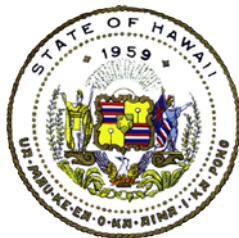


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NOTICE OF SCHEDULING AND EMERGENCY CONTROLLED SUBSTANCE SCHEDULING ACTION

Chapter 329-11(d) that 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. In July of 2009 the Federal Government scheduled the controlled substances HU-201 as a Schedule I controlled substance one of the active ingredients in the drug known as "Spice". In accordance with Chapter 329-11(d) the Department is scheduling HU-210 as a Schedule I hallucinogenic substances by adding it to Section 329-14(d). Hawaii Revised Statutes.

Chapter 329-11(e) authorizes the Administrator of the Department of Public Safety's Narcotics Enforcement Division to make an emergency scheduling by placing a substance into schedules I, II, III, IV or V on a temporary basis, if the administrator determines that such action is necessary to avoid an imminent hazard or the possibility of an imminent hazard to the health and safety of the public. If a substance is added or rescheduled under this subsection, the control shall be temporary and, if the next regular session of the state legislature has not enacted the corresponding changes in this chapter, the temporary designation of the added or rescheduled substance shall be nullified.

In accordance with provisions set forth in Chapter 329-11(e) of the Hawaii Revised Statutes, Emergency Scheduling Authority the Administrator of the Narcotics Enforcement Division is emergency scheduling the substance Mephedrone (2-methylamino-1-p-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCAT as a schedule I hallucinogenic substances by placing it in Section 329-14(d) HRS. The Department is also requesting to emergency schedule the drugs utilized in the street drug known as "Spice / K2" that contain the drugs CP 47,497 and homologues, JWH-018 and JWH-073 as a schedule I hallucinogenic substances by placing them in Section 329-14(d) HRS. This emergency scheduling action shall take effect on August 1, 2010 (**12:01 AM.**) to avoid an imminent hazard or the possibility of an imminent hazard to the citizens of Hawaii from these dangerous hallucinogenic substances.

The Drug Enforcement Administration has determined that the following substances Mephedrone, HU-210, CP 47,497 and homologues, JWH-018 and JWH-073 do not have an approved medical use in the United States and are presently listed as "drugs of concern" by the Federal Drug Enforcement Administration due its ability to evoke hallucinogenic effects, which in general, are similar to those of other scheduled hallucinogenic controlled substances.

Presently Hawaii does not have a controlled substance analogue law like that of the Federal Government to deal with individuals abusing drug that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. Under present Federal law 21 USC Sec. 802 the term "Controlled Substance Analogue is defined in 21 USC Sec. 802 (32) to mean:

- (32) (A) Except as provided in subparagraph (C), the term "controlled substance analogue" means a substance -
- (i) The chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;
 - (ii) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or
 - (iii) **With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.**

The problem with the Federal analogue definition is that it only allows the Federal government to treat the non controlled substances used in drugs like K2 / Spice and Mephedrone as controlled substance analogues if it is used for human consumption as a psychoactive drug. This leaves a loophole in the law for individuals selling this drug labeled as "not for human consumption."

K2 / SPICE

Presently eleven states have enacted or introduced legislation placing regulatory controls on the drugs in K2 / Spice HU-210, CP 47,497 and homologues, JWH-018 and JWH-073 due to the hallucinogenic properties.

Following cases in Okinawa and Japan involving the use of Spice by Navy, Army and Marine personnel resulted in the official banning of Spice. A punitive general order

issued on January 4, 2010 by the Commander Marine Corps Forces, Pacific (MARFORPAC) prohibits the actual or attempted possession, use, sale, distribution or manufacture of Spice, Salvia and any derivative, analogue or variant of either substance. On June 8, 2010, The U.S. Air Force issued a memorandum that banned the possession and use of Spice, or any other mood-altering substance, among its service members.

The drugs in K2 / Spice HU-210, CP 47,497 and homologues, JWH-018 and JWH-073 have also been placed under regulatory controls in Australia, Austria, Chile, Finland, France, Germany, Ireland, Japan, Latvia, Poland, Romania, Russia, Slovak Republic, South Korea, Sweden, Switzerland and United Kingdom due to its potential for abuse.

Poison Centers nationwide have reported 352 cases of people sickened by the substance in 35 states. Patients who have smoked the faux dope have complained of hallucinations, paranoia, severe agitation, elevated heart rates, vomiting, seizures, and dangerously high blood pressure.

MEPHEDRONE

Mephedrone, also known as 4-methylmethcathinone (4-MMC), or 4-methylephedrone, is a synthetic stimulant and entactogen drug of the amphetamine and cathinone classes. It is a synthetic substance based on the cathinone compounds found in the khat plant of eastern Africa. Mephedrone can come in the form of capsules, tablets or white powder that users may swallow, snort or inject. In 2009 it became the fourth most popular street drug in the United Kingdom, behind marijuana, cocaine, and ecstasy. Mephedrone can cause nose bleeds, nose burns, hallucinations, nausea, vomiting, blood circulation problems, rashes, anxiety, paranoia, fits and delusions. Other side effects may include poor concentration, poor short-term memory, increased heart rate, abnormal heart beats, anxiety, depression, increased sweating, dilated pupils, the inability to normally open the mouth, and teeth grinding. Local law enforcement on all islands have reported Mephedrone being sold as ecstasy and as a new "ecstasy like" drug on the street.

Presently Mephedrone is unscheduled in the United States but has been made illegal in North Dakota. Some of the states have prosecuted individuals selling the drug for human consumption under the Federal Analog Act due to Mephedrone's similarity to Methcathinone.

Mephedrone has been placed under regulatory controls in Australia, Belgium, Canada, Croatia, Denmark Estonia, Finland, France, Germany, Guernsey, Ireland, Isle of Man, Israel, Jersey, Netherlands, New Zealand, Norway, Romania, Singapore, Sweden, and United Kingdom due to its potential for abuse.

The Department is therefore requesting that the substance Mephedrone (2-methylamino-1-p-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCA and the chemicals utilized in Spice / K2 such as HU-210, CP 47,497 and homologues, JWH-018 and JWH-073 be added as a Schedule I 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;
- (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;
- (43) Mephedrone (2-methylamino-1-p-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCAT;**
- (44) (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Some trade or other names: HU-210;**
- (45) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), Some trade or other names: CP 47,497 and homologues;**
- (46) 1-Pentyl-3-(1-naphthoyl)indole, Some trade or other names: JWH-018; and**
- (47) 1-Butyl-3-(1-naphthoyl)indole, Some trade or other names: JWH-073.**