SLS 10RS-418 **ORIGINAL**

Regular Session, 2010

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SENATE BILL NO. 179

BY SENATOR N. GAUTREAUX

CONTROL DANGER SUBSTANCE. Adds certain drugs to Schedule I of the Uniform Controlled Dangerous Substances Law. (8/15/10)

AN ACT

2	To amend and reenact R.S. 40:966(B)(3), (E) and (F), and to enact R.S. 40:964(C)(32),
3	relative to the Uniformed Controlled Dangerous Substances Law; to add drugs to
4	Schedule I classification; to provide for penalties; and to provide for related matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. R.S. 40:966(B)(3), (E) and (F) are hereby amended and reenacted and
7	R.S. 40:964(C)(32) is hereby enacted to read as follows:
8	§964. Composition of schedules
9	Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S.
10	40:962, consist of the following drugs or other substances, by whatever official
11	name, common or usual name, chemical name, or brand name designated:
12	SCHEDULE I
13	* * *
14	C. Hallucinogenic substances. Unless specifically excepted or unless listed
15	in another schedule, any material, compound, mixture, or preparation, which
16	contains any quantity of the following hallucinogenic substances, or which contains
17	any of their salts, isomers, or salts of isomers, whenever the existence of such salts,

1	isomers, or salts of isomers is possible within the specific chemical designation, for
2	purposes of this Paragraph only, the term "isomer" includes the optical, position, and
3	geometric isomers:
4	* * *
5	(32) Spice cannabinoids
6	(a) $HU-210$ ([$(6aR,10aR)-9-(hydroxymethyl)-6$, $6-dimethyl-3-(2-dimethyl)-6$)
7	methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c] chromen-1-ol)])
8	(b) HU-211 ((dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-
9	3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol))
10	(c) CP 47, 497 and homologues (2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-
11	methyloctan-2-yl)phenol)
12	(d) JWH-018 (1-Pentyl-3-(1-naphthoyl)indole)
13	(e) JWH-073 (1-Butyl-3-(1-naphthoyl)indole)
14	* * *
15	§966. Penalty for distribution or possession with intent to distribute narcotic drugs
16	listed in Schedule I; possession of marijuana
17	* * *
18	B. Penalties for violation of Subsection A. Any person who violates
19	Subsection A with respect to:
20	* * *
21	(3) A substance classified in Schedule I which is marijuana,
22	tetrahydrocannabinols, or chemical derivatives of tetrahydrocanna-binols, <u>or spice</u>
23	<u>cannabinoids</u> shall upon conviction be sentenced to a term of imprisonment at hard
24	labor for not less than five nor more than thirty years, and pay a fine of not more than
25	fifty thousand dollars.
26	* * *
27	E. Possession of marijuana. (1) Except as provided in Subsections E and F
28	of this Section, on a first conviction for violation of Subsection C of this Section with
29	regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or spice

cannabinoids, the offender shall be fined not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both.

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- (2) Except as provided in Subsection F or G of this Section, on a second conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or spice cannabinoids, the offender shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both.
- (3) Except as provided in Subsection F or G of this Section, on a third or subsequent conviction for violation of Subsection C of this Section with regard to marijuana, tetrahydrocannabinol or chemical derivatives thereof, or spice cannabinoids, the offender shall be sentenced to imprisonment with or without hard labor for not more than twenty years, and may, in addition, be sentenced to pay a fine of not more than five thousand dollars.
- (4) A conviction for the violation of any other statute or ordinance with the same elements as R.S. 40:966(C) prohibiting the possession of marijuana, tetrahydrocannabinol or chemical derivatives thereof, or spice cannabinoids, shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.
- (5) A conviction for the violation of any other statute or ordinance with the same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana, of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, **spice cannabinoid**, shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.
 - F. Except as otherwise authorized in this Part:
- (1) Any person who knowingly or intentionally possesses sixty pounds or more, but less than two thousand pounds of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, or spice cannabinoids, shall be sentenced to serve a term of imprisonment at hard labor of not less than five years, nor more than thirty

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years, and to pay a fine of not less than fifty thousand dollars nor more than one hundred thousand dollars.

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

* * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Greg Waddell.

DIGEST

<u>Present law</u> provides for controlled dangerous substances in Schedules I through V.

Proposed law adds spice cannabinoids to Schedule I.

<u>Present law</u> penalizes any person who produces, manufactures, distributes or dispenses or possesses with intent to produce, manufacture, distribute, or dispense marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols for a term of imprisonment at hard labor for not less than five nor more than 30 years and a fine of not more than \$50,000.

<u>Present law</u> penalizes any person who creates, distributes, or possesses with intent to distribute a counterfeit controlled dangerous substance classified in Schedule I as marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols for a term of imprisonment at hard labor for not less than five nor more than 30 years and a fine of not more than \$50,000.

<u>Proposed law</u> retains <u>present law</u> and provides the same penalties for any person who produces, manufactures, distributes or dispenses or possesses with intent to produce, manufacture, distribute, or dispense spice cannabinoids and any person who creates, distributes, or possesses with intent to distribute a counterfeit controlled dangerous substance classified in Schedule I as spice cannabinoid.

<u>Present law</u> criminalizes and penalizes possession of marijuana and tetrahydrocannabinol or chemical derivatives thereof.

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

<u>Proposed law</u> criminalizes possession of spice cannabinoids and provides that possession of spice cannabinoids shall carry the same penalties as possession of marijuana.

Effective August 15, 2010.

(Amends R.S. 40:966(B)(3), (E) and (F); adds R.S. 40:964(C)(32))