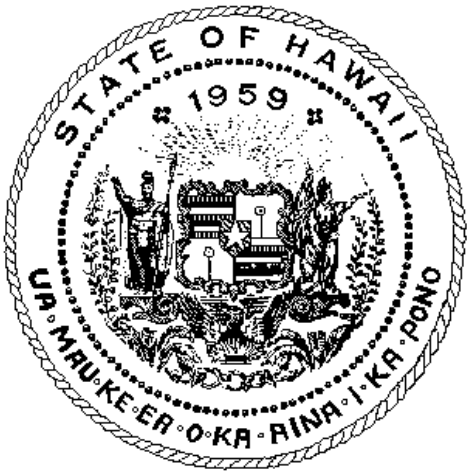

REPORT TO THE 2018 LEGISLATURE
SECTION 329-11, HAWAI'I REVISED STATUTES

DEPARTMENT OF PUBLIC SAFETY
NARCOTICS ENFORCEMENT DIVISION
2017 ANNUAL REPORT

December 2017

ANNUAL REPORT TO THE 2018 LEGISLATURE
DEPARTMENT OF PUBLIC SAFETY
NARCOTICS ENFORCEMENT DIVISION

SECTION 329-11 REPORTING REQUIREMENTS

FEDERAL SCHEDULING ACTIONS:

Chapter 329-11(d) of the Hawaii Revised Statutes ("HRS") states that if a substance is added, deleted or rescheduled under federal law and notice of the designation is given to the Department of Public Safety, then the Department of Public Safety shall recommend to the legislature that a corresponding change in Hawaii law be made. The Department of Public Safety shall similarly designate the substance as added, deleted, or rescheduled under this chapter, after the expiration of thirty days from publication in the Federal Register of a final order, and this change shall have the effect of law. If a substance is added, deleted, or rescheduled under this subsection, the control shall be temporary and, if the next regular session of the state legislature has not made the corresponding changes in this chapter, the temporary designation of the added, deleted, or rescheduled substance shall be nullified.

New Substituted Cathinones:

On March 1, 2017, The Department of Public Safety was given notice via publication in the Federal Register of a final order[1] that the following substituted cathinones were placed into Schedule I by the United States Drug Enforcement Administration ("DEA"):

1. 4-methyl-N-ethylcathinone (4-MEC);
2. 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);
3. alpha-pyrrolidinopentiophenone ([alpha]-PVP);
4. 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone, bk-MBDB e);
5. 2-(methylamino)-1-phenylpentan-1-one (pentedrone);
6. 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone, bk-MBDP);
7. 4-fluoro-N-methylcathinone (4-FMC, flephedrone);

[1] The final order was published in volume 82, number 39 of the Federal Register on March 1, 2017.

8. 3-fluoro-N-methylcathinone (3-FMC);

9. 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone);

10. alpha-pyrrolidinobutiophenone ([alpha]-PBP) and their optical, positional, and geometric isomers, salts and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

This federal scheduling action imposes the regulatory controls and the administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with, or possess) or propose to handle the substituted cathinones listed in this notice. The DEA placed an effective date of March 1, 2017 on this scheduling action.

In accordance with chapter 329-11(d) of the HRS, the Department of Public Safety has temporarily added the substituted cathinones listed in this notice into schedule I in chapter 329-14 (f) of the HRS, as of September 9, 2017. This temporary addition imposes the regulatory controls and the administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with, or possess) or propose to handle the substituted cathinones listed in this notice in the State of Hawaii.

Dronabinol (New Drug Approval):

On November 22, 2017, The Department of Public Safety was given notice via publication in the Federal Register of a final order[2] that the following hallucinogenic substance was placed into Schedule II by the United States Drug Enforcement Administration ("DEA"):

1. Dronabinol [(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration.

This federal scheduling action imposes the regulatory controls and the administrative, civil, and criminal sanctions applicable to schedule II controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional

[2] The final order was published in volume 82, number 224 of the Federal Register on November 22, 2017.

activities with, or possess) or propose to handle the hallucinogenic substances listed in this notice. The DEA placed an effective date of November 22, 2017 on this scheduling action.

In accordance with chapter 329-11(d) of the HRS, the Department of Public Safety is temporarily adding the hallucinogenic substance listed in this notice into schedule II in chapter 329-16 (g) of the HRS. This temporary addition imposes the regulatory controls and the administrative, civil, and criminal sanctions applicable to schedule II controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with, or possess) or propose to handle the hallucinogenic substances listed in this notice in the State of Hawaii. As noted by the DEA in its interim final rule, dated March 23, 2017, and further emphasized here by the Department of Public Safety, "…any form of dronabinol other than in an FDA-approved drug product remains a schedule I controlled substance, and those who handle such material remain subject to the regulatory controls, and administrative, civil, and criminal sanctions, applicable to schedule I controlled substances set forth in the CSA and DEA regulations…"[3], as well as the applicable statutes and rules of the State of Hawaii.

This temporary scheduling action shall take effect in the State of Hawaii in January 2018.

EMERGENCY SCHEDULING ACTION:

Section 329-11(e) of the Hawaii Revised Statutes authorizes the Administrator of the Department of Public Safety, 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. The Department shall post a public notice thirty days prior to the effective date of the emergency scheduling action, at the State Capitol, in the Office of the Lieutenant Governor, and on the Department's website for public inspection. 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.

[3] As noted in the DEA's Interim Final Rule published in the Federal Register, Volume 82, Number 55 on March 23, 2017.

New Synthetic Cannabinoid:

1. 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-carboxamide (CUMYL-4CN-BINACA) its optical, positional, and geometric isomers, salts and salts of isomers; also known as SGT-78, 4-CN-CUMYL-BINACA; CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-BUTINACA).

CUMYL-4CN-BINACA is structurally categorized as a synthetic cannabinoid.[1] Synthetic cannabinoids, also known as "Spice Drugs" are man-made chemicals that are applied (often sprayed) onto plant material and marketed as a "legal" high.[2] Synthetic cannabinoids refer to a growing number of man-made, mind-altering chemicals that are either sprayed on dried, shredded plant material so they can be smoked or sold as liquids to be vaporized and inhaled in e-cigarettes and other devices.[2]

Synthetic cannabinoids laced on plant material were first reported in the U.S. in December 2008, when a shipment of "Spice" was seized and analyzed by U.S. Customs and Border Protection (CBP) in Dayton, Ohio.[3]

The effects of synthetic cannabinoids include severe agitation and anxiety, nausea, vomiting, tachycardia (fast, racing heartbeat), elevated blood pressure, tremors and seizures, hallucinations, dilated pupils, and suicidal and other harmful thoughts and/or actions.[3]

There have been at least 270 seizures of powder and vegetable material laced with CUMYL-4CN-BINACA in the European Union and Turkey since October 2015. There have been eleven (11) deaths in which the decedent was exposed to CUMYL-4CN-BINACA, of which in five (5) these deaths it was confirmed that it was the cause of death or a contributor. [4]

As of 2017, at least eleven countries have controlled CUMYL-4CN-BINACA including, Croatia, Cyprus, Finland, Latvia, Lithuania, Luxembourg, Sweden Austria, Germany, Hungary, Poland and Turkey under drug or new psychoactive substance legislation.[4]

In 2017, CUMYL-4CN-BINACA was identified in several law enforcement submissions to forensic laboratories in Hawaii.

The Narcotics Enforcement Division is not aware of any currently accepted medical uses for CUMYL-4CN-BINACA in the United States.

The Administrator of the Narcotics Enforcement Division has reviewed reference material and literature related to the emergency scheduling of this substance. The Administrator has determined that due to reports of

its International abuse, associated fatalities and its discovery in Hawaii that placing CUMYL-4CN-BINACA into schedule 1 of the Hawaii Revised Statutes is necessary. Consequently, in accordance with provisions set forth in Section 329-11(e) of the Hawaii Revised Statutes, the Administrator of the Narcotics Enforcement Division is emergency scheduling 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-carboxamide (CUMYL-4CN-BINACA) its optical, positional, and geometric isomers, salts and salts of isomers; also known as SGT-78, 4-CN-CUMYL-BINACA; CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-BUTINACA) in order to address or avoid a current or imminent threat to the health and safety of the public.

The effective date of this emergency scheduling action will be in January 2018.

PROPOSED CHANGES TO THE HAWAII REVISED STATUTES AS THE RESULT OF FEDERAL 329-11(d) AND EMERGENCY 329-11(e) SCHEDULING ACTIONS:

Substituted Cathinones

Chapter 329-14 of HRS is temporarily amended by amending subsection (f) to read as follows:

"(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex;

(2) Cathinone;

(3) Fenethylline;

(4) Methcathinone;

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[1] Cayman Chemical. 11-01-16. Product Insert 4-cyano CUMYL-BUTINACA.
[2]National Institute of Drug Abuse. 2015. Drug Facts Synthetic Cannabinoids.
[3]https://www.whitehouse.gov/ondcp/ondcp-fact-sheets/synthetic-drugs-k2-spice-bath-salts (accessed 11-2017)
[4] EMCDDA-Europol Joint Report on a new psychoactive substance (CUMYL-4CN-BINACA) 2017 Sept 21.

(5) N-ethylamphetamine;

(6) 4-methylaminorex;

(7) N,N-dimethylamphetamine; and

(8) Substituted cathinones, any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, napgthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

(A) By substituting in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

(B) By substitution at the 3-position with an acyclic alkyl substituent; or

(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some other trade names: Mephedrone (2-methylamino-1-p-tolylpropan-1-one), also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCAT; Methylenedioxypyrovalerone (MDPV, MDPK); methylone or 3,4-methylenedioxymethcathinone; and 1-(benzo[d][1,3]dioxol-5-yl)-2-(ethylamino)propan-1-one, monohydrochloride, also known as Ethylone, bk-MDEA hydrochloride, MDEC; 3,4-Methylenedioxy-N-ethylcathinone; bk-Methylenedioxyethylamphetamine, 4-methyl-N-ethylcathinone (4-MEC); 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP); alpha-pyrrolidinopentiophenone ([alpha]-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone, bk-MBDB e); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone, bk-MBDP); 4-fluoro-N-methylcathinone (4-FMC, flephedrone); 3-fluoro-N-methylcathinone (3-FMC); 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); alpha-pyrrolidinobutiophenone ([alpha]-PBP) and their optical, positional, and geometric isomers, salts and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible

Dronabinol

Chapter 329-16 (g) of the HRS is temporarily amended by amending subsection (g) to read as follows:

(g) Hallucinogenic substances, unless listed in another schedule, shall include:

(1) Nabilone; and

(2) Dronabinol [(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration.

Synthetic Cannabinoids

Section 329-14, Hawaii Revised Statutes, is temporarily amended by amending subsection (g) to read as follows:

"(g) Any of the following cannabinoids, 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) Tetrahydrocannabinols; meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and Delta 3,4 cis or trans-tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered);

(2) Naphthoylindoles; meaning any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether

or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(3) Naphthylmethylindoles; meaning any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(4) Naphthoylpyrroles; meaning any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;

(5) Naphthylmethylindenes; meaning any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;

(6) Phenylacetylindoles; meaning any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent;

(7) Cyclohexylphenols; meaning any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent;

(8) Benzoylindoles; meaning any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, aloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent; and

(9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone (another trade name is WIN 55,212-2);

(10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2- methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other trade names are: HU-210/HU-211);

(11) Tetramethylcyclopropanoylindoles; meaning any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent.

(12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. (Other names: APINACA, AKB48);

(13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PB-22; QUPIC);

(14) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);

(15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: AB-FUBINACA);

(16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: ADB-PINACA);

(17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: AB-CHMINACA);

(18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, and geometric isomers, salts and salts of isomers (Other names: AB-PINACA);

(19) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, and geometric isomers, salts and salts of isomers (Other names: THJ-2201);

(20) Methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)-L-valinate, and geometric isomers, salts and salts of isomers (Other names: FUB-AMB);

(21) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, and geometric isomers, salts and salts of isomers (Other names: 5-fluoro-AMB, 5-fluoro-AMP);

(22) N-(3s, 5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, and geometric isomers, salts and salts of isomers (Other names: AKB48 N-(5-fluoropentyl) analog, 5F-AKB48, APINACA 5-fluoropentyl analog, 5F-APINACA);

(23) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and geometric isomers, salts and salts of isomers (Other names: STS-135, 5F-APICA; 5-fluoro-APICA);

(24) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, and geometric isomers, salts and salts of isomers (Other names: NM2201);

(25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, and geometric isomers, salts and salts of isomers (Other names: MAB-CHMINACA and ADB-CHMINACA)[.]; [and;]

(26) Methyl -2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5F-ADB, 5-flouro-ADB and 5F-MDMB-PINACA), its optical, positional, and geometric isomers, salts and salts of isomers.” and;

(27) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-carboxamide (CUMYL-4CN-BINACA) its optical, positional, and geometric isomers, salts and salts of isomers; also known as SGT-78, 4-CN-CUMYL-BINACA; CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-BUTINACA).”