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TESTIMONY ON SENATE BILL 1487 SD2
A BILL FOR AN ACT RELATING TO
CONTROLLED SUBSTANCES
Clayton A. Frank, Director
Department of Public Safety

House Committee on Health
Representative Josh Green, Chair
Representative John Mizuno, Vice Chair

Wednesday, March 19, 2008, 8:30 a.m.
State Capitol, Room 329

Representative Green and Members of the Committee:

The Department of Public Safety strongly supports Senate Bill 1487 SD2, that is the department's vehicle to update Hawaii's controlled substance laws to be consistent with amendments made in Federal law that is mandated by Section 329-11 and 329-61. The proposed amendments to Senate Bill 1487 SD2 would amend sections 329-14(e), 329-16, 329-20(b) and 329-22 to be consistent with heading and format changes in Federal law and add the depressant drug "Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]" to Schedule V, section 329-22 Hawaii Revised Statutes. The addition of this controlled substance is required by section 329-11(d) Hawaii Revised Statutes which states that if a substance is added, deleted or rescheduled under federal law then the department shall recommend to the legislature that a corresponding change in Hawaii law be made.

Senate Bill 1487 SD2 also proposes to delete section 329-75(b) Hawaii Revised Statutes to conform with the Federal Combat Methamphetamine Epidemic Act of 2005, that did not allow for an exemption for pseudoephedrine products that were in liquid, liquid capsule or gel capsule form from the reporting and record keeping requirement.

The Department would like to request that the committee consider allowing the Department to amend Senate Bill 1487 SD2 by adding the depressant drug "Embutramide (Tributame)", a new euthanasia drug for dogs that was added to the federal controlled substance schedules. The Department is requesting that section 329-18(c) Hawaii Revised Statutes be amended to read as follows:

"(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation containing 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 that contains any quantity of a derivative of barbituric acid or any salt thereof, including the substance butalbital;
- (4) Chlorhexadol;
- (5) Embutramide (Tributame);

- ~~[(5)]~~ (6) Ketamine, its salts, isomers, and salts of isomers, also known as (+ or -)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- ~~[(6)]~~ (7) Lysergic acid;
- ~~[(7)]~~ (8) Lysergic acid amide;
- ~~[(8)]~~ (9) Methyprylon;
- ~~[(9)]~~ (10) Sulfondiethylmethane;
- ~~[(10)]~~ (11) Sulfonethylmethane;
- ~~[(11)]~~ (12) Sulfonmethane;
- ~~[(12)]~~ (13) Tiletamine/Zolazepam (Telazol, 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, flupyrzapon) or any salts thereof; and
- ~~[(13)]~~ (14) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers that are contained in a drug product for which an application has been approved under section 505 of the federal Food, Drug, and Cosmetic Act.”

The Department is also requesting that the substance “Salvia divinorum” be added as a Schedule I controlled substances due to the growing abuse of this substance across the nation. Presently Salvia divinorum has been made a controlled substance in Delaware, Louisiana, Missouri, Oklahoma, and Tennessee. Legislation has also been introduced to ban possession or sale of Salvia divinorum in fourteen additional states: Alaska, California, Georgia, Illinois, Iowa, Maine, New York, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Utah, and Virginia. Salvia is being smoked by individuals to induce hallucinations, the effects of which are described by its users to be similar to those

induced by ketamine, mescaline, or psilocybin. It is being widely touted on internet sites aimed at young adults and adolescents eager to experiment with these types of dangerous substances. *Salvia divinorum* is already being shipped into Hawaii and is being sold in some of Hawaii's specialty shops. The Department is therefore requesting that the substance *Salvia divinorum* and its derivatives be added as a controlled substance by amending section 329-14(d) Hawaii Revised Statutes to read as follows:

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

- (33) 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;
- (34) 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;
- (35) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts, and salts of isomers;
- (36) N-benzylpiperazine (BZP; 1-benzylpiperazine) its optical isomers, salts, and salts of isomers;
- (37) 1-(3-trifluoromethylphenyl)piperazine (TFMPP), its optical isomers, salts, and salts of isomers;
- (38) Alpha-methyltryptamine (AMT), its isomers, salts, and salts of isomers;
[and]
- (39) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts, and salts of isomers;
- (40) Salvia divinorum;

(41) Salvinorin A; and

(42) Divinorin A

In addition, the Department would like to request that the committee consider inserting the contents of House Bill 2776 HD1 by adding a new Part II to Senate Bill 1487 SD2, ~~that would contain the contents of House Bill 2776 HD1 relating to Controlled Substances,~~ which was passed out of the House Health Committee on February 4, 2008. This Bill was a joint effort by the Narcotics Enforcement Division, DCCA, Board of Medical Examiners, Kaiser, Hawaii Pharmacy association, Longs Drugs and other retailers, but failed to make the cross over. The new language being proposed would allow the department to: (1) Use an additional method to administratively correct minor infractions committed at pharmacies or by physicians and would afford the division the ability to work with the violator and prescribe the necessary action to correct the violation as well as specify a procedure for a registrant to contest the violation; (2) Add a definition for "Bona fide practitioner-patient relationship" to reflect the definition adopted by the Hawaii Board of Medical Examiners; (3) Clarify that it is a violation of State law to pre-sign blank prescriptions to facilitate the fraudulent obtaining of controlled substances and adds a penalty for a practitioner who administers, prescribes or dispenses a controlled substance without a medical reason determined after a good faith prior examination of the patient; and (4) Amends section 329-52 relating to Administrative Inspections and Warrants of controlled substance registrants. The new language being proposed is similar to that used by State Food and Drug inspectors and would better allow the

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department to safeguard the public. I have attached a copy of the proposed language for your review.

In summary the Department of Public Safety strongly supports passage of Senate Bill 1487 SD2 and request that you consider the amendments proposed by the Department. Thank you for the opportunity to testify on this matter.