
A BILL FOR AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

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

1 SECTION 1. The legislature finds that recent updates to
2 the federal Controlled Substances Act require state action in
3 order to be in conformance.

4 The legislature recognizes that the Agriculture Improvement
5 Act of 2018, informally known as the 2018 "Farm Bill", legalized
6 hemp by removing hemp from the definition of "marihuana"
7 contained in the federal Controlled Substances Act.

8 The legislature further finds that, on August 28, 2020, the
9 department of public safety received notice via publication in
10 the Federal Register of an interim final order that the
11 following substance was deleted from Schedule V of the federal
12 schedule of controlled substances, title 21 Code of Federal
13 Regulations section 1308.15, by the United States Drug
14 Enforcement Administration: "[D]rug products in finished dosage
15 formulations that have been approved by [the Federal Drug
16 Administration] and that contain cannabidiol (CBD) derived from



1 cannabis and no more than 0.1 per cent (w/w) residual
2 tetrahydrocannabinols."

3 The legislature additionally finds that this federal
4 scheduling action removes the regulatory controls and the
5 administrative, civil, and criminal sanctions applicable to
6 federal schedule V controlled substances on persons who handle
7 or propose to handle the drug products listed above.

8 For purposes of clarity, this Act specifically applies to
9 the Federal Drug Administration-approved prescription drug
10 Epidiolex and any generic versions of that drug that are Federal
11 Drug Administration-approved and contain cannabidiol derived
12 from cannabis and no more than 0.1 per cent (w/w) residual
13 tetrahydrocannabinols only.

14 The legislature also finds that Epidiolex was approved by
15 the Federal Drug Administration on June 25, 2018, for the
16 treatment of seizures associated with Lennox-Gastaux syndrome
17 and Dravet syndrome, two rare and difficult-to-treat forms of
18 childhood-onset epilepsy, in patients two years of age or older.
19 Epidiolex's effectiveness was studied in three randomized,
20 double-blind, placebo-controlled clinical trials involving
21 five hundred sixteen patients with either Lennox-Gastaux



1 syndrome or Dravet. Epidiolex, taken along with other
2 medications, was shown to be effective in reducing the frequency
3 of seizures when compared with placebo. On July 31, 2020, the
4 Federal Drug Administration approved Epidiolex for a new
5 indication—the treatment of seizures associated with tuberous
6 sclerosis complex, a rare genetic disease, in patients one year
7 of age and older. Epidiolex is the only Federal Drug
8 Administration-approved drug that contains a purified drug
9 substance derived from cannabis.

10 This Act should not be construed to change the legal status
11 of cannabis, tetrahydrocannabinols, and other cannabis-related
12 constituents, except as provided under federal law.

13 Furthermore, unless further notice is given, the controls under
14 federal and state law pertaining to prescription drugs continue
15 to apply to Epidiolex and any generic versions of that drug that
16 are Federal Drug Administration-approved and contain cannabidiol
17 derived from cannabis and no more than 0.1 per cent residual
18 tetrahydrocannabinols.

19 The purpose of this Act is to update the Uniform Controlled
20 Substances Act to be consistent with amendments in the federal
21 controlled substances law by:



1 (1) Exempting hemp from the Uniform Controlled Substances
2 Act; and

3 (2) Removing cannabidiol drugs that have been approved by
4 the United States Food and Drug Administration from
5 the list of Schedule V substances and certain
6 provisions of the Hawaii Penal Code.

7 SECTION 2. Section 329-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "marijuana" to read as
9 follows:

10 ""Marijuana" means all parts of the plant (genus) Cannabis
11 whether growing or not; the seeds thereof, the resin extracted
12 from any part of the plant; and every compound, manufacture,
13 salt, derivative, mixture, or preparation of the plant, its
14 seeds, or resin.

15 Marijuana shall not include:

16 (1) The mature stalks of the plant (genus) Cannabis, fiber
17 produced from the stalks, oil, or cake made from the
18 seeds of the plant, any other compound, manufacture,
19 salt, derivative, mixture, or preparation of the
20 mature stalks (except the resin extracted therefrom),



- 1 fiber, oil, or cake, or the sterilized seed of the
2 plant that is incapable of germination; or
- 3 (2) ~~Hemp [that is in the possession, custody, or control~~
4 ~~of an individual or entity that holds a license to~~
5 ~~produce hemp, issued by the Secretary of the United~~
6 ~~States Department of Agriculture pursuant to title 7~~
7 ~~United States Code section 1639g;~~
- 8 ~~(3) Hemp that is in the possession, custody, or control of~~
9 ~~a person or entity that is authorized under state law~~
10 ~~to process hemp; and~~
- 11 ~~(4) A product containing or derived from hemp that:~~
- 12 ~~(A) Does not include any living hemp plants, viable~~
13 ~~seeds, leaf materials, or floral materials; and~~
- 14 ~~(B) Has a delta-9-tetrahydrocannabinol concentration~~
15 ~~of not more than 0.3 per cent on a dry weight~~
16 ~~basis, as measured post-decarboxylation or other~~
17 ~~similarly reliable methods]."~~

18 SECTION 3. Section 329-14, Hawaii Revised Statutes, is
19 amended by amending subsection (g) to read as follows:

20 "(g) Any of the following cannabinoids, their salts,
21 isomers, and salts of isomers, unless specifically excepted,



1 whenever the existence of these salts, isomers, and salts of
2 isomers is possible within the specific chemical designation:

3 (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols
4 naturally contained in a plant of the genus Cannabis
5 (cannabis plant), as well as synthetic equivalents of
6 the substances contained in the plant, or in the
7 resinous extractives of Cannabis, sp. or synthetic
8 substances, derivatives, and their isomers with
9 similar chemical structure and pharmacological
10 activity to those substances contained in the plant,
11 such as the following: Delta 1 cis or trans
12 tetrahydrocannabinol, and their optical isomers;
13 Delta 6 cis or trans tetrahydrocannabinol, and their
14 optical isomers; and Delta 3,4 cis or trans-
15 tetrahydrocannabinol, and its optical isomers (since
16 nomenclature of these substances is not
17 internationally standardized, compounds of these
18 structures, regardless of numerical designation of
19 atomic positions, are covered); provided that
20 tetrahydrocannabinols shall not include any material,



1 compound, mixture, or preparation that falls within
2 the definition of hemp;

3 (2) Naphthoylindoles; meaning any compound containing a 3-
4 (1-naphthoyl)indole structure with substitution at the
5 nitrogen atom of the indole ring by a alkyl,
6 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
7 1-(N-methyl-2-piperidinyl)methyl or 2-(4-
8 morpholinyl)ethyl group, whether or not further
9 substituted in the indole ring to any extent and
10 whether or not substituted in the naphthyl ring to any
11 extent;

12 (3) Naphthylmethylindoles; meaning any compound containing
13 a 1H-indol-3-yl-(1-naphthyl) methane structure with
14 substitution at the nitrogen atom of the indole ring
15 by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
16 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
17 2-(4-morpholinyl) ethyl group whether or not further
18 substituted in the indole ring to any extent and
19 whether or not substituted in the naphthyl ring to any
20 extent;



- 1 (4) Naphthoylpyrroles; meaning any compound containing a
2 3-(1-naphthoyl)pyrrole structure with substitution at
3 the nitrogen atom of the pyrrole ring by a alkyl,
4 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
5 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)
6 ethyl group whether or not further substituted in the
7 pyrrole ring to any extent, whether or not substituted
8 in the naphthyl ring to any extent;
- 9 (5) Naphthylmethylenes; meaning any compound containing
10 a naphthylideneindene structure with substitution at
11 the 3-position of the indene ring by a alkyl,
12 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
13 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)
14 ethyl group whether or not further substituted in the
15 indene ring to any extent, whether or not substituted
16 in the naphthyl ring to any extent;
- 17 (6) Phenylacetylindoles; meaning any compound containing a
18 3-phenylacetylindole structure with substitution at
19 the nitrogen atom of the indole ring by a alkyl,
20 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
21 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)



- 1 ethyl group whether or not further substituted in the
2 indole ring to any extent, whether or not substituted
3 in the phenyl ring to any extent;
- 4 (7) Cyclohexylphenols; meaning any compound containing a
5 2-(3-hydroxycyclohexyl) phenol structure with
6 substitution at the 5-position of the phenolic ring by
7 a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
8 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
9 2-(4-morpholinyl) ethyl group whether or not
10 substituted in the cyclohexyl ring to any extent;
- 11 (8) Benzoylindoles; meaning any compound containing a 3-
12 (benzoyl) indole structure with substitution at the
13 nitrogen atom of the indole ring by a alkyl,
14 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
15 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-
16 morpholinyl) ethyl group whether or not further
17 substituted in the indole ring to any extent and
18 whether or not substituted in the phenyl ring to any
19 extent;
- 20 (9) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)
21 pyrrolo[1,2,3-de]-1, 4-benzoxazin-6-yl]-1-



- 1 naphthalenylmethanone (another trade name is WIN
2 55,212-2);
- 3 (10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-
4 methyloctan-2-yl)-6a,7,10,10a-
5 tetrahydrobenzo[c]chromen-1-ol (Other trade names are:
6 HU-210/HU-211);
- 7 (11) Tetramethylcyclopropanoylindoles; meaning any compound
8 containing a 3-tetramethylcyclopropanoylindole
9 structure with substitution at the nitrogen atom of
10 the indole ring by an alkyl, haloalkyl, cyanoalkyl,
11 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
12 methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,
13 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
14 morpholinyl)methyl, or tetrahydropyranylmethyl group,
15 whether or not further substituted in the indole ring
16 to any extent and whether or not substituted in the
17 tetramethylcyclopropyl ring to any extent;
- 18 (12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide,
19 its optical, positional, and geometric isomers, salts,
20 and salts of isomers (Other names: APINACA, AKB48);



- 1 (13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its
2 optical, positional, and geometric isomers, salts, and
3 salts of isomers (Other names: PB-22; QUPIC);
- 4 (14) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-
5 carboxylate, its optical, positional, and geometric
6 isomers, salts, and salts of isomers (Other names: 5-
7 fluoro-PB-22; 5F-PB-22);
- 8 (15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-
9 fluorobenzyl)-1H-indazole-3-carboxamide, its optical,
10 positional, and geometric isomers, salts, and salts of
11 isomers (Other names: AB-FUBINACA);
- 12 (16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-
13 indazole-3-carboxamide, its optical, positional, and
14 geometric isomers, salts, and salts of isomers (Other
15 names: ADB-PINACA);
- 16 (17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-
17 (cyclohexylmethyl)-1H-indazole-3-carboxamide, its
18 optical, positional, and geometric isomers, salts, and
19 salts of isomers (Other names: AB-CHMINACA);



- 1 (18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-
2 indazole-3-carboxamide, and geometric isomers, salts,
3 and salts of isomers (Other names: AB-PINACA);
- 4 (19) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-
5 yl)methanone, and geometric isomers, salts, and salts
6 of isomers (Other names: THJ-2201);
- 7 (20) Methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)-L-
8 valinate, and geometric isomers, salts, and salts of
9 isomers (Other names: FUB-AMB);
- 10 (21) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-
11 carboxamido)-3-methylbutanoate, and geometric isomers,
12 salts, and salts of isomers (Other names: 5-fluoro-
13 AMB, 5-fluoro-AMP);
- 14 (22) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-
15 indazole-3-carboxamide, and geometric isomers, salts,
16 and salts of isomers (Other names: AKB48 N-(5-
17 fluoropentyl) analog, 5F-AKB48, APINACA 5-fluoropentyl
18 analog, 5F-APINACA);
- 19 (23) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and
20 geometric isomers, salts, and salts of isomers (Other
21 names: STS-135, 5F-APICA; 5-fluoro-APICA);



- 1 (24) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-
2 carboxylate, and geometric isomers, salts, and salts
3 of isomers (Other names: NM2201);
- 4 (25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
5 (cyclohexylmethyl)-1H-indazole-3-carboxamide, and
6 geometric isomers, salts, and salts of isomers (Other
7 names: MAB-CHMINACA and ADB-CHMINACA);
- 8 (26) Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-
9 carboxamido]-3,3-dimethylbutanoate (Other names: 5F-
10 ADB, 5-flouro-ADB, and 5F-MDMB-PINACA), its optical,
11 positional, and geometric isomers, salts, and salts of
12 isomers; and
- 13 (27) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-
14 carboxamide (CUMYL-4CN-BINACA), its optical,
15 positional, and geometric isomers, salts, and salts of
16 isomers; also known as SGT-78, 4-CN-CUMYL-BINACA;
17 CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-
18 BUTINACA."

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



1 "§329-22 **Schedule V.** (a) The controlled substances
2 listed in this section are included in schedule V.

3 (b) Narcotic drugs containing nonnarcotic active medicinal
4 ingredients. Any compound, mixture, or preparation containing
5 limited quantities of any of the following narcotic drugs, which
6 also contains one or more nonnarcotic active medicinal ingredients
7 in sufficient proportion to confer upon the compound, mixture, or
8 preparation, valuable medicinal qualities other than those
9 possessed by the narcotic drug alone:

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

12 (2) Not more than 100 milligrams of dihydrocodeine, or any
13 of its salts, per 100 milliliters or per 100 grams;

14 (3) Not more than 100 milligrams of ethylmorphine, or any of
15 its salts, per 100 milliliters or per 100 grams;

16 (4) Not more than 2.5 milligrams of diphenoxylate and not
17 less than 25 micrograms of atropine sulfate per dosage
18 unit;

19 (5) Not more than 100 milligrams of opium per 100
20 milliliters or per 100 grams; and



1 (6) Not more than 0.5 milligram of difenoxin and not less
2 than 25 micrograms of atropine sulfate per dosage unit.

3 (c) Stimulants. Unless specifically exempted or excluded
4 or unless listed in another schedule, any material, compound,
5 mixture, or preparation that contains any quantity of the
6 following substances having a stimulant effect on the central
7 nervous system, including its salts, isomers, and salts of
8 isomers.

9 (d) Depressants. Unless specifically exempted or excluded
10 or unless listed in another schedule, any material, compound,
11 mixture, or preparation that contains any quantity of the
12 following substances having a depressant effect on the central
13 nervous system, including its salts, isomers, and salts of
14 isomers:

15 (1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-
16 propionamide], (Vimpat);

17 (2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic
18 acid]; and

19 (3) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-
20 yl]butanamide) (Other names: BRV; UCB-34714; Briviact)
21 and its salts.



1 ~~[(c) Approved cannabidiol drugs. A drug product in~~
 2 ~~finished dosage formulation that has been approved by the United~~
 3 ~~States Food and Drug Administration that contains cannabidiol~~
 4 ~~(2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-~~
 5 ~~pentyl-1,3-benzenediol) derived from cannabis and no more than~~
 6 ~~0.1 per cent (w/w) residual tetrahydrocannabinols.]"~~

7 SECTION 5. Section 712-1240, Hawaii Revised Statutes, is
 8 amended by amending the definitions of "marijuana" and
 9 "marijuana concentrate" to read as follows:

10 ""Marijuana" means any part of the plant (genus) cannabis,
 11 whether growing or not, including the seeds and the resin, and
 12 every alkaloid, salt, derivative, preparation, compound, or
 13 mixture of the plant, its seeds or resin, except that, as used
 14 herein, "marijuana" shall not include:

- 15 (1) Hashish, tetrahydrocannabinol, and any alkaloid, salt,
 16 derivative, preparation, compound, or mixture, whether
 17 natural or synthesized, of tetrahydrocannabinol;
- 18 (2) Hemp that is in the possession, custody, or control of
 19 an individual or entity that holds a license to
 20 produce hemp issued by the United States Department of



1 Agriculture pursuant to title 7 [+]United States[+]
 2 Code section 1639q;
 3 (3) Hemp that is in the possession, custody, or control of
 4 a person or entity that is authorized under state law
 5 to process hemp; [~~or~~]
 6 (4) A product containing or derived from hemp that:
 7 (A) Does not include any living hemp plants, viable
 8 seeds, leaf materials, or floral materials; and
 9 (B) Has a delta-9-tetrahydrocannabinol concentration
 10 of not more than 0.3 per cent, as measured post-
 11 decarboxylation or other similarly reliable
 12 methods[-]; or
 13 (5) A drug product in finished dosage formulation that has
 14 been approved by the United States Food and Drug
 15 Administration that contains cannabidiol (2-[1R-3-
 16 methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-
 17 pentyl-1,3-benzenediol) derived from cannabis and no
 18 more than 0.1 per cent (w/w) residual
 19 tetrahydrocannabinols.
 20 "Marijuana concentrate" means hashish,
 21 tetrahydrocannabinol, or any alkaloid, salt, derivative,



1 preparation, compound, or mixture, whether natural or
2 synthesized, of tetrahydrocannabinol, except that, as used
3 herein, "marijuana concentrate" shall not include:

4 (1) Hemp that is in the possession, custody, or control of
5 an individual or entity that holds a license to
6 produce hemp, issued by the Secretary of the United
7 States Department of Agriculture pursuant to title 7
8 United States Code section 1639g; ~~[or]~~

9 (2) A product containing or derived from hemp, including
10 any product containing one or more hemp-derived
11 cannabinoids such as cannabidiol, that:

12 (A) Does not include any living hemp plants, viable
13 seeds, leaf materials, or floral materials; and

14 (B) Has a delta-9-tetrahydrocannabinol concentration
15 of not more than 0.3 per cent, as measured post-
16 decarboxylation or other similarly reliable
17 methods ~~[or]~~; or

18 (3) A drug product in finished dosage formulation that has
19 been approved by the United States Food and Drug
20 Administration that contains cannabidiol (2-[1R-3-
21 methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-



1 pentyl-1,3-benzenediol) derived from cannabis and no
2 more than 0.1 per cent (w/w) residual
3 tetrahydrocannabinols."

4 SECTION 6. Act 14, Session Laws of Hawaii 2020, is amended
5 by amending section 9 to read as follows:

6 "SECTION 9. This Act shall take effect upon its approval,
7 and shall be repealed on June 30, 2022[+], except that section 4
8 of this Act shall not be repealed; provided that the [definition
9 of "marijuana" in section 329-1, Hawaii Revised Statutes, and
10 the] definitions of "marijuana" and "marijuana [Concentrate]"
11 concentrate" in section 712-1240, Hawaii Revised Statutes, shall
12 be reenacted in the form in which they read on the day prior to
13 the effective date of this Act."

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval;
17 provided that the amendments made to section 712-1240, Hawaii
18 Revised Statutes, by section 5 of this Act shall not be repealed
19 when that section is repealed and reenacted pursuant to
20 section 9 of Act 14, Session Laws of Hawaii 2020.



Report Title:

Uniform Controlled Substances Act; Hawaii Penal Code; Hemp

Description:

Updates the Uniform Controlled Substances Act to be consistent with amendments in the federal controlled substances law. Exempts hemp from the Uniform Controlled Substances Act. Removes cannabidiol drugs that have been approved by the United States Food and Drug Administration from the list of Schedule V substances and certain provisions of the Hawaii Penal Code. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

