

ACT 356

H.B. NO. 113

A Bill for an Act Relating to Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

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

“(d) Any material, compound, mixture, or preparation [which] 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-ethylamphet-amine (DOET);
- [(1)] (3) 2,5-dimethoxyamphetamine (2,5-DMA);
- [(2)] (4) 3,4-methylenedioxy amphetamine;
- [(3)] (5) 3,4-methylenedioxymethamphetamine (MDMA);
- [(4)] (6) N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy-MDA);
- [(5)] (7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);
- [(6)] (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- [(7)] (9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);
- (10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);
- [(8)] (11) 3,4,5-trimethoxy amphetamine;
- [(9)] (12) Bufotenine;
- [(10)] (13) 4-methoxyamphetamine (PMA);
- [(11)] (14) Diethyltryptamine;
- [(12)] (15) Dimethyltryptamine;
- [(13)] (16) 4-methyl-2,5-dimethoxy-amphetamine;
- (17) Gamma hydroxybuterate (GHB);
- [(14)] (18) Ibogaine;
- [(15)] (19) Lysergic acid diethylamide;

- [(16)] (20) Marijuana;
- [(17)] (21) Parahexyl;
- [(18)] (22) Mescaline;
- [(19)] (23) Peyote;
- [(20)] (24) N-ethyl-3-piperidyl benzilate;
- [(21)] (25) N-methyl-3-piperidyl benzilate;
- [(22)] (26) Psilocybin;
- [(23)] (27) Psilocyn;
- [(24)] (28) 1-[1-(2-Thienyl)cyclohexyl] Pyrrolidine (TCPy);
- [(25)] (29) Tetrahydrocannabinols;
- [(26)] (30) Ethylamine analog of phencyclidine (PCE);
- [(27)] (31) Pyrrolidine analog of phencyclidine (PCPy, PHP);
- [(28)] (32) Thiophene analog of phencyclidine (TPCP; TCP).

(e) Unless specifically excepted, the schedule shall include any material, compound, mixture, or preparation which contains any quantity of the substance [methaqualone.]:

- (1) Mecloqualone;
- (2) Methaqualone.”

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk Dextropropoxyphene (nondosage form);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Glutethimide;
- (11) [Levo-alphaacetylmethadol (LAAM);
- (12)] Isomethadone;
- (12) Levo-alphaacetylmethadol (LAAM);
- (13) Levomethorphan;
- (14) Levorphanol;
- (15) Metazocine;
- (16) Methadone;
- (17) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (18) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (19) Pethidine;
- (20) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (21)]¹ Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (22) Pethidine-Intermediate-C, 1-methyl-4² phenylpiperidine-4-carboxylic acid;
- (23)]¹ Phenazocine;
- (24) Piminodine;
- (25) Racemethorphan;

- (26) Racemorphan;
- (27) Sufentanil.”

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

“(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation [which] that contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
- (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) Any substance [which] that contains any quantity of a derivative of barbituric acid or any salt thereof;
- (4) Chlorexadol;
- (5) Ketamine hydrochloride;
- ~~[(5)]~~ (6) Lysergic acid;
- ~~[(6)]~~ (7) Lysergic acid amide;
- ~~[(7)]~~ (8) Methyprylon;
- ~~[(8)]~~ (9) Sulfondiethylmethane;
- ~~[(9)]~~ (10) Sulfonethylmethane;
- ~~[(10)]~~ (11) Sulfonmethane;
- ~~[(11)]~~ (12) Tiletamine/Zolazepam (Telazol).”

SECTION 4. Section 329-18, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) [Any material, compound, mixture, or preparation containing limited quantities or any of the following narcotic drugs, or any salts thereof:] Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts, or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (3) Not more than 300 milligrams of dihydrocodeinone (Hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium[;] provided that these narcotic drugs shall be monitored pursuant to section 329-101;
- (4) Not more than 300 milligrams of dihydrocodeinone (Hydrocodone), or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts[;] provided that these narcotic drugs shall be monitored pursuant to section 329-101;
- (5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or

- more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
 - (7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (8) Not more than 50 milligrams [or] of morphine or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.”

SECTION 5. Section 329-61, Hawaii Revised Statutes, is amended to read as follows:

“**§329-61 Substances subject to reporting.** Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this State or for use in this State shall submit a report to the department of public safety of all those transactions:

- (1) Phenyl-2-propanone;
- (2) Methylamine;
- (3) Phenylacetic acid;
- (4) Ephedrine;
- (5) Pseudoephedrine;
- (6) Norpseudoephedrine;
- (7) Phenylpropanolamine;
- (8) Hydriodic acid;
- (9) Benzyl cyanide;
- (10) Benzyl chloride;
- (11) N-methylformamide;
- (12) N-methylephedrine;
- (13) N-ethylephedrine;
- (14) N-ethylpseudoephedrine;
- (15) N-methylpseudoephedrine;
- (16) Chloroephedrine;
- (17) Chloropseudoephedrine;
- (18) Ethylamine;
- (19) D-lysergic acid;
- (20) Ergotamine tartrate;
- (21) Piperidine;
- (22) N-acetylanthranilic acid;
- (23) Anthranilic acid;
- (24) Propionic anhydride;
- (25) Isosafrole;
- (26) Safrole;
- (27) Piperonal;
- (28) Thionylchloride; [and]
- (29) Ergonovine maleate[.];
- (30) 3,4-Methylenedioxyphenyl-2-propanone;
- (31) Benzaldehyde;
- (32) Nitroethane.”

SECTION 6. Section 329-11, Hawaii Revised Statutes, is amended to read as follows:

“§329-11 Authority to schedule controlled substances. (a) Annually, upon the convening of each [annual] regular session of the state legislature, the department of public safety shall report to the legislature additions, deletions, or revisions in the schedules of substances[,] enumerated in sections 329-14, 329-16, 329-18, 329-20, and 329-22, and any other recommendations [which] that it deems necessary. [The] Three months prior to the convening of each regular session, the department of public safety shall [not recommend] post public notice, at the state capitol and in the office of the lieutenant governor for public inspection, of the department’s recommendations to the legislature concerning any additions, deletions, or revisions in [such] these schedules [until after notice and an opportunity for a hearing is afforded all interested parties, except such hearing]; provided that the posting shall not be required if official notice has been received that the substance has been added, deleted, or rescheduled as a controlled substance under federal law. In making a determination regarding a substance, the department of public safety shall assess the degree of danger or probable danger of the substance by considering the following:

- (1) The actual or probable abuse of the substance including:
 - (A) Its history and current pattern of abuse;
 - (B) The scope, duration, and significance of abuse; and
 - (C) A judgment of the degree of actual or probable detriment [which] that may result from the abuse of the substance;
- (2) The biomedical hazard of the substance including:
 - (A) Its pharmacology: the effects and modifiers of effects of the substance;
 - (B) Its toxicology: the acute and chronic toxicity, interaction with other substances whether controlled or not, and liability to psychic or physiological dependence;
 - (C) Risk to public health and particular susceptibility of segments of the population; and
 - (D) Existence of therapeutic alternatives for substances [which] that are or may be used for medical purposes;
- (3) A judgment of the probable physical and social impact of widespread abuse of the substance;
- (4) Whether the substance is an immediate precursor of a substance already controlled under this part; and
- (5) The current state of scientific knowledge regarding the substance.

(b) After considering the factors enumerated [above,] in subsection (a), the department of public safety shall make a recommendation to the legislature, specifying to what schedule the substance should be added, deleted, or rescheduled if it finds that the substance has a degree of danger or probable danger. The department of public safety may make [such] its recommendation to the legislature prior to the submission of its annual report, in which case the department of public safety shall publish and give notice to the public of [such] the recommendation.

(c) If the legislature designates a substance as an immediate precursor, substances [which] that are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If a substance is added, deleted, or rescheduled as a controlled substance under federal law and notice of the designation is given to the department of public safety, the department of public safety shall recommend that a corresponding change in Hawaii law be made. The department of public safety shall similarly designate the substance as added, deleted, or rescheduled under this chapter, after the expiration of thirty days from publication in the Federal Register of a final order, and [such] this change shall have the effect of law. If a substance is added, deleted, or rescheduled under this subsection, the control shall be temporary and, if the next regular session

of the state legislature has not made the corresponding changes in this chapter, the temporary designation of the added, deleted, or rescheduled substance shall be nullified.

(e) The administrator may make an emergency scheduling by placing a substance into schedule I, II, III, IV, or V on a temporary basis, if the administrator determines the action is necessary to address or avoid a current or imminent danger to the health and safety of the public. If a substance is added or rescheduled under this subsection, the control shall be temporary and, if the next regular session of the state legislature has not enacted the corresponding changes in this chapter, the temporary designation of the added or rescheduled substance shall be nullified.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved July 3, 1997.)

Notes

1. So in original.
2. Prior to amendment a hyphen appeared here.