

H .B. NO. 1401

A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 329-14, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Depressants. Unless specifically excepted, the
4 schedule shall include any material, compound, mixture, or
5 preparation which contains any quantity of the substance:

6 (1) Mecloqualone;

7 (2) Methaqualone."

8 SECTION 2. Section 329-16, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§329-16 Schedule II.** (a) The controlled substances
11 listed in this section are included in schedule II.

12 (b) Any of the following substances, except those narcotic
13 drugs listed in other schedules, whether produced directly or
14 indirectly by extraction from substances of vegetable origin, or
15 independently by means of chemical synthesis, or by combination
16 of extraction and chemical synthesis:

- 1 (1) Opium and opiate, and any salt, compound, derivative,
2 or preparation of opium or opiate including the
3 following:
- 4 (A) Raw opium;
 - 5 (B) Opium extracts;
 - 6 (C) Opium fluid;
 - 7 (D) Powdered opium;
 - 8 (E) Granulated opium;
 - 9 (F) Codeine;
 - 10 (G) Ethylmorphine;
 - 11 (H) Etorphine hydrochloride;
 - 12 (I) Hydrocodone;
 - 13 (J) Hydromorphone;
 - 14 (K) Metopon;
 - 15 (L) Morphine;
 - 16 (M) Oxycodone;
 - 17 (N) Oxymorphone; and
 - 18 (O) Thebaine;
- 19 (2) Any salt, compound, isomer, derivative, or preparation
20 thereof which is chemically equivalent or identical
21 with any of the substances referred to in paragraph

1 (1), but not including the isoquinoline alkaloids of
2 opium;

3 (3) Opium poppy and poppy straw;

4 (4) Coca leaves and any salt, compound, derivative, or
5 preparation of coca leaves, and any salt, compound,
6 derivative, or preparation thereof which is chemically
7 equivalent or identical with any of these substances,
8 but not including decocanized coca leaves or
9 extractions which do not contain cocaine or ecgonine;
10 cocaine or any salt or isomer thereof; and

11 (5) Concentrate of poppy straw (the crude extract of poppy
12 straw in either liquid, solid, or powder form that
13 contains the phenanthrene alkaloids of the opium
14 poppy).

15 (c) Any of the following opiates, including their isomers,
16 esters, ethers, salts, and salts of isomers, whenever the
17 existence of these isomers, esters, ethers, and salts is
18 possible within the specific chemical designation:

19 (1) Alfentanil;

20 (2) Alphaprodine;

21 (3) Anileridine;

22 (4) Bezitramide;

- 1 (5) Bulk Dextropropoxyphene (nondosage form);
- 2 (6) Carfentanil;
- 3 (7) Dihydrocodeine;
- 4 (8) Diphenoxylate;
- 5 (9) Fentanyl;
- 6 (10) Isomethadone;
- 7 (11) Levo-alphaacetylmethadol (LAAM);
- 8 (12) Levomethorphan;
- 9 (13) Levorphanol;
- 10 (14) Metazocine;
- 11 (15) Methadone;
- 12 (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-
- 13 diphenyl butane;
- 14 (17) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-
- 15 diphenyl-propane-carboxylic acid;
- 16 (18) Pethidine (Meperidine);
- 17 (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
- 18 phenylpiperidine;
- 19 (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-
- 20 carboxylate;
- 21 (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-
- 22 4-carboxylic acid;

- 1 (22) Phenazocine;
- 2 (23) Piminodine;
- 3 (24) Racemethorphan;
- 4 (25) Racemorphan;
- 5 (26) Remifentanil; and
- 6 (27) Sufentanil.

7 (d) Depressants. Unless specifically excepted or unless
8 listed in another schedule, any material, compound, mixture, or
9 preparation which contains any quantity of the following
10 substances having a depressant effect on the central nervous
11 system[+], including their isomers, esters, ethers, salts, and
12 salts of isomers, esters, and ethers, unless specifically
13 excepted, whenever the existence of these isomers, esters,
14 ethers, and salts is possible within the specific chemical
15 designation:

- 16 (1) Amobarbital;
- 17 (2) Glutethimide;
- 18 (3) Pentobarbital;
- 19 (4) Phencyclidine;
- 20 (5) Phencyclidine immediate precursors:
 - 21 (A) 1-phenylcyclohexylamine;
 - 22 (B) 1-piperidinocyclohexanecarbonitrile (PCC); and

1 (6) Secobarbital.

2 (e) Stimulants. Any material, compound, mixture, or
3 preparation which contains any quantity of the following
4 substances having a danger or probable danger associated with a
5 stimulant effect on the central nervous system:

6 (1) Amphetamine, its salts, optical isomers, and salts of
7 its optical isomers;

8 (2) Any substance which contains any quantity of
9 methamphetamine, including its salts, isomers, and
10 salts of isomers[-];

11 (3) Phenmetrazine and its salts; and

12 (4) Methylphenidate.

13 ~~[(f) Any material, compound, mixture, or preparation which~~
14 ~~contains any quantity of the following substances having a~~
15 ~~degree of danger or probable danger associated with a stimulant~~
16 ~~effect on the central nervous system:~~

17 ~~(1) Phenmetrazine and its salts;~~

18 ~~(2) Phenylacetone (P2P);~~

19 ~~(3) Methylphenidate.]~~

20 (f) Immediate precursor. Unless listed in another
21 schedule, any material, compound, mixture, or preparation which
22 contains any quantity of the following substances:

1 (1) Immediate precursor to amphetamine and
2 methamphetamine:

3 (A) Phenylacetone, phenyl-2-propanone (P2P), benzyl
4 methyl ketone, methyl benzyl ketone.

5 (2) Immediate precursors to phencyclidine (PCP):

6 (A) 1-phenylcyclohexylamine; and

7 (B) 1-piperidinocyclohexanecarbonitrile (PCC).

8 (g) Hallucinogenic substances, unless listed in another
9 schedule, shall include but not be limited to:

10 (1) Nabilone."

11 SECTION 3. Section 329-20, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Depressants. Any material, compound, mixture, or
14 preparation which contains any quantity of the following
15 substances [~~having~~], including its salts, isomers, and salts of
16 isomers, whenever the existence of these isomers, esters,
17 ethers, and salts is possible within the specific chemical
18 designation, that has [~~having~~] a degree of danger or probable
19 danger
20 associated with a depressant effect on the central nervous
21 system:

22 (1) Alprazolam;

- 1 (2) Barbital;
- 2 (3) Bromazepam;
- 3 (4) Butorphanol;
- 4 (5) Camazepam;
- 5 (6) Carisoprodol;
- 6 (7) Chloral betaine;
- 7 (8) Chloral hydrate;
- 8 (9) Chlordiazepoxide;
- 9 (10) Clobazam;
- 10 (11) Clonazepam;
- 11 (12) Clorazepate;
- 12 (13) Clotiazepam;
- 13 (14) Cloxazolam;
- 14 (15) Delorazepam;
- 15 (16) Dichloralphenazone (Midrin);
- 16 (17) Diazepam;
- 17 (18) Estazolam;
- 18 (19) Ethchlorvynol;
- 19 (20) Ethinamate;
- 20 (21) Ethyl loflazepate;
- 21 (22) Fludiazepam;
- 22 (23) Flunitrazepam;

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- 1 (24) Flurazepam;
 - 2 (25) Halazepam;
 - 3 (26) Haloxazolam;
 - 4 (27) Ketazolam;
 - 5 (28) Loprazolam;
 - 6 (29) Lorazepam;
 - 7 (30) Lormetazepam;
 - 8 (31) Mebutamate;
 - 9 (32) Medazepam;
 - 10 (33) Meprobamate;
 - 11 (34) Methohexital;
 - 12 (35) Methylphenobarbital (mephorbarbital);
 - 13 (36) Midazolam;
 - 14 (37) Nimetazepam;
 - 15 (38) Nitrazepam;
 - 16 (39) Nordiazepam;
 - 17 (40) Oxazepam;
 - 18 (41) Oxazolam;
 - 19 (42) Paraldehyde;
 - 20 (43) Petrichloral;
 - 21 (44) Phenobarbital;
 - 22 (45) Pinazepam;

- 1 (46) Prazepam;
- 2 (47) Quazepam;
- 3 (48) Temazepam;
- 4 (49) Tetrazepam;
- 5 (50) Triazolam;
- 6 (51) Zaleplon;
- 7 (52) Zolpidem; and
- 8 (53) Zopiclone (Lunesta)."

9 SECTION 4. Section 329-22, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§329-22 **Schedule V.** (a) The controlled substances listed
12 in this section are included in schedule V.

13 (b) Narcotic drugs containing nonnarcotic active medicinal
14 ingredients. Any compound, mixture, or preparation containing
15 limited quantities of any of the following narcotic drugs, which
16 also contains one or more nonnarcotic active medicinal ingredients
17 in sufficient proportion to confer upon the compound, mixture, or
18 preparation, valuable medicinal qualities other than those
19 possessed by the narcotic drug alone:

- 20 (1) Not more than 200 milligrams of codeine, or any of its
21 salts, per 100 milliliters or per 100 grams;

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- 1 (2) Not more than 100 milligrams of dihydrocodeine, or any
2 of its salts, per 100 milliliters or per 100 grams;
- 3 (3) Not more than 100 milligrams of ethylmorphine, or any of
4 its salts, per 100 milliliters or per 100 grams;
- 5 (4) Not more than 2.5 milligrams of diphenoxylate and not
6 less than 25 micrograms of atropine sulfate per dosage
7 unit;
- 8 (5) Not more than 100 milligrams of opium per 100
9 milliliters or per 100 grams; and
- 10 (6) Not more than 0.5 milligram of difenoxin and not less
11 than 25 micrograms of atropine sulfate per dosage unit.
- 12 (c) Stimulants. Unless specifically exempted or excluded
13 or unless listed in another schedule, any material, compound,
14 mixture, or preparation that contains any quantity of the
15 following substances having a stimulant effect on the central
16 nervous system, including its salts, isomers, and salts of
17 isomers[+].
- 18 (d) Depressants. Unless specifically exempted or excluded
19 or unless listed in another schedule, any material, compound,
20 mixture, or preparation that contains any quantity of the
21 following substances having a depressant effect on the central

1 nervous system, including its salts, isomers, and salts of
2 isomers:

3 (1) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]."

4 SECTION 5. Section 329-75, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§329-75 Sales of products, mixtures, or preparations**

7 **containing pseudoephedrine; reporting requirement for**

8 **wholesalers.** (a) Notwithstanding any other law to the

9 contrary, a pharmacy or retailer may dispense, sell, or

10 distribute to a person without a prescription not more than 3.6

11 grams per day without regard to the number of transactions, of

12 any product, mixture, or preparation containing any detectable

13 quantity of pseudoephedrine, its salts, optical isomers, or

14 salts of optical isomers, as the only active ingredient or in

15 combination with other active ingredients; provided that the

16 pharmacy or retailer complies with the following conditions:

17 (1) The product, mixture, or preparation shall be

18 dispensed, sold, or distributed from an area not

19 accessible by customers or the general public, such as

20 behind the counter or in a locked display case and

21 where the seller delivers the product directly into

22 the custody of the purchaser; and

1 (2) Any person purchasing or otherwise acquiring any
2 product, mixture, or preparation shall:

3 (A) Produce proper identification containing the
4 photograph, printed name, and signature of the
5 individual obtaining the controlled substance;
6 and

7 (B) Sign a written log, receipt, or other program or
8 mechanism approved by the administrator, showing
9 the date of the transaction, name and address of
10 the person, and the amount of the compound,
11 mixture, or preparation.

12 No person shall purchase, receive, or otherwise acquire more
13 than nine grams of any product, mixture, or preparation
14 containing any detectable quantity of pseudoephedrine or its
15 salts, isomers, or salts of optical isomers within a thirty-day
16 period, except that this limit shall not apply to any quantity
17 of such product, mixture, or preparation dispensed pursuant to a
18 valid prescription.

19 ~~[(b) The sales restriction in this section, as it applies~~
20 ~~to products, mixtures, or preparations containing any detectable~~
21 ~~quantity of pseudoephedrine, its salts, optical isomers, or~~
22 ~~salts of optical isomers, shall not apply to any products,~~

1 ~~mixtures, or preparations that are in liquid, liquid capsule, or~~
2 ~~gel capsule form if pseudoephedrine is not the only active~~
3 ~~ingredient.]~~

4 [~~(e)~~] (b) The department, by rule, may exempt other
5 products from this section, if the administrator finds that the
6 products are not used in the illegal manufacture of
7 methamphetamine or other controlled substances. A manufacturer
8 of a drug product may apply for removal of the product from this
9 section if the product is determined by the administrator to
10 have been formulated in such a way as to effectively prevent the
11 conversion of the active ingredient into methamphetamine.

12 [~~(d)~~] (c) Notwithstanding any other provision of this
13 chapter to the contrary, every wholesaler shall report to the
14 administrator all sales made to any retailer, of any product,
15 mixture, or preparation containing any detectable quantity of
16 pseudoephedrine, its salts, optical isomers, or salts of optical
17 isomers, as the only active ingredient or in combination with
18 other active ingredients. The department shall provide a common
19 reporting form that contains at least the following information
20 about the product, mixture, or preparation:

21 (1) Generic or other name;

22 (2) Quantity sold;

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- 1 (3) Date of sale;
- 2 (4) Name and address of the wholesaler; and
- 3 (5) Name and address of the retailer."

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

7
8 INTRODUCED BY:

Calvin K. H. King

9 BY REQUEST

10
JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES.

PURPOSE: The purpose of this bill is to update chapter 329, Hawaii Revised Statutes (HRS), to include new language and amendments made to the federal Controlled Substances Act relating to controlled substances and regulated chemicals to manufacture controlled substances.

MEANS: Amend sections 329-14(e), 329-16, 329-20(b), 329-22, and 329-75, HRS.

JUSTIFICATION: Proposed amendments to chapter 329, HRS, will accomplish the following:

- (1) Update section 329-14(e), HRS to be consistent with federal law by adding the category heading "depressants" to section 329-14(e) Schedule I controlled substances having a depressant effect on the central nervous system.
- (2) Update section 329-16, HRS to include language and descriptions of controlled substances to be consistent with federal law.
- (3) Update section 329-20(b), HRS to include language and descriptions of controlled substances to be consistent with federal law.
- (4) Proposed amendment to section 329-22(b), HRS, will add the depressant drug Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid] to Schedule V, as required by section 329-11(d), HRS.
- (5) Proposed amendment to section 329-75, HRS, to remove the exemption for pseudoephedrine over the counter products that are packed in gel caps or liquids is necessary due to language in the federal Combat Methamphetamine Act of 2005, as required by section 329-61(c), HRS.

Impact on the public: Allows the public to utilize the controlled substance Pregablin and makes Hawaii's controlled substance laws consistent with that of federal law.

Impact on the department and other agencies: The proposed amendment will assist Narcotics Enforcement Division in clarifying regulations of the Uniform Controlled Substances Act.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: PSD 502.

OTHER AFFECTED AGENCIES: Department of Health, Food and Drug Branch; Judiciary.

EFFECTIVE DATE: Upon approval.