THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.B. NO. 705

JAN 22 2021

A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

SECTION 1. The legal history of cannabis or marijuana in the United States primarily addresses the regulation of marijuana for medical use, and secondarily the use of marijuana for personal or recreational purposes. By the mid-1930s cannabis was regulated as a drug in every state, including thirty-five states that adopted the Uniform State Narcotic Drug Act, which was subsequently replaced in 1970 with the federal Uniform Controlled Substances Act that classifies marijuana and tetrahydrocannabinol as schedule I controlled substances.

Notwithstanding the prospect of federal prosecution, several states, including Hawai'i, have enacted medical marijuana laws. Chapter 329, part IX, Hawaii Revised Statutes, was enacted to create a medical use of marijuana exemption from criminal sanctions. As of November 4, 2020, thirty-six states and four U.S. territories also allow the use of marijuana for medicinal purposes. Furthermore, chapter 329D, Hawaii Revised Statutes, was enacted to establish medical marijuana

dispensaries that were authorized to operate beginning in July 2016. As Hawai'i expands its medical marijuana program through the use of highly regulated and monitored dispensaries, more patients are anticipated to consider medical marijuana as a viable treatment, knowing that the medicine will be regulated and tested.

In addition to medicinal marijuana laws, some states have legalized or decriminalized marijuana. Most places that have decriminalized cannabis have civil fines, confiscation, drug education, or drug treatment in place of incarceration or criminal charges for possession of small amounts of cannabis, or have made various cannabis offenses the lowest priority for law enforcement. The jurisdictions of Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Vermont, Virginia, and Washington have decriminalized marijuana in small amounts. In each of these states, marijuana users no longer face arrest or jail time for the possession or use of marijuana in an amount

permitted by statute. Act 273, Session Laws of Hawaii 2019, among other things, decriminalized the possession of three grams or less of marijuana and established that possession of that amount is a violation punishable by a monetary fine of $130, beginning January 11, 2020.

The legislature further finds that the decriminalization of marijuana for personal or recreational use is a natural, logical, and reasonable outgrowth of the current science of marijuana and attitude toward marijuana. In 2012, voters in Colorado voted to amend the state's constitution (Amendment 64) to legalize and regulate the production, possession, and distribution of marijuana for persons age twenty-one and older. Also in 2012, voters in Washington approved a proposition to legalize and regulate the production, possession, and distribution of cannabis for persons age twenty-one and older. Colorado became the first state to remove the prohibition on commercial production of marijuana for general use. Colorado realized state tax revenue of approximately $18,900,000 during the first half of 2014, and this revenue is expected to increase as sales of retail marijuana increase. Following Colorado and Washington's lead, Alaska, California, District of Columbia,

Illinois, Maine, Massachusetts, Michigan, Nevada, Oregon, and Vermont passed legislation to also legalize and regulate the production, possession, and distribution of cannabis for persons age twenty-one and older. Several other states have followed suit in making recreational marijuana legal, and as of 2020, the number of jurisdictions in which recreational cannabis is legal has risen to fifteen states and three U.S. territories.

The legislature further finds that marijuana cultivation and sales hold potential for economic development, increased tax revenues, and reduction in crime.

The purpose of this Act is to:

(1) Remove marijuana from schedule I of the uniform controlled substances act and reclassify it as a schedule V drug; and

(2) Increase the amount that qualifies as a violation of promoting a detrimental drug in the third degree from three grams to ten grams.

SECTION 2. Section 329-14, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

"(d) Any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances, 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) Alpha-ethyltryptamine (AET);

(2) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(3) 2,5-dimethoxyamphetamine (2,5-DMA);

(4) 3,4-methylenedioxy amphetamine;

(5) 3,4-methylenedioxymethamphetamine (MDMA);

(6) N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy-MDA);

(7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);

(10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);

(11) 3,4,5-trimethoxy amphetamine;

(12) Bufotenine;

(13) 4-methoxyamphetamine (PMA);

(14) Diethyltryptamine;

(15) Dimethyltryptamine;

(16) 4-methyl-2,5-dimethoxy-amphetamine;

(17) Gamma hydroxybutyrate (GHB) (some other names include gamma hydroxybutyric acid; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

(18) Ibogaine;

(19) Lysergic acid diethylamide;

[~~(20) Marijuana;~~

~~(21)~~] (20) Parahexyl;

[~~(22)~~] (21) Mescaline;

[~~(23)~~] (22) Peyote;

[~~(24)~~] (23) N-ethyl-3-piperidyl benzilate;

[~~(25)~~] (24) N-methyl-3-piperidyl benzilate;

[~~(26)~~] (25) Psilocybin;

[~~(27)~~] (26) Psilocyn;

[~~(28)~~] (27) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);

[~~(29)~~] (28) Ethylamine analog of phencyclidine (PCE);

[~~(30)~~] (29) Pyrrolidine analog of phencyclidine (PCPy, PHP);

[~~(31)~~] (30) Thiophene analog of phencyclidine (TPCP; TCP);

[~~(32)~~] (31) Gamma-butyrolactone, including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with Chemical Abstract Service number 96-48-0 when any such substance is intended for human ingestion;

[~~(33)~~] (32) 1,4 butanediol, including butanediol; butane-1,4-diol; 1,4- butylenes glycol; butylene glycol; 1,4-dihydroxybutane; 1,4- tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4- diol with Chemical Abstract Service number 110-63-4 when any such substance is intended for human ingestion;

[~~(34)~~] (33) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts, and salts of isomers;

[~~(35)~~] (34) N-benzylpiperazine (BZP; 1-benzylpiperazine) its optical isomers, salts, and salts of isomers;

[~~(36)~~] (35) 1-(3-trifluoromethylphenyl)piperazine (TFMPP), its optical isomers, salts, and salts of isomers;

[~~(37)~~] (36) Alpha-methyltryptamine (AMT), its isomers, salts, and salts of isomers;

[~~(38)~~] (37) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts, and salts of isomers;

[~~(39)~~] (38) Salvia divinorum;

[~~(40)~~] (39) Salvinorin A;

[~~(41)~~] (40) Divinorin A;

[~~(42)~~] (41) 5-Methoxy-N,N-Dimethyltryptamine (5-MeO-DIPT) (some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT);

[(~~43~~)] (42) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

[~~(44)~~] (43) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);

[~~(45)~~] (44) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

[~~(46)~~] (45) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

[~~(47)~~] (46) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);

[~~(48)~~] (47) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

[~~(49)~~] (48) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

[~~(50)~~] (49) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);

[~~(51)~~] (50) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);

[~~(52)~~] (51) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5);

[~~(53)~~] (52) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82); and

[~~(54)~~] (53) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)."

2. By amending subsection (g) to read:

"(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)~~] (1) 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)~~] (2) 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-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;

[~~(4)~~] (3) 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-piperidinyl)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)~~] (4) Naphthylmethylindenes; 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-piperidinyl) 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)~~] (5) 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-piperidinyl) 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)~~] (6) 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-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent;

[~~(8)~~] (7) Benzoylindoles; meaning any compound containing a 3-(benzoyl) 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 phenyl ring to any extent;

[~~(9)~~] (8) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1, 4-benzoxazin-6-yl]-1-napthalenylmethanone (another trade name is WIN 55,212-2);

[~~(10)~~] (9) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-

tetrahydrobenzo[c]chromen-1-ol (Other trade names are: HU-210/HU-211);

[~~(11)~~] (10) 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-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)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)~~] (11) 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)~~] (12) 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)~~] (13) Quinolin-8-yl 1-(5fluoropentyl)-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)~~] (14) 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);

[~~(16)~~] (15) 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)~~] (16) 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)~~] (17) 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)~~] (18) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, and geometric isomers, salts, and salts of isomers (Other names: THJ-2201);

[~~(20)~~] (19) Methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)-L-valinate, and geometric isomers, salts, and salts of isomers (Other names: FUB-AMB);

[~~(21)~~] (20) (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)~~] (21) 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)~~] (22) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and geometric isomers, salts, and salts of isomers (Other names: STS-135, 5F-APICA; 5-fluoro-APICA);

[~~(24)~~] (23) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, and geometric isomers, salts, and salts of isomers (Other names: NM2201);

[~~(25)~~] (24) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, and geometric isomers, salts, and salts of isomers (Other names: MAB-CHMINACA and ADB-CHMINACA);

[~~(26)~~] (25) Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (Other names: 5F-ADB, 5-flouro-ADB, and 5F-MDMB-PINACA), its optical, positional, and geometric isomers, salts, and salts of isomers; and

[~~(27)~~] (26) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-carboxamide (CUMYL-4CN-BINACA), its optical, positional, and geometric isomers, salts, and salts of isomers; also known as SGT-78, 4-CN-CUMYL-BINACA; CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-BUTINACA."

SECTION 3. Section 329-22, Hawaii Revised Statutes, is amended to read as follows:

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

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing

limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

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

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

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

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

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

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

(c) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the

following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

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

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

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

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

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

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

(f) Marijuana. 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: 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."

SECTION 4. Section 712-1249, Hawaii Revised Statutes, is amended to read as follows:

"**§712-1249 Promoting a detrimental drug in the third degree.** (1) A person commits the offense of promoting a detrimental drug in the third degree if the person knowingly possesses any [~~marijuana or any~~] Schedule V substance in any amount.

(2) Promoting a detrimental drug in the third degree is a petty misdemeanor; provided that possession of [~~three~~] ten grams or less of marijuana is a violation, punishable by a fine of $130."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

INTRODUCED BY: J. Kalani English

S.B. NO. 705

Report Title:
Marijuana; Schedule V; Penalties

Description:
Removes marijuana from schedule I of the uniform controlled substances act and reclassifies it as a schedule V drug. Increases the amount that qualifies as a violation of promoting a detrimental drug in the third degree from three grams to ten grams.

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