



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1131, SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO THE UNIFORM CONTROLLED SUBSTANCE ACT

Nolan Espinda, Director  
Department of Public Safety

House Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, March 31, 2015, 2:05 p.m.  
State Capitol, Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** Senate Bill (SB) 1131, Senate Draft (SD)2, House Draft (HD)1 which is the Administration's vehicle for proposing updates to Hawaii's Uniform Controlled Substance Act, Hawaii Revised Statutes Chapter 329, 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 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.

SB 1131, SD 2, HD1 would also 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.

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 detected 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: 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 threat 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.

On January 23, 2015, the PSD was given notice of the removal of naloxegol ((5[alpha],6[alpha])-17-allyl-6-((20-hydroxy-3,6,9,12,15,18-hexaoxaicos-1-yl)oxy)-4,5-epoxymorphinon-3,14-diol) and its salts from the schedules of the Controlled Substances Act. As required by HRS Section 329-11(d), the Department on February 24, 2015 removed naloxegol from Section 329-16(b) Schedule II narcotic drugs. We now respectfully request that the Committee amend Section 329-16(b) to make permanent this rescheduling action.

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

Attachment 1

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

“(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone, and their respective salts, but including the following:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid;
- (D) Powdered opium;
- (E) Granulated opium;
- (F) Codeine;
- (G) Ethylmorphine;
- (H) Etorphine hydrochloride;
- (I) Hydrocodone;
- (J) Hydromorphone;
- (K) Metopon;
- (L) Morphine;
- (M) Oxycodone;
- (N) Oxymorphone;
- (O) Thebaine;
- (P) Dihydroetorphine;
- (Q) Oripavine; and
- (R) Tincture of opium;

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocanized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt or isomer thereof; and

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy).”

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Robert Bacher       | Green Futures       | Support                   | No                        |

Comments: Please make this bill meaningful by allowing it to reschedule cannabis in Schedule V, IV, III, or even Schedule II, which will allow research and safe access to safe medicine.

**House Committee on Judiciary**

Representative Karl Rhoads, Chair

Representative Joy San Beunaventura, Vice Chair

**Re: SB1131 SD2 HD1 - Relating to the Uniform Controlled Substances Act**

Hearing: Tuesday, March 31, 2015, 2:05 pm, Room 325

From: Clifton Otto, MD

Position: **Oppose (with suggestions for changes)**


**Roadmap for resolving the current situation with Marijuana**

[1] Move Marijuana and all naturally occurring Tetrahydrocannabinols, except for Dronabinol, into state Schedule II.


[2] Have DOH file a rescheduling petition with the DEA based on the State’s authority to accept the medical use of Marijuana.

[3] Modify the definition of “Dispense” in HRS 329-1 to include Dispensaries, have NED create a box for “Produce” in their Certification of Registration for Controlled Substances, and have NED license all Cultivators, Manufacturers and Dispensaries that DOH approves.

CERTIFICATE OF REGISTRATION FOR  
**CONTROLLED  
SUBSTANCES**

  
**State of Hawaii**  
DEPARTMENT OF PUBLIC SAFETY  
NARCOTICS ENFORCEMENT DIVISION

Registration Number: \_\_\_\_\_ Expires: \_\_\_\_\_

By   
Authorized Signature

This is awarded to:

by the Department of Public Safety, Narcotics Enforcement Division,  
pursuant to provisions of Chapter 329, Hawaii Revised Statutes.

Registrant is authorized to  
 Produce  Dispense  Distribute ( ) Prescribe ( ) Administer

Controlled Substances listed in the following Schedules:  
( ) Schedule I  
 Schedule II (Narcotic)  
( ) Schedule II (Non-Narcotic)  
( ) Schedule III (Narcotic)  
( ) Schedule III (Non-Narcotic)  
( ) Schedule IV  
( ) Schedule V

**THIS CERTIFICATE OF REGISTRATION MUST BE PROMINENTLY DISPLAYED  
AT THE BUSINESS ADDRESS AS SHOWN.**

LAWG202 (Revised 09/2013)

THIS REGISTRATION IS NOT TRANSFERABLE.