ASSEMBLY, No. 5488

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 18, 2023

Sponsored by:
Assemblyman KEVIN J. ROONEY
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Classifies xylazine as Schedule III controlled dangerous substance under certain circumstances; requires reporting of xylazine prescriptions.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning xylazine and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 7 of P.L.1970, c.226 (C.24:21-7) is amended to read as follows:

7. Schedule III.

a. Tests. The director shall place a substance in Schedule III if he finds that the substance: (1) has a potential for abuse less than the substances listed in Schedules I and II; (2) has currently accepted medical use in treatment in the United States; and (3) abuse may lead to moderate or low physical dependence or high psychological dependence.

b. The controlled dangerous substances listed in this section are included in Schedule III, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.

c. Any material, compound, mixture, or preparation which contains any quantity of the following substances associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Phenmetrazine and its salts.

(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(4) Methylphenidate.

d. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) 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

(2) Chlorhexadol

(3) Glutethimide

(4) Lysergic acid

(5) Lysergic acid amide

(6) Methyprylon

(7) Phencyclidine

(8) Sulfondiethylmethane

(9) Sulfonethylmethane

(10) Sulfonmethane

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

(11) Ketamine hydrochloride

(12) Except when acquired, prescribed, administered, or dispensed by a veterinarian in the course of the professional practice of veterinary medicine, any of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, or salts of isomers is possible with the specific chemical designation: xylazine; xylazine-M (2,6Mich dimethylaniline); xylazine-M (N-thiourea-2,6-dimethylaniline); xylazine-M (sulfone-HO-) isomer 2; xylazine-M (HO-2,6-dimethylaniline isomer 1); xylazine-M (HO-2,6-dimethylaniline isomer 2); xylazine-M (oxo-); xylazine-M (HO-) isomer 1; xylazine-M (HO-) isomer1 glucuronide; xylazine-M (HO-) isomer 2; xylazine-M (HO-) isomer 2 glucuronide; xylazine-M (HO-oxo-) isomer 1; xylazine-M (HO-oxo-) isomer 1 glucuronide; xylazine-M (HO-oxo-) isomer 2; xylazine-M (HO-oxo-) isomer 2 glucuronide; xylazine-M (sulfone); xylazine-M (sulfone-HO-) isomer 1; and any compound, mixture, or preparation that contains any quantity of any of the substances listed in this paragraph.

e. Nalorphine.

f. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.80 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium or any of its salts per 100 milliliters or per 100 grams, or not more than 25 milligrams

per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

g. The director may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections c. and d. of this schedule from the application of all or any part of this act 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; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

(cf: P.L.2007, c.244, s.5)

2. N.J.S.2C:35-2 is amended to read as follows:

2C:35-2. As used in this chapter:

"Administer" means the direct application of a controlled dangerous substance or controlled substance analog, 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 lawfully authorized agent, or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, marijuana and hashish as defined in this section, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L.2011, c.120 (C.2C:35-5.3a), or in section 2 of P.L.2013, c.35 (C.2C:35-5.3b), and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., tobacco and tobacco products,

or cannabis and cannabis as defined in section 3 of P.L.2021, c.16 (C.24:6I-33). The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21 U.S.C. s.355).

"Counterfeit substance" means a controlled dangerous substance or controlled substance analog 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 or persons who in fact manufactured, distributed, or dispensed the substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance or controlled substance analog, whether or not there is an agency relationship.

"Dispense" means to deliver a controlled dangerous substance or controlled substance analog to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. "Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance or controlled substance analog. "Distributor" means a person who distributes.

"Drugs" means (1) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) substances, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) substances intended for use as a component of any substance specified in (1), (2), and (3) of this definition; but does not include devices or their components, parts, or accessories. The term "drug" also does not include: hemp and hemp products cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.); cannabis as defined

in section 3 of P.L.2021, c.16 (C.24:6I-31 et al.) which is cultivated and produced for use in a cannabis item, as defined in that section, in accordance with the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.); and cannabis resin as defined in that section 3 (C.24:6I-33) which is extracted for use in a cannabis item, as defined in that section, in accordance with that act.

"Drug or alcohol dependent person" means a person who as a result of using a controlled dangerous substance or controlled substance analog or alcohol has been in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance or controlled substance analog or alcohol on a continuous or repetitive basis. Drug or alcohol dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Hashish" means the resin extracted from any part of the plant Cannabis sativa L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin. "Hashish" shall not mean: hemp and hemp products cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.); or cannabis resin as defined in section 3 of P.L.2021, c.16 (C.24:6I-33) which is extracted for use in a cannabis item, as defined in that section, in accordance with the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.).

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination 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 dangerous substance or controlled substance analog by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance or controlled substance analog in the course of his professional practice, or (2) by a practitioner, or under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant. "Marijuana" shall not mean: hemp and hemp products cultivated,

handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.); or cannabis as defined in section 3 of P.L.2021, c.16 (C.24:6I-33) which is cultivated and produced for use in a cannabis item, as defined in that section, in accordance with the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.).

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, coca leaves, and opiates;

(2) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(3) A substance, and any compound, manufacture, salt, derivative, or preparation thereof, which is chemically identical with any of the substances referred to in (1) and (3) of this definition, except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled pursuant to the provisions of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity, or one or more individuals.

"Plant" means an organism having leaves and a readily observable root formation, including, but not limited to, a cutting having roots, a rootball or root hairs.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State. As used in this definition:

(1) "Physician" means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state.

(2) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(3) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(4) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

(5) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental, and medical purposes and for purposes of instruction approved by the Department of Health.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the Division of Consumer Affairs in the Department of Law and Public Safety has found to be and by regulation 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 dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility licensed and approved by the Department of Human Services and which is approved by any county probation department for the inpatient treatment and rehabilitation of drug or alcohol dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any regulations issued by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to the director's authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance or controlled substance analog for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

"Prescription legend drug" means any drug which under federal or State law requires dispensing by prescription or order of a licensed physician, veterinarian, or dentist and is required to bear the statement "Rx only" or similar wording indicating that such drug may be sold or dispensed only upon the prescription of a

licensed medical practitioner and is not a controlled dangerous substance or stramonium preparation.

"Stramonium preparation" means a substance prepared from any part of the stramonium plant in the form of a powder, pipe mixture, cigarette, or any other form with or without other ingredients.

"Stramonium plant" means the plant Datura Stramonium Linne, including Datura Tatula Linne.

"Xylazine" means any of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, or salts of isomers is possible with the specific chemical designation: xylazine; xylazine-M (2,6Mich dimethylaniline); xylazine-M (N-thiourea-2,6-dimethylaniline); xylazine-M (sulfone-HO-) isomer 2; xylazine-M (HO-2,6-dimethylaniline isomer 1); xylazine-M (HO-2,6-dimethylaniline isomer 2); xylazine-M (oxo-); xylazine-M (HO-) isomer 1; xylazine-M (HO-) isomer1 glucuronide; xylazine-M (HO-) isomer 2; xylazine-M (HO-) isomer 2 glucuronide; xylazine-M (HO-oxo-) isomer 1; xylazine-M (HO-oxo-) isomer 1 glucuronide; xylazine-M (HO-oxo-) isomer 2; xylazine-M (HO-oxo-) isomer 2 glucuronide; xylazine-M (sulfone); xylazine-M (sulfone-HO-) isomer 1; and any compound, mixture, or preparation that contains any quantity of any of the substances listed in this paragraph.

(cf: P.L.2021, c.16, s.54)

3. N.J.S.2C:35-9 is amended to read as follows:

2C:35-9. a. Any person who manufactures, distributes or dispenses methamphetamine, lysergic acid diethylamide, phencyclidine or any other controlled dangerous substance classified in Schedules I or II, or any controlled substance analog thereof, or who manufactures, distributes or dispenses xylazine, other than a veterinarian in the ordinary course of professional veterinary practice, in violation of subsection a. of N.J.S. 2C:35-5, is strictly liable for a death which results from the injection, inhalation or ingestion of that substance, and is guilty of a crime of the first degree.

b. The provisions of N.J.S.2C:2-3 (governing the causal relationship between conduct and result) shall not apply in a prosecution under this section. For purposes of this offense, the defendant's act of manufacturing, distributing or dispensing a substance is the cause of a death when:

(1) The injection, inhalation or ingestion of the substance is an antecedent but for which the death would not have occurred; and

(2) The death was not:

(a) too remote in its occurrence as to have a just bearing on the defendant's liability; or

(b) too dependent upon conduct of another person which was unrelated to the injection, inhalation or ingestion of the substance or its effect as to have a just bearing on the defendant's liability.

c. It shall not be a defense to a prosecution under this section that the decedent contributed to his own death by his purposeful, knowing, reckless or negligent injection, inhalation or ingestion of the substance, or by his consenting to the administration of the substance by another.

d. Nothing in this section shall be construed to preclude or limit any prosecution for homicide. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction arising under this section shall not merge with a conviction for leader of narcotics trafficking network, maintaining or operating a controlled dangerous substance production facility, or for unlawfully manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense the controlled dangerous substance or controlled substance analog which resulted in the death.

(cf: P.L.1987, c.106, s.1)

3. Section 24 of P.L.2007, c.244 (C.45:1-44) is amended to read as follows:

24. Definitions. As used in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50):

"CDS registration" means registration with the Division of Consumer Affairs to manufacture, distribute, dispense, or conduct research with controlled dangerous substances issued pursuant to section 11 of P.L.1970, c.226 (C.24:21-11).

"Certified medical assistant" means a person who is a graduate of a post-secondary medical assisting educational program accredited by the Commission on Allied Health Education and Accreditation (CAHEA), or its successor, the Accrediting Bureau of Health Education Schools (ABHES), or its successor, or any accrediting agency recognized by the U.S. Department of Education, which educational program includes, at a minimum, 330 clock hours of instruction, and encompasses training in the administration of intramuscular and subcutaneous injections, as well as instruction and demonstration in: pertinent anatomy and physiology appropriate to injection procedures; choice of equipment; proper technique, including sterile technique; hazards and complications; and emergency procedures; and who maintains current certification or registration, as appropriate, from the Certifying Board of the American Association of Medical Assistants (AAMA), the National Center for Competency Testing (NCCT), the National Healthcareer Association (NHA), the American Medical Certification Association (AMCA), the National Association for Health Professionals (NAHP), the National Certification Medical Association (NCMA), the American Medical Technologists (AMT), or any other recognized certifying body approved by the State Board of Medical Examiners.

"Controlled dangerous substance" means any substance that is listed in Schedules II, III, and IV of the schedules provided under the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.). Controlled dangerous substance also means any substance that is listed in Schedule V under the "New Jersey Controlled Dangerous Substances Act" when the director has determined that reporting Schedule V substances is required by federal law, regulation, or funding eligibility.

"Dental resident" means a person who practices dentistry as a resident pursuant to R.S.45:6-20 and, pursuant to N.J.A.C.13:30-1.3, is a graduate of a dental school approved by the Commission on Dental Accreditation and has passed Part I and Part II of the National Board Dental examination and obtained a resident permit from the New Jersey Board of Dentistry.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Licensed athletic trainer" means an individual who is licensed by the State Board of Medical Examiners to practice athletic training, pursuant to the "Athletic Training Licensure Act," P.L.1984, c.203 (C.45:9-37.35 et seq.). "Licensed health care professional" means a registered nurse, licensed practical nurse, advanced practice nurse, physician assistant, or dental hygienist licensed pursuant to Title 45 of the Revised Statutes.

"Licensed pharmacist" means a pharmacist licensed pursuant to P.L.2003, c.280 (C.45:14-40 et seq.).

"Medical resident" means a graduate physician who is authorized to practice medicine and surgery by means of a valid permit issued by the State Board of Medical Examiners to a person authorized to engage in the practice of medicine and surgery while in the second year or beyond of a graduate medical education program pursuant to N.J.A.C.13:35-1.5.

"Medical scribe" means an individual trained in medical documentation who assists a physician or other licensed health care professional by documenting the patient's encounter with the professional in the patient's medical record and gathering data for the professional, including, but not limited to, nursing notes, patient medical records, laboratory work, and radiology tests.

"Mental health practitioner" means a clinical social worker, marriage and family therapist, alcohol and drug counselor, professional counselor, psychologist, or psychoanalyst licensed or otherwise authorized to practice pursuant to Title 45 of the Revised Statutes.

"Pharmacy permit holder" means an individual or business entity that holds a permit to operate a pharmacy practice site pursuant to P.L.2003, c.280 (C.45:14-40 et seq.).

"Practitioner" means an individual currently licensed, registered, or otherwise authorized by this State or another state to prescribe drugs in the course of professional practice.

"Registered dental assistant" is a person who has fulfilled the requirements for registration established by "The Dental Auxiliaries Act," P.L.1979, c.46 (C.45:6-48 et al.) and works under the direct supervision of a licensed dentist.

"Ultimate user" means a person who has obtained from a dispenser and possesses for the person's own use, or for the use of a member of the person's household or an animal owned by the person or by a member of the person's household, a controlled dangerous substance.

<u>“Xylazine” means any of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, or salts of isomers is possible with the specific chemical designation: xylazine; xylazine-M (2,6Mich dimethylaniline); xylazine-M (N-thiourea-2,6-dimethylaniline); xylazine-M (sulfone-HO-) isomer 2; xylazine-M (HO-2,6-dimethylaniline isomer 1); xylazine-M (HO-2,6-dimethylaniline isomer 2); xylazine-M (oxo-); xylazine-M (HO-) isomer 1; xylazine-M (HO-) isomer1 glucuronide; xylazine-M (HO-) isomer 2; xylazine-M (HO-) isomer 2 glucuronide; xylazine-M (HO-oxo-) isomer 1; xylazine-M (HO-oxo-) isomer 1 glucuronide; xylazine-M (HO-oxo-) isomer 2; xylazine-M (HO-oxo-) isomer 2 glucuronide; xylazine-M (sulfone); xylazine-M (sulfone-HO-) isomer 1; and any compound, mixture, or preparation that contains any quantity of any of the substances listed in this paragraph.</u>

(cf: P.L.2017, c.341, s.2)

4. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read as follows:

8. a. (1) Except as provided in subsection b. of this section, a practitioner or other person who is authorized by a practitioner to access prescription monitoring information pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access prescription monitoring information:

(a) the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance or any opioid to a new patient for acute or chronic pain;

(b) the first time a practitioner or other person prescribes a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance;

(c) if the practitioner or other person has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion, the first time the practitioner or other person

prescribes a non-opioid drug other than a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance; **[**and**]**

(d) on or after the date that the division first makes prescription monitoring information available on an electronic system that collects and displays health information, pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-46), any time the practitioner or other person prescribes a Schedule II controlled dangerous substance for acute or chronic pain to a patient receiving care or treatment in the emergency department of a general hospital; and

(e) in the case of a veterinarian, any time the veterinarian issues a prescription for xylazine.

In addition, in any case in which a prescription is issued to a new patient, either on or after the effective date of P.L.2017, c.341 (C.45:16-9.4c et al.), for a Schedule II controlled dangerous substance or opioid drug that has been prescribed for acute or chronic pain, or for a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance, the practitioner or other authorized person shall access prescription monitoring information on a quarterly basis during the period of time the patient continues to receive such prescription.

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, if the pharmacist has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion.

(b) A pharmacist shall not dispense a prescription to a person other than the patient for whom the prescription is intended, unless the person picking up the prescription provides personal identification to the pharmacist, and the pharmacist, as required by subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs that identifying information into the Prescription Monitoring Program if the pharmacist has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any reason other than delivering the substance to the patient for the treatment of an existing medical condition. The provisions of this subparagraph shall not take effect until the director determines that the Prescription Monitoring Program has the technical capacity to accept such information.

b. The provisions of subsection a. of this section shall not apply to:

(1) a veterinarian, except as provided in subparagraph (e) of paragraph (1) of subsection a. of this section;

(2) a practitioner or the practitioner's agent administering methadone, or another controlled dangerous substance designated by the director as appropriate for treatment of a patient with a substance abuse disorder, as interim treatment for a patient on a waiting list for admission to an authorized substance abuse treatment program;

(3) a practitioner administering a controlled dangerous substance directly to a patient;

(4) a practitioner prescribing a controlled dangerous substance to be dispensed by an institutional pharmacy, as defined in N.J.A.C.13:39-9.2;

(5) a practitioner prescribing a controlled dangerous substance in the emergency department of a general hospital, provided that the quantity prescribed does not exceed a five-day supply of the substance; however, the exemption provided by this paragraph shall have no force or effect on or after the date on which the division first makes prescription monitoring information available on an electronic system that collects and displays health information, pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-46);

(6) a practitioner prescribing a controlled dangerous substance to a patient under the care of a hospice;

(7) a situation in which it is not reasonably possible for the practitioner or pharmacist to access the Prescription Monitoring Program in a timely manner, no other individual authorized to access the Prescription Monitoring Program is reasonably available, and the quantity of controlled dangerous substance prescribed or dispensed does not exceed a five-day supply of the substance;

(8) a practitioner or pharmacist acting in compliance with regulations promulgated by the director as to circumstances under which consultation of the Prescription Monitoring Program would result in a patient's inability to obtain a prescription in a timely manner, thereby adversely impacting the medical condition of the patient;

(9) a situation in which the Prescription Monitoring Program is not operational as determined by the division or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation;

(10) a practitioner or pharmacist who has been granted a waiver due to technological limitations that are not reasonably within the control of the practitioner or pharmacist, or other exceptional circumstances demonstrated by the practitioner or pharmacist, pursuant to a process established in regulation, and in the discretion of the director; or

(11) a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone

an operation in a general hospital or a licensed ambulatory care facility or treatment for acute trauma in a general hospital or a licensed ambulatory care facility, so long as that operation or treatment was not part of care or treatment in the emergency department of a general hospital as provided in subsection a. of this section, when no more than a five-day supply is prescribed.
(cf: P.L.2017, c.341, s.4)

5. (New section) The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this act.

6. This act shall take effect immediately.

STATEMENT

This bill classifies xylazine as a Schedule III controlled dangerous substance (CDS), except when it is acquired, prescribed, administered, or dispensed by a veterinarian in the course of the professional practice of veterinary medicine.

Drugs listed as Schedule III CDS that do not otherwise carry a specific criminal penalty are subject to certain standard criminal penalties related to the illegal manufacturing, distribution, possession, and use of the drug.

Accordingly, a person convicted of the illegal manufacture, distribution, dispensing, possession, use, or being under the influence of xylazine would be guilty of a crime of the third degree, which is punishable by imprisonment for three to five years, as well as a fine of up to $25,000 in the case of distribution offenses, and a fine of up to $35,000 for possession, use, and intoxication offenses.

Certain enhanced penalties would apply for offenses committed within 1,000 feet of school property, for offenses committed within 500 feet of certain public spaces, and for distribution to a person under 18 years of age or who is pregnant. Additionally, the bill adds xylazine, and drugs containing xylazine, to the law establishing strict liability for a death resulting from the manufacture, distribution, or dispensing of certain CDS.

The bill requires all prescriptions for xylazine issued by a veterinarian to be reported to the State prescription drug monitoring database.

Xylazine, which is also known by the street names "tranq," "tranq dope," and "zombie drug," has been approved for use as an animal sedative and is commonly used in veterinary practice, but has not been approved for use in humans. However, it has been reported that xylazine has been increasingly detected in illegal

street drugs, and particularly in opioid drugs, as it can enhance and prolong the euphoric effects of opioids. However, xylazine is not itself an opioid, and it does not respond to opioid antidotes like naloxone. Accordingly, a person who consumes an opioid drug that contains xylazine may die of an overdose notwithstanding the prompt administration of an opioid antidote. Furthermore, xylazine is highly addictive, results in severe withdrawal symptoms, and can cause severe skin ulcers and abscesses. Although some drug users seek out xylazine for its effects in enhancing opioid intoxication, others may not be aware they are consuming it or that they are at enhanced risk of overdose and other drug-related injuries.

It is the sponsor's belief that listing xylazine as a Schedule III CDS except when it is being used in the course of practicing veterinary medicine, as well as enhancing tracking of prescriptions issued for xylazine, will help protect the lives of New Jersey citizens and prevent unnecessary deaths.