HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO. 734

A BILL FOR AN ACT

RELATING TO CANNABIS.

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

SECTION 1. The legislature finds that the term "marijuana" is a slang word of Mexican-Hispanic origin that carries a discriminatory history. The term "marijuana" was not commonly used in the United States until the 1920s and 1930s, when states began to pass laws prohibiting use of the cannabis plant. During this period, there was a growing wave of sentiment against Mexican immigrants entering the country. Harry Anslinger, then-commissioner of the Federal Bureau of Narcotics, and other prohibition activists of the early to mid-20th century adopted the Spanish word "marijuana", rather than the already widely-used word "cannabis". This practice effectively associated the use of "marijuana" with Mexican immigrants and culture, which further stigmatized the plant and this segment of the American population.

The legislature further finds that the use of the slang word "marijuana" is akin to using similar slang words, including "weed", "ganja", or "pakalolo". Colloquial terminology is

considered unsuitable for legal writing. Therefore, it is more appropriate to use the scientifically accurate genus name "cannabis" instead of "marijuana" in the Hawaii Revised Statutes.

The purpose of this Act is to amend the Hawaii Revised Statutes to replace the word "marijuana" and related terms with the term "cannabis" or related terms. This Act is technical in nature and no substantive changes to the law are intended or implied. This Act is not intended to make any changes to the legal definition of hemp.

SECTION 2. Section 328-15, Hawaii Revised Statutes, is amended to read as follows:

"**§328-15 Drugs or devices deemed misbranded when; prescriptions excepted, when.** A drug or device shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular, or if its labeling or packaging fails to conform with the requirements of section 328-19.1.

(2) If in package form, unless it bears a label containing:

(A) The name and place of business of the manufacturer, packer, or distributor; and

(B) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label, provided that under this subparagraph reasonable variations shall be permitted, and exemptions as to small packages shall be allowed, in accordance with rules adopted by the director. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count shall not be required for any commodity subject to packaging and labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913

(37 Stat. 832-833; 21 U.S.C. §§151-158), commonly known as the Virus-Serum-Toxin Act.

(3) If any word, statement, or other information required by or under authority of this part to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(4) If it is for use by a person and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, cabromal, chloral, coca, cocaine, codeine, heroin, [~~marijuana,~~] morphine, opium, paraldehyde, peyote, or sulphomethane, or any chemical derivative of such substance, which derivative, after investigation, has been found to be and designated as habit forming, by rules adopted by the director under this part, or by regulations issued pursuant to section 502(d) of the Federal Act, unless its label bears the name and

quantity or proportion of the substance or derivative and in juxtaposition therewith the statement "Warning--May be habit forming."

(5) (A) If it is a drug unless:

(i) Its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula), the established name, as defined in subparagraph (B), of the drug, if such there be; and in case it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid,

or any derivative or preparation of any such substances, contained therein; provided that the requirement for stating the quantity of the active ingredients, other than the quantity of these specifically named in this paragraph, shall apply only to prescription drugs; and

(ii) For any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) is printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient; provided further that to the extent that compliance with the requirements of this subparagraph is impracticable, exemptions shall be allowed under rules adopted by the director.

(B) As used in this paragraph, the term "established name", with respect to a drug or ingredient thereof, means:

(i) The applicable official name designated pursuant to section 508 of the Federal Act;

(ii) If there is no such name and the drug, or the ingredient, is an article recognized in an official compendium, then the official title thereof in the compendium; or

(iii) If neither clause (i) nor clause (ii) of this subparagraph applies, then the common or usual name, if any, of such drug or of the ingredient;

provided further that where clause (ii) of this subparagraph applies to an article recognized in the United States Pharmacopoeia, in the United States Pharmacopoeia Dispensing Information, and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic

drug, in which case the official title used in the Homeopathic Pharmacopoeia shall apply.

(6) Unless its labeling bears:

(A) Adequate directions for use; and

(B) Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided that where any requirement of subparagraph (A), as applied to any drug or device, is not necessary for the protection of the public health, the director shall adopt rules exempting the drug or device from such requirements; provided further that articles exempted under regulations issued under section 502(f) of the Federal Act may also be exempt.

(7) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided

that the method of packaging may be modified with the consent of the director, or if consent is obtained under the Federal Act. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to the packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the Homeopathic Pharmacopoeia of the United States and not to the United States Pharmacopoeia; provided that in the event of inconsistency between the requirements of this paragraph and those of paragraph (5) as to the name by which the drug or its ingredients shall be designated, the requirements of paragraph (5) shall prevail.

(8) If it has been found by the director to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the rules adopted by the director or regulations issued under the Federal Act require as

necessary for the protection of public health. No such rule shall be established for any drug recognized in an official compendium until the director shall have informed the appropriate body charged with the revision of the compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(9) (A) If it is a drug and its container is so made, formed, or filled as to be misleading;

(B) If it is an imitation of another drug; or

(C) If it is offered for sale under the name of another drug.

(10) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(11) If it is, purports to be, or is represented as a drug composed wholly or partly of insulin, unless:

(A) It is from a batch with respect to which a certificate or release has been issued pursuant to section 506 of the Federal Act; and

(B) The certificate or release is in effect with respect to the drug.

(12) If it is, purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless:

(A) It is from a batch with respect to which a certificate or release has been issued pursuant to section 507 of the Federal Act; and

(B) The certificate or release is in effect with respect to the drug; provided that this paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under section 507(c) or (d) of the Federal Act.

For the purpose of this paragraph, the term "antibiotic drug" means any drug intended for use by a person containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the

chemically synthesized equivalent of any such substance).

(13) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to such color additive prescribed under section 328-13(b).

(14) In the case of any prescription drug distributed or offered for sale in this State, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of:

(A) The established name, as defined in paragraph (5)(B), printed prominently and in type at least half as large as that used for any trade or brand name thereof;

(B) The formula showing quantitatively each ingredient of the drug to the extent required for

labels under section 502(e) of the Federal Act; and

(C) Such other information in brief summary relating to side effects, contra-indications, and effectiveness as shall be required in rules adopted by the director.

(15) If a trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.

(16) Drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed shall be exempt from any labeling or packaging requirements of this part; provided that such drugs and devices are being delivered, manufactured, processed, labeled, repacked, or otherwise held in compliance with rules adopted by the director.

(17) If it has met or exceeded the expiration date established by the manufacturer or principal labeler."

SECTION 3. Sections 124B-178, 302A-1002, 329-1, 329-14, 329-121, 329-125, 329-125.6, 353-66, 706-622.5, 706-625, 710-1022, 712-1240, 712-1240.1, 712-1244, 712-1245, 712-1246, 712-1247, 712-1248, 712-1249, 712-1249.4, 712-1249.5, and 712A-4, Hawaii Revised Statutes, are amended by substituting the term "cannabis", "cannabis concentrate", "cannabis-related", or similar term, wherever the word "marijuana", "marijuana concentrate", "marijuana-related", or similar term, appears, as the context requires.

SECTION 4. Sections 329-1 and 712-1240, Hawaii Revised Statutes, are amended by substituting the term "cannabis", "cannabis concentrate", or similar term, wherever the word "marijuana", "marijuana concentrate", or similar term, appears, as the context requires.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken.

SECTION 7. This Act shall take effect on July 1, 2023; provided that section 3 shall take effect on the date of the

repeal of Act 14, Session Laws of Hawaii 2020, as amended by Act 137, Session Laws of Hawaii 2022.

INTRODUCED BY: NAB

JAN 20 2023

H.B. NO. 734

Report Title:
Cannabis; Marijuana; Statutes; Criminal Laws; Offenses

Description:
Amends the Hawaii Revised Statutes to replace the word "marijuana" and related terms with the term "cannabis" or related terms, as appropriate.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.