

ACT No. 565

HOUSE BILL NO. 173

BY REPRESENTATIVES TEMPLET, ANDERS, ARMES, ARNOLD, AUSTIN BADON, BOBBY BADON, BALDONE, BARRAS, BILLIOT, HENRY BURNS, TIM BURNS, BURRELL, CHANDLER, CHANEY, CONNICK, CORTEZ, DIXON, DOERGE, DOVE, DOWNS, EDWARDS, FANNIN, GISCLAIR, GREENE, GUILLORY, HARDY, HAZEL, HENDERSON, HENRY, HILL, HINES, HOFFMANN, HUTTER, GIROD JACKSON, MICHAEL JACKSON, KATZ, LAFONTA, LAMBERT, LEBAS, LIGI, LORUSSO, MCVEA, MILLS, MONICA, MORRIS, NOWLIN, PUGH, RICHARD, RICHARDSON, RICHMOND, ROBIDEAUX, SIMON, SMILEY, JANE SMITH, ST. GERMAIN, TALBOT, TUCKER, WADDELL, WHITE, WILLIAMS, WILLMOTT, AND WOOTON AND SENATORS MARTINY AND THOMPSON

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AN ACT

To amend and reenact R.S. 40:966(B)(3), (E), and (F) and to enact R.S. 40:964(Schedule I)(C)(32) and 989.2, relative to controlled dangerous substances; to create the crime of the unlawful production, manufacturing, distribution, or possession of a material, compound, mixture, or preparation which contains a prohibited plant; to provide for definitions; to provide for criminal penalties; to provide for exceptions; to add certain hallucinogenic substances to Schedule I; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:966(B)(3), (E), and (F) are hereby amended and reenacted and R.S. 40:964(Schedule I)(C)(32) and 989.2 are hereby enacted to read as follows:

§964. Composition of schedules

Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S. 40:962, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

* * *

1 C. Hallucinogenic substances. Unless specifically excepted or unless listed
 2 in another schedule, any material, compound, mixture, or preparation, which
 3 contains any quantity of the following hallucinogenic substances, or which contains
 4 any of their salts, isomers, or salts of isomers, whenever the existence of such salts,
 5 isomers, or salts of isomers is possible within the specific chemical designation, for
 6 purposes of this Paragraph only, the term "isomer" includes the optical, position, and
 7 geometric isomers:

8 * * *

9 (32) Synthetic cannabinoids as follows:

10 (a) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol {also
 11 known as CP 47,497 and its C6, C7, C8, and C9 homologues}

12 (b) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-
 13 6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol {also known as HU-210}

14 (c) Naphthalen-1-yl-(1-pentylindol-3-yl)methanone {also known as 1-
 15 Pentyl-3-(1-naphthoyl)indole or JWH-018}

16 (d) Naphthalen-1-yl-(1-butylindol-3-yl)methanone {also known as 1-Butyl-
 17 3-(1-naphthoyl)indole or JWH-073}

18 * * *

19 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
 20 listed in Schedule I; possession of marijuana, possession of synthetic
 21 cannabinoids

22 * * *

23 B. Penalties for violation of Subsection A of this Section. Any person who
 24 violates Subsection A of this Section with respect to:

25 * * *

26 (3) A substance classified in Schedule I which is marijuana,
 27 tetrahydrocannabinols, or chemical derivatives of ~~tetrahydrocanna-binols~~
 28 tetrahydrocanna binols, or synthetic cannabinoids shall upon conviction be sentenced

1 to a term of imprisonment at hard labor for not less than five nor more than thirty
2 years, and pay a fine of not more than fifty thousand dollars.

3 * * *

4 E. Possession of marijuana, or synthetic cannabinoids. (1) Except as
5 provided in Subsections E and F of this Section, on a first conviction for violation
6 of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or
7 chemical derivatives thereof, or synthetic cannabinoids the offender shall be fined
8 not more than five hundred dollars, imprisoned in the parish jail for not more than
9 six months, or both.

10 (2) Except as provided in Subsection F or G of this Section, on a second
11 conviction for violation of Subsection C of this Section with regard to marijuana,
12 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids the
13 offender shall be fined not more than two thousand dollars, imprisoned with or
14 without hard labor for not more than five years, or both.

15 (3) Except as provided in Subsection F or G of this Section, on a third or
16 subsequent conviction for violation of Subsection C of this Section with regard to
17 marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic
18 cannabinoids the offender shall be sentenced to imprisonment with or without hard
19 labor for not more than twenty years, and may, in addition, be sentenced to pay a fine
20 of not more than five thousand dollars.

21 (4) A conviction for the violation of any other statute or ordinance with the
22 same elements as R.S. 40:966(C) prohibiting the possession of marijuana,
23 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall
24 be considered as a prior conviction for the purposes of this Subsection relating to
25 penalties for second, third, or subsequent offenders.

26 (5) A conviction for the violation of any other statute or ordinance with the
27 same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or

1 possession with intent to distribute or dispense marijuana, of marijuana,¹
2 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall
3 be considered as a prior conviction for the purposes of this Subsection relating to
4 penalties for second, third, or subsequent offenders.

5 F. Except as otherwise authorized in this Part:

6 (1) Any person who knowingly or intentionally possesses sixty pounds or
7 more, but less than two thousand pounds of marijuana, tetrahydrocannabinol or
8 chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve
9 a term of imprisonment at hard labor of not less than five years, nor more than thirty
10 years, and to pay a fine of not less than fifty thousand dollars nor more than one
11 hundred thousand dollars.

12 (2) Any person who knowingly or intentionally possesses two thousand
13 pounds or more, but less than ten thousand pounds of marijuana,
14 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall
15 be sentenced to serve a term of imprisonment at hard labor of not less than ten years
16 nor more than forty years, and to pay a fine of not less than one hundred thousand
17 dollars nor more than four hundred thousand dollars.

18 (3) Any person who knowingly or intentionally possesses ten thousand
19 pounds or more of marijuana, tetrahydrocannabinol or chemical derivatives thereof,
20 or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard
21 labor of not less than twenty-five years, nor more than forty years and to pay a fine
22 of not less than four hundred thousand dollars nor more than one million dollars.

23 * * *

24 §989.2. Unlawful production, manufacturing, distribution, or possession of
25 prohibited plant products

26 A.(1) It shall be unlawful for any person knowingly or intentionally to
27 produce, manufacture, distribute, or possess with intent to produce, manufacture, or
28 distribute a material, compound, mixture, or preparation which contains a prohibited
29 plant and which meets any of the following criteria:

1 (a) It is intended to be placed in the oral or nasal cavity.

2 (b) It is prepared in such a manner as to be suitable for smoking in a pipe or
3 cigarette, or other device.

4 (c) It is to be burned and inhaled or exhaled in any manner or in any form.

5 (2) Whoever violates the provisions of this Subsection shall be sentenced to
6 a term of imprisonment with or without hard labor for not more than five years and
7 may, in addition, be sentenced to pay a fine of not more than ten thousand dollars.

8 B.(1) It shall be unlawful for any person knowingly or intentionally to
9 possess material, compound, mixture, or preparation which contains a prohibited
10 plant and which is intended to be placed in the oral or nasal cavity, is prepared in
11 such a manner as to be suitable for smoking in a pipe or cigarette, or is to be burned
12 and inhaled or exhaled in any manner or in any form.

13 (2) Any person who violates the provisions of this Subsection shall be fined
14 not more than five hundred dollars, imprisoned for not more than six months, or
15 both.

16 C. For the purposes of this Section:

17 (1) "Distribute" means to sell, barter, trade, furnish, supply, or otherwise
18 transfer in exchange for anything of value a material, compound, mixture, or
19 preparation which contains a prohibited plant.

20 (2) "Homeopathic drug" means any drug labeled as being homeopathic
21 which is listed in the Homeopathic Pharmacopoeia of the United States, an
22 addendum to it, or its supplements. The potencies of homeopathic drugs are
23 specified in terms of dilution. Homeopathic drug products must contain diluents
24 commonly used in homeopathic pharmaceuticals. Drug products containing
25 homeopathic ingredients in combination with non-homeopathic active ingredients
26 are not homeopathic drug products.

27 (3) "Manufacture" means the production, preparation, propagation,
28 compounding, or processing of a material, compound, mixture, or preparation which

1 contains a prohibited plant either directly or indirectly by extraction from substances
2 of natural origin, or independently by means of chemical synthesis, or by a
3 combination of extraction and chemical synthesis. Manufacturer includes any person
4 who packages, repackages, or labels any container holding a material, compound,
5 mixture, or preparation which contains a prohibited plant.

6 (4) "Production" includes the manufacture, planting, cultivation, growing,
7 or harvesting of a prohibited plant.

8 (5) "Prohibited plant" means any combination of any of the parts, leaves,
9 stems, stalks, seeds, materials, compounds, salts, derivatives, mixtures, preparations,
10 or any resin extracted from any part of the following plants:

11 (a) Artemisia vulgaris (Mugwort).

12 (b) Canavalia rosea (Bay bean).

13 (c) Leonotis leonurus (Lion's tail).

14 (d) Leonotis nepetifolia (Lion's ear).

15 (e) Leonurus sibiricus (Honeyweed).

16 (f) Nelumbo nucifera (Sacred Lotus).

17 (g) Nymphaea caerulea (Blue Lotus, Egyptian Lotus).

18 (h) Pedicularis densiflora (Indian warrior).

19 (i) Salvia divinorum.

20 (j) Scutellaria nana (Dwarf skullcap).

21 (k) Turnera diffusa (Damiana).

22 (l) Zornia latifolia.

23 D. The provisions of this Section shall not apply to any dosage form which
24 is legally obtainable from a retail establishment without a prescription and is
25 recognized by the United States Food and Drug Administration as a homeopathic
26 drug.

1 E. The provisions of this Section shall not apply to the possession, planting,
2 cultivation, growing, or harvesting of a prohibited plant strictly for aesthetic,
3 landscaping, or decorative purposes.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____