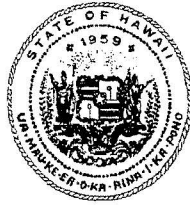


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TESTIMONY ON SENATE BILL 1491 SD1 HD1  
RELATING TO CONTROLLED SUBSTANCES

by

Clayton A. Frank, Director  
Department of Public Safety

Committee on Finance  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair

Thursday, March 27, 2008, 2:00 p.m.  
State Capitol, Conference Room 308

Representative Oshiro, Representative Lee, and Members of the Committee:

The Department of Public Safety (Department) strongly supports Senate Bill 1491 SD1 HD1, which proposes to amend Section 329-59, Hawaii Revised Statutes (H.R.S.), to authorize the use of the Department's Controlled Substance Registration Revolving fund to offset the cost of the Narcotic Enforcement Division's (NED) forensic drug laboratory and costs associated with investigating violations relating to the Uniform Controlled Substance Act, Chapter 329, H.R.S.

The Controlled Substance Registration Revolving Fund consists of fees collected from the issuance of controlled substance registration certificates, regulated chemical permits and medical use of marijuana patient identification certificates. This special fund was established to offset the cost of:

- The Department's electronic prescription monitoring program.
- The registration and control of all individuals authorized to handle controlled substances, regulated chemicals utilized to manufacture controlled substances and Hawaii's medical use of marijuana program.
- Investigative positions authorized by the legislature.

During the 2004 legislative session, NED was authorized an expenditure ceiling increase of \$100,000 for fiscal year 2004-2005 and \$30,000 for fiscal year 2006 from NED's Controlled Substance Registration Revolving Fund to offset the cost of NED's forensic drug laboratory that is utilized to analyze the controlled substances and regulated chemicals seized by NED. It is also used to offset the cost associated with investigating violations relating to the registration and control of controlled substances.

During the 2007 legislative session, NED was authorized an additional investigator position for its forensic drug laboratory and funding was provided. As a housekeeping measure, the Department is requesting that Section 329-59, H.R.S., be amended to add NED's forensic drug laboratory and investigations of controlled substance and regulated chemical violations to the list of areas that the controlled substance registration revolving fund can be utilized.

Part II of Senate Bill 1491 SD1 HD1 proposes to assist the Department in updating Hawaii's Controlled Substance laws to be consistent with amendments made in Federal law that is mandated by Sections 329-11 and 329-61, H.R.S. Senate Bill 1491 SD1 HD1 proposes to amend Sections 329-14(e), 329-16, 329-20(b) and 329-22, H.R.S., 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, H.R.S. The addition of this controlled substance is required by Section 329-11(d), H.R.S., 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 1491 SD1 HD1 also proposes to delete Section 329-75(b), H.R.S., to conform with the Federal Combat Methamphetamine Epidemic Act of 2005, which does not allow for an exemption for pseudoephedrine products 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 1491 SD1 HD1 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), H.R.S., 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, flupyrazapon) 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), H.R.S., 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 summary the Department strongly supports passage of Senate Bill 1491 SD1 HD1 and request that you consider the amendments proposed by the Department.

Thank you for the opportunity to testify on this matter.