

# **SB 1131**

## **RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.**

Updates chapter 329, Hawaii Revised Statutes, to make it consistent with amendments in federal law on controlled substances; amends section 329-20 to add new controlled substances federally scheduled as required under section 329-11.

PSM, JDL

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

Nolan Espinda, Director  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

Tuesday, February 17, 2015, 1:05 PM  
State Capitol, Room 229

Chair Espero, Vice Chair Baker, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** Senate Bill (SB) 1131 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 Section 329-11, HRS.

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 PSD, then the Department shall recommend that a corresponding change in Hawaii law be made. 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.

PSD also requests that the Committee consider an additional amendment to Senate Bill 1131 to add one (1) new synthetic cathinone to 329-14(f) and eight (8) new synthetic cannabinoids to Section 329-14(g) HRS.

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.

HRS Section 329-11(e) authorizes the NED Administrator to make an emergency scheduling by placing a substance into Schedules I, II, III, IV or V on a temporary basis, if s/he determines that such action is necessary to avoid an imminent hazard or the possibility of an imminent hazard to the health and safety of the public, with proper public notice. As the control is temporary, it must be enacted into law by the next regular session of the Legislature or be nullified.

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 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.

ATTACHMENT

Section 329-14, Hawaii Revised Statutes, subsection (f) is amended to read as follows:

"(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Aminorex;
- (2) Cathinone;
- (3) Fenethylamine;
- (4) Methcathinone;
- (5) N-ethylamphetamine;
- (6) 4-methylaminorex;
- (7) N,N-dimethylamphetamine; and
- (8) Substituted cathinones, any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
  - (A) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
  - (B) By substitution at the 3-position with an acyclic alkyl substituent; or
  - (C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some other trade names: Mephedrone (2-methylamino-1-p-tolylpropan-1-one), also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCAT; Methylenedioxypropylvalerone (MDPV, MDPK); ~~and~~ methylone or 3,4-methylenedioxypropylmethcathinone and 1-(benzo[d][1,3]dioxol-5-yl)-2-(ethylamino)propan-1-one, monohydrochloride, also known as Ethylone, bk-MDEA hydrochloride, MDEC; 3,4-Methylenedioxy-N-ethylcathinone; bk-Methylenedioxyethylamphetamine)."

Section 329-14, Hawaii Revised Statutes, subsection (g) is amended to read as follows:

"(g) Any of the following cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and Delta 3,4 cis or trans-tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered);
- (2) Naphthoylindoles; meaning any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or

- 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
- (3) Naphthylmethylindoles; meaning any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)l methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
- (4) Naphthoylpyrroles; meaning any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)l methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent ,whether or not substituted in the naphthyl ring to any extent;
- (5) Naphthylmethylindenenes; meaning any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)l methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;
- (6) Phenylacetylindoles; meaning any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)l methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the

- indole ring to any extent, whether or not substituted in the phenyl ring to any extent;
- (7) Cyclohexylphenols; meaning any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny) methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent;
- (8) Benzoylindoles; meaning any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, aloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent; and
- (9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone. Some trade or other names: WIN 55,212-2[-];
- (10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol. Some trade or other names: HU-210/HU-211; and
- (11) Tetramethylcyclopropanoylindoles; Meaning any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidiny)methyl, 1-(N-methyl-3- morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent.

- (12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers.  
(Other names: APINACA, AKB48);
- (13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PB-22; QUPIC);
- (14) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);
- (15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: AB-FUBINACA);  
[and]
- (16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: ADB-PINACA)[-];
- (17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: AB-CHMINACA);
- (18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, and geometric isomers, salts and salts of isomers (Other names: AB-PINACA);
- (19) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, and geometric isomers, salts and salts of isomers (Other names: THJ-2201);
- (20) Methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)-L-valinate, and geometric isomers, salts and salts of isomers (Other names: FUB-AMB);

- (21) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, and geometric isomers, salts and salts of isomers (Other names: 5-fluoro-AMB, 5-fluoro-AMP);
- (22) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, and geometric isomers, salts and salts of isomers (Other names: AKB48 N-(5-fluoropentyl) analog, 5F-AKB48, APINACA 5-fluoropentyl analog, 5F-APINACA);
- (23) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and geometric isomers, salts and salts of isomers (Other names: STS-135, 5F-APICA; 5-fluoro-APICA); and
- (24) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, and geometric isomers, salts and salts of isomers (Other names: NM2201)."