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Memorandum
TO: Representative Kyle Johansen
FROM: Patricia Young, Manager *Patricia Young*
RE: State Laws Regulating *Salvia Divinorum*
LRS Report 10,201

You asked for information on state regulation of *salvia divinorum*. According to a recent compilation by the National Conference of State Legislatures (NCSL), at least 17 states criminalize some aspect of the use, possession, or distribution of this substance. We include this document as Attachment A.

Attachment B is a copy of "The Legal Status of *Salvia Divinorum*," by Daniel Siebert, an independent researcher who closely follows this issue. Mr. Siebert's article, last updated on March 4, 2010, identifies 19 states with laws addressing the legality of *salvia divinorum*. This article also provides further discussion of pending bills and passed legislation in states as well as in 20 countries that prohibit some aspect of the possession, sale, or use of the substance. For your convenience, we insert a table from Mr. Siebert's article here:

| US States with Laws Prohibiting Salvia | Other Countries with Laws Prohibiting Salvia |
|---|--|
| Illegal (Schedule I) | Illegal to Possess or Sell |
| Delaware | Australia |
| Florida | Belgium |
| Hawaii | Croatia |
| Illinois | Denmark |
| Kansas | Germany |
| Mississippi | Italy |
| Missouri | Japan |
| Nebraska | Latvia |
| North Dakota | Lithuania |
| Ohio | Poland |
| Oklahoma | Romania |
| South Dakota | South Korea |
| Virginia | Sweden |
| Only Legal When Not Intended for Human Consumption | Illegal to Sell, but Legal to Possess |
| Louisiana | Chile |
| North Carolina | Spain |
| Tennessee | Illegal to Grow or Sell, but Legal to Possess |
| Legal for Adults, but Illegal To Sell to Minors | Russia |
| California | Treated as a Medicinal Herb that Requires a Doctor's Prescription |
| Maine (possession by minors also illegal) | Estonia |
| Illegal to Manufacture, Deliver, or Sell Salvinorin A, but Legal to Possess | Finland |
| Wisconsin | Iceland |
| | Norway |
| Source: Daniel Siebert, "The Legal Status of Salvia Divinorum," updated, March 4, 2010. | |

We hope this information is useful. If you have questions or need additional information, please let us know.

Attachment A

National Conference of State Legislatures, "State Laws on *Salvia Divinorum*," March 2010

State Laws on Salvia Divinorum

In recent years, the drug Salvia Divinorum, or Salvia, has gained the attention of state legislators. Since 2006, at least 17 states have passed laws regulating or controlling the drug.

Salvia is an herb related to mint that is known for its psychoactive effects. The plant is native to parts of Mexico, where historically it has been used as part of indigenous religious rituals. Common methods of ingestion include infusing leaves into a tea; smoking dried herbs; and chewing. In the United States, use of Salvia is most common among 18-25 year olds and to a much lesser extent among adolescents (see chart below).

| | Percentages and Standard Errors (SE) of Past Year Hallucinogen Use among Persons Aged 12 or Older, by Age Group: 2006 | | | | | | | |
|------------------|---|----------|----------|-------------|---------|------|--------------------|------|
| | 12 or Older | 12 to 17 | 18 to 25 | 26 or Older | | | | |
| Hallucinogen | Percent | SE | Percent | SE | Percent | | | |
| LSD | 0.3% | 0.02 | 0.4% | 0.05 | 1.2% | 0.10 | 0.1% | 0.02 |
| PCP | 0.1% | 0.02 | 0.2% | 0.04 | 0.2% | 0.04 | 0.0 ⁺ % | 0.02 |
| Ecstasy | 0.9% | 0.04 | 1.2% | 0.09 | 3.8% | 0.19 | 0.3% | 0.04 |
| Ketamine | 0.1% | 0.02 | 0.1% | 0.03 | 0.2% | 0.04 | 0.1% | 0.02 |
| DMT/AMT/Foxy | 0.0 ⁺ % | 0.01 | 0.1% | 0.02 | 0.2% | 0.05 | 0.0 ⁺ % | 0.01 |
| Salvia divinorum | 0.3% | 0.02 | 0.6% | 0.06 | 1.7% | 0.12 | 0.0 ⁺ % | 0.01 |

Source: Substance Abuse and Mental Health Services Administration, Office of Applied Studies. (February 14, 2008). *The NSDUH Report - Use of Specific Hallucinogens: 2006*. Rockville, MD. <http://www.oas.samhsa.gov/2k8/hallucinogens/hallucinogens.htm>

Effects of Salvia

Salvia originally became popular as a legal alternative to marijuana. However, the effects are markedly different. The effects of Salvia are hallucinogenic and vary based on method of ingestion. For example, smoking Salvia can lead to strong, instantaneous effects, whereas chewing or drinking tea can lead to longer lasting scenarios, but less intense. Some common effects include uncontrollable laughter, visions, dysphoria, experiencing multiple realities, and loss of physical coordination. So far, there has been limited study into the long-term effects of Salvia or its potential for addiction or abuse or its potential medicinal benefits. Initial studies have found that since Salvia increases dopamine levels in the brain, it contains potential as an addictive substance. Other studies, though, have found that Salvia could have potential as a treatment for gastrointestinal disorders.

Legal Status

No Federal statutes control or regulate distribution of Salvia. So far, at least 17 states have felt the need to act, passing laws ranging from banning possession or sale for minors to outright bans. Some states have classified Salvia as a Schedule 1 substance, modeled after the federal Controlled Substances Act, where Schedule 1 substances are considered to have a high potential for dependency and no accepted

medical use.

State Laws Regulating Salvia Divinorum (Current as of March 2010)

| | |
|---|--|
| <p>California Penal Code Section 379</p> | <p>Every person who sells, dispenses, distributes, furnishes, administers, gives, or offers to sell, dispense, distribute, furnish, administer, or give Salvia divinorum or Salvinorin A, or any substance or material containing Salvia divinorum or Salvinorin A, to any person who is less than 18 years of age, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.</p> |
| <p>Delaware 16 Del.C. § 4714</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>Florida Annotated Title XLVI, Crimes Chapter 893, Drug Abuse Prevention and Control 893.03.</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>Illinois Illinois Compiled Statutes Annotated, Chapter 720. Criminal Offenses, Act 570, Illinois Controlled Substances Act, Article II, Schedules of Controlled Substances</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>Kansas Statute 61-4104, Controlled Substances</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>Louisiana Louisiana Revised Statutes, Title 40— Public Health and Safety, Chapter 4— Food and Drugs, Part X, §989.1</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>Maine Maine Revised Statute Title 17: CRIMES, Chapter 70: Salvia Divinorum</p> | <p>A person may not transfer Salvia divinorum to a minor. A minor may not Purchase, possess or use Salvia divinorum</p> |
| <p>Mississippi Miss. Code Ann. § 41-29-113</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>Missouri Missouri Revised Statutes, Chapter 195, Drug Regulations, Section 195.017</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>North Dakota CHAPTER 19-03.1, UNIFORM CONTROLLED SUBSTANCES ACT</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>Nebraska Nebraska Revised Statutes 28-405</p> | <p>Lists Salvia as a Schedule I controlled substance.</p> |
| <p>North Carolina North Carolina General Statutes Annotated 14-401.23</p> | <p>(a) It shall be unlawful for any person to knowingly or intentionally manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver Salvia divinorum or Salvinorin A. (b) It shall be unlawful for any person to knowingly or intentionally possess Salvia</p> |

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|---|---|
| | divinorum or Salvinorin A. |
| Ohio Ohio Revised Code Title 37, Chapter <u>3719.41, Controlled substance schedules.</u> | Lists Salvia as a Schedule I controlled substance. |
| Oklahoma Oklahoma Statutes Categorized Title 63, <u>Public Health and Safety Chapter 2 -</u> <u>Uniform Controlled Dangerous</u> <u>Substances Act, Article 2 - Standards and</u> <u>Schedules, Section 2-204 - Schedule I</u> | Lists Salvia as a Schedule I controlled substance. |
| South Dakota South Dakota Codified Laws <u>22-42-22</u> | Possession of Salvia divinorum or salvinorin A prohibited--Felony or misdemeanor. No person may knowingly possess Salvia divinorum or salvinorin A. It is a Class 1 misdemeanor to possess two ounces or less of Salvia divinorum or salvinorin A. It is a Class 6 felony to possess more than two ounces of Salvia divinorum or salvinorin A. |
| Tennessee Tennessee Code Annotated <u>39-17-438</u> | (a) It is an offense to knowingly produce, manufacture, distribute, possess or possess with intent to produce, manufacture, or distribute the active chemical ingredient in the hallucinogenic plant Salvia divinorum A. (b) The provisions of this section shall not apply to the possession, planting, cultivation, growing, or harvesting of the hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes. (c) The provisions of this section shall not apply to any dosage form that is legally obtainable from a retail establishment without a prescription and is recognized by the Federal Food and Drug Administration as a homeopathic drug. (d) A violation of subsection (a) is a Class A misdemeanor. |
| Wisconsin Wisconsin Statute <u>941.318</u> | Except as provided in sub. (3), whoever manufactures, distributes, or delivers salvinorin A with intent that it be consumed by an individual may be fined not more than \$10,000. (3) (a) Subsection (2) does not apply to the manufacture of any dosage form of salvinorin A that may be obtained from a retail establishment without a prescription and that is recognized by the U.S. Food and Drug Administration as a homeopathic drug. (b) Subsection (2) does not apply to the distribution or delivery to an individual who is 18 years of age or older of any dosage form of salvinorin A that may be obtained from a retail establishment without a prescription and that is recognized by the U.S. Food and Drug Administration as a homeopathic drug. |

For more information, contact

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