LATE TESTIMONY

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No. _____

TESTIMONY ON SENATE BILL 1131, SD1
RELATING TO THE UNIFORM CONTROLLED SUBSTANCE ACT

Nolan Espinda, Director
Department of Public Safety

Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 3, 2015, 9:15 AM
State Capitol, Conference Room 016

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** Senate Bill (SB) 1131, Senate Draft (SD) 1, which is the Administration's vehicle for proposing updates to Hawaii's Uniform Controlled Substance Act, Chapter 329, Hawaii Revised Statutes, to be consistent with changes in Federal law and any emergency scheduling actions taken by the Narcotics Enforcement Division (NED) Administrator, as required by HRS Section 329-11.

HRS Section 329-11(d) states that if a substance is added, deleted or rescheduled under Federal law and notice of the designation is given to the PSD, then the Department shall recommend that a corresponding change in Hawaii law be made. The PSD received notice that the following drug scheduling changes were made by the Federal Government:

1) August 22, 2014: The Administrator of the Drug Enforcement Administration (DEA) posted the final rule that reschedules hydrocodone combination products from Schedule III to Schedule II of the Federal Controlled Substances Act (Federal Register Vol. 79, No. 163). This action imposes the regulatory controls and administrative, civil and criminal sanctions applicable

to Schedule II controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with, conduct chemical analysis with, or possess) or propose to handle hydrocodone combination products. SB 1131 proposes to reschedule all products containing Hydrocodone as Schedule II controlled substances under Section 329-16(b)(1)(I) HRS and be deleted from Section 329-18(e) HRS in accordance with Section 329-11(d) HRS.

2) August 28, 2014: The Department was given notice that [(7R)-4-(5-chloro-1,3-benzoxazol-2-yl)-7-methyl-1,4-diazepan-1-yl][5-methyl-2-(2H-1,2,3-triazol-2-yl)phenyl]methanone (suvorexant), including its salts, isomers and salts of isomers, was entered into Schedule IV of the Controlled Substances Act (CSA). This scheduling action is pursuant to the CSA, which requires that such actions be made on the record after presenting the opportunity for a hearing through formal rulemaking. This action imposes the regulatory controls and administrative, civil and criminal sanctions applicable to Schedule IV controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with or possess) or propose to handle suvorexant. The DEA placed an effective date of September 29, 2014 on this scheduling action.
3) On July 2, 2014 2- [(dimethylamino)methyl]-1-(3-methoxyphenyl) cyclohexanol (tramadol), including its salts, isomers and salts of isomers, into Schedule IV of the CSA. This scheduling action is pursuant to the CSA which requires that such actions be made on the record after presenting the opportunity for a hearing through formal rulemaking. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to Schedule IV controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with or possess) or propose to handle tramadol.

The PSD supports the addition of one (1) new synthetic cathinone to 329-14(f) and eight (8) new synthetic cannabinoids to Section 329-14(g) HRS, as proposed in SB 1131, SD1.

Due to the growing problem of innovative chemists developing new synthetic hallucinogenic substances for sale to the public as "herbal incense, bath salts, plant food or legal highs" in the State and around the City and County of Honolulu, the NED and the DEA have attempted to protect the public from the ever-increasing numbers of synthetic hallucinogenic substances labeled as "not for human consumption," but sold in retail shops with the promise of powerful, legal hallucinogenic highs, by placing them in Schedule I and making them illegal to possess or sell.

On December 19, 2014, the NED Administrator received notice of the intent of the DEA's Deputy Administrator to temporarily add three (3) synthetic cannabinoids into Schedule I. The substances were listed as: N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (common name: AB-CHMINACA), N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (common name: AB-PINACA) and [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone (common name: THJ-2201). This action was based on a finding by the Deputy Administrator that the placement of these synthetic cannabinoids into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. After giving proper notice, the State NED Administrator correspondingly scheduled these substances on an emergency basis on January 6, 2015, with effective date of February 7, 2015.

During the months of July through December 2014, State and County law enforcement have been detecting the following new synthetic cannabinoids on the streets of Hawaii and in our prisons: **FUB-AMB** (methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)-L-valinate) AKA: "Train Wreck 2," **5-fluoro-AMB; 5-fluoro-AMP** ((S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate) AKA: "Kali Berry 2," **AKB48 N-(5-fluoropentyl) analog**; 5F-AKB48; APINACA 5-fluoropentyl analog; 5F-APINACA (N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide), **STS-135** (N-adamantyl-1-fluoropentylindole-3-Carboxamide; 5F-APICA; 5-fluoro-APICA) and **NM2201** (naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate). During this period law enforcement also discovered a new synthetic cathinone being sold through Hawaii identified as **bk-MDEA hydrochloride** (1-(benzo[d][1,3]dioxol-5-yl)-2-(ethylamino)propan-1-one, monohydrochloride), also known as MDEC; 3,4-Methylenedioxy-N-ethylcathinone; bk-

Methylenedioxyethylamphetamine; Ethylone. All of these substances are being sold statewide, and there have been seizures made by Federal, State and County law enforcement during warranted searches and during arrest of suspects utilizing these substances to get high.

The adverse effects reported from these incidences have included a variety of the following effects: Seizures, coma, severe agitation, loss of motor control, loss of consciousness, difficulty breathing, altered mental states, sleeplessness, inability to eat and convulsions, which in some cases, resulted in death. The Federal government has documented multiple overdose reports involving AB-CHMINACA, AB-PINACA, or a combination of both substances. In addition, there have been at least four documented deaths involving AB-CHMINACA and three documented deaths involving AB-PINACA. In the State of Hawaii we have had cases involving the synthetic cannabinoids: AB-CHMINACA, AB-PINACA, THJ-2201, FUB-AMB, 5F-AKB48, AKB48 N-(5-fluoropentyl) analog, STS-135 and NM2201. We have also had cases involving a new form of a synthetic cathinone bk-MDEA which is already classified as a Schedule I controlled substance under Federal and State law. The continued uncontrolled manufacture, distribution, importation, exportation, and abuse of these synthetic cannabinoids and cathinones pose an imminent hazard to the public's safety. The DEA and NED are not aware of any currently legitimate medical uses for these synthetic cannabinoids or cathinones in the United States.

Thank you for the opportunity to testify on this important bill.