table I or Table II herein, or supplies said controlled drugs or substances on presentation of a prescription, if the person knows or has reason to know that the prescription is forged, unlawfully altered, cancelled or invalid, or if a practitioner issues a prescription for said controlled drugs and substances contrary to sound medical practice particularly as to the number of times they may be refilled, and duration of their validity.

2. Grading. The offense of prescription abuse of controlled drugs or substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree; and if otherwise, shall be guilty of a first degree misdemeanor.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14.111. Illicit trafficking

1. Offense. A person commits an offense if the person knowingly traffics in controlled drugs or substances in Schedules I, II, III, IV or precursor or essential chemical listed in Table I and Table II without a license from the Minister:

2. Grading. The offense of illicit trafficking in controlled drugs and substances shall be graded as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II the person shall be guilty of a felony of the first degree.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV the person shall be guilty of a second degree felony.

§14.112. Unlawful maintenance of place for drugs or substances.

1. Offense. A person commits an offense if the person knowingly opens or maintains any place for the purpose of unlicensed selling, administering, delivering, storing or distributing controlled drugs or substances or controlled precursors and essential chemicals.

2. Grading. The offense of unlawful maintenance of place for drugs or substances shall be as follows:

(a) Where the subject matter of the offense is a drug or substance listed in Schedule I, or precursor or essential chemical listed in Table I and Table II to be used for the purpose of trafficking, the person shall be guilty of a felony of the first degree and, if otherwise, shall be guilty of a second degree felony.

(b) Where the subject matter of the offense is a drug or substance listed in Schedules II, III, and IV to be used for the purpose of trafficking, the person shall be guilty of a second degree felony and, if otherwise, shall be guilty of a first degree misdemeanor.

§14.113. Concealing property derived from drug offense

1. Offense. A person commits an offense if the person, knowing that the property is directly or indirectly derived from a drug offense, conceals property, or transfers property to someone else, or converts property, or removes property from one location to another with the intention of evading or assisting someone else to evade prosecution for a drug offense, imposition or enforcement of a penalty for a drug offense, or the making or enforcement of an order for the confiscation or forfeiture of property or any part thereof, except such property is subject to the Anti-Money Laundering and Terrorist Financing Law.

2. Grading. The offense of concealing property derived from drug offense shall be a felony of the first degree.

§14.114. Receiving property derived from drug offense

1. Offense. A person commits an offense if the person receives property, except subject to the

Anti-Money Laundering and Terrorist Financing Law, knowing that the property is derived from a drug offense committed by someone else without any legal entitlement to such property.

2. Grading. The offense of receiving property derived from a drug offense shall be a felony of the second degree.

§14.115. Confiscation and forfeiture

Proceeds derived from offenses under this subchapter, or property the value of which corresponds to that of such proceeds, controlled drugs or substances, equipment or other instrumentalities used in or intended for use in any manner in the commission of offenses under this subchapter shall be subject to, with respect to the penalty imposed, confiscation and forfeiture in favor of the Government of Liberia, pursuant to the Civil Procedure Law, including, but not limited to, money and other assets obtained thereby, and the instruments or tools with which the particular unlawful act was committed, unless they are the property of a third person not liable for the unlawful act

§14.116. Aggravating Circumstances

If a person is convicted of an offense under this subchapter, the court, in imposing sentence, shall consider factual circumstances which make the commission of the offense serious, such as:

- (a) the involvement in the offense of an organized criminal group to which the defendant belongs;
- (b) the involvement of the defendant in other international organized criminal activities;
- (c) the involvement of the defendant in other illegal activities facilitated by commission of the offense;
- (d) the use of violence or arms by the defendant;
- (e) the fact that the defendant holds a public office and the offense is connected with the office in question;
- (f) the victimization or use of minors;
- (g) the fact that the offense is committed in a penal institution or in an educational institution or social service institution or their immediate vicinity or other places to which school children resort for educational, sports or social activities;
- (h) prior conviction for similar offenses, whether committed abroad or in Liberia.

(2) If the court determines that any aggravating circumstance justifies a longer sentence, the Court may add up to 20 further years to the sentence, with the provisions of Section 50.6 of the Penal Law applying, mutatis mutandis.

§14.117. Additional penalty if offender is an alien.

Notwithstanding the provisions of the Aliens and Nationality Law, in addition to the penalties prescribed for offenses under this subchapter, an alien who violate any of the provisions of this subchapter shall, after service of sentence, may be subjected to deportation proceedings. So long as such action is not violative of the fundamental rights of the individual under any other laws of Liberia or international convention to which Liberia is a party.

§14.118. Juvenile Offender

Any juvenile charged with a designated substance offense shall be prosecuted in the same manner prescribed for the prosecution of juveniles under the laws of the Republic of Liberia. Children under fourteen (14) years of age who violate any provisions of this Subchapter shall be adjudged by the juvenile court as children in need of care and shall be referred to the social welfare agency of Government for proper placement

§14.119. Ministerial Review of Schedules

The Minister shall review the Schedules and Tables herein as updated and published by the United Nations Commission on Narcotic Drugs.

SECTION 3: This Act shall take effect immediately upon publication in handbills by the Ministry of Foreign Affairs.

[Please see pdf for Annex, Schedules and tables]

ANY LAW TO THE CONTRARY NOTWITHSTANDING

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