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A BILL FOR AN ACT

RELATING TO DRUGS.

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

1 SECTION 1. Section 712-1240.6, Hawaii Revised Statutes, is  
2 amended by amending subsections (2) and (3) to read as follows.

3 "(2) The manufacture [7] in any amount, of one or more  
4 preparations, compounds, mixtures, or substances of  
5 methamphetamine, or any of its salts, isomers, and salts of  
6 isomers of methamphetamine, or the distribution [7] or dispensing  
7 of or possession with intent to manufacture, distribute, or  
8 dispense one or more preparations, compounds, mixtures, or  
9 substances of an aggregate weight of one-eighth ounce or more of  
10 methamphetamine, or any of its salts, isomers, and salts of  
11 isomers is a class A felony with a mandatory minimum prison term  
12 of [~~five~~] ten years; provided however:

13 (a) If death or serious bodily injury as defined in  
14 section 707-700 to any person other than the  
15 defendant, results from the manufacture, distribution,  
16 or dispensing of or possession with intent to  
17 manufacture, distribute, or dispense any  
18 methamphetamine substance, conviction under this

1 section shall be treated as a class A felony, with a  
2 mandatory minimum prison term of [~~ten~~] twelve years  
3 and a fine not to exceed \$4,000,000 if the defendant  
4 is an individual, or a fine not to exceed \$10,000,000  
5 if the defendant is other than an individual; and

6 (b) If the defendant has been convicted of any felony drug  
7 offense prior to conviction of the offense under this  
8 section, conviction under this section shall be  
9 punishable by a term of life imprisonment with the  
10 possibility of parole, with a mandatory minimum prison  
11 term of fifteen years and a fine not to exceed  
12 \$8,000,000 if the defendant is an individual, or a  
13 fine not to exceed \$20,000,000 if the defendant is  
14 other than an individual.

15 (3) The [~~manufacture,~~] distribution[~~,~~] or dispensing of  
16 one or more preparations, compounds, mixtures, or substances of  
17 an aggregate weight of less than one-eighth ounce of  
18 methamphetamine, or any of its salts, isomers, and salts of  
19 isomers is a class B felony with a mandatory minimum prison term  
20 of three years; provided however:

21 (a) If death or serious bodily injury as defined in  
22 section 707-700 to any person other than the defendant

1 results from the [~~manufacture,~~] distribution or  
2 dispensing of any methamphetamine substance,  
3 conviction under this section shall be treated as a  
4 class B felony, with a mandatory minimum prison term  
5 of five years and a fine not to exceed \$2,000,000 if  
6 the defendant is an individual, or a fine not to  
7 exceed \$5,000,000 if the defendant is other than an  
8 individual; and

9 (b) If the defendant has been convicted of any felony drug  
10 offense prior to conviction of the offense under this  
11 section, conviction under this section shall be  
12 treated as a class A felony, with a mandatory minimum  
13 prison term of eight years and a fine not to exceed  
14 \$4,000,000 if the defendant is an individual, or a  
15 fine not to exceed \$10,000,000 if the defendant is  
16 other than an individual.

17 (c) If the distribution or dispensing of any amount of a  
18 methamphetamine substance is to a minor, then  
19 conviction under this section shall be treated as a  
20 class A felony, with a mandatory minimum prison term  
21 of five years."

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1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

4  
5 INTRODUCED BY: Calvin K. Boy  
6

BY REQUEST

JAN 23 2006

## JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO DRUGS.

PURPOSE: To restore the previously existing ten-year mandatory minimum prison term for those convicted of manufacturing methamphetamine, to raise the mandatory minimum for manufacturers of methamphetamine who cause death or serious bodily injury from ten years to twelve years, and to restore the previous class A felony classification for the manufacture of any quantity of methamphetamine.

MEANS: Amend section 712-1240.6(2) and (3), Hawaii Revised Statutes.

JUSTIFICATION: Those who manufacture methamphetamine cause dangers to society that are beyond those dangers cause by drug addition and the associated violence. The manufacture of methamphetamine involves precursors and by products that are so toxic, or so explosive, that innocent children and adults in the neighborhood could be poisoned or injured by being anywhere in the vicinity of the manufacturing operation. Reduction of the pre-existing ten-year mandatory minimum to five years was completely unjustified, as was the reduction from a class A felony to class B felony for those caught manufacturing smaller amounts of methamphetamine. Both of these ill-advised reductions should be reversed and the existing ten-year mandatory minimum for manufacturers of methamphetamine who cause death or serious bodily injury should be raised from ten years to twelve years in order to retain a higher mandatory minimum sentence for those manufacturers who cause death or serious bodily injury.

Impact on the public: This bill will be beneficial to the public interest because it will discourage to the extremely dangerous practice of manufacturing methamphetamine.

Impact on the department and other agencies: This bill will help the department and other agencies because there will be a greater deterrent to manufacturing methamphetamine.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: Judiciary, county police, county prosecutors, and the Office of the Public Defender.

EFFECTIVE DATE: Upon approval.