

2019 Regular Session

HOUSE BILL NO. 138

BY REPRESENTATIVE CONNICK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONTROLLED SUBSTANCES: Provides relative to certain substances in the Uniform Controlled Dangerous Substances Law

1 AN ACT

2 To amend and reenact R.S. 40:961(26) and 964(Schedule I)(C)(27) and to enact R.S.
3 40:961(45), 964(Schedule I)(A)(62) through (67) and (C)(65), and 966(A)(3),
4 relative to the Uniform Controlled Dangerous Substances Law; to amend the
5 definition of marijuana to exclude industrial hemp; to provide for a definition of
6 industrial hemp; to provide relative to criminal penalties; to add certain substances
7 to Schedule I; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:961(26) and 964(Schedule I)(C)(27) are hereby amended and
10 reenacted and R.S. 40:961(45), 964(Schedule I)(A)(62) through (67) and (C)(65), and
11 966(A)(3) are hereby enacted to read as follows:

12 §961. Definitions

13 As used in this Part, the following terms shall have the meaning ascribed to
14 them in this Section unless the context clearly indicates otherwise:

15 * * *

16 (26)(a) "Marijuana" means all parts of plants of the genus Cannabis, whether
17 growing or not; the seeds thereof; the resin extracted from any part of such plant; and
18 every compound, manufacture, salt, derivative, mixture, or preparation of such plant,
19 its seeds or resin;

20 ~~but~~ (b) "Marijuana" shall not include the following:

1 (i) Industrial hemp that is in the possession, custody, or control of a person
2 who holds a license issued by the Louisiana Department of Agriculture and Forestry,
3 or is cultivated and processed in accordance with the U.S. Agriculture Improvement
4 Act of 2018.

5 (ii) ~~The mature stalks of such plant~~ plants of the genus Cannabis, fiber
6 produced from such stalks, oil or cake made from the seeds of such plant, any other
7 compound, manufacture, salt, derivative, mixture, or preparation of such mature
8 stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed
9 of such plant which is incapable of germination, ~~or.~~

10 (iii) ~~cannabidiol~~ Cannabidiol when contained in a drug product approved by
11 the United States Food and Drug Administration.

12 * * *

13 (45) "Industrial hemp" means the plant Cannabis sativa and any part of that
14 plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers,
15 acids, and salts of isomers, whether growing or not, with a delta-9-
16 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight
17 basis and cultivated and processed in accordance with the U.S. Agriculture
18 Improvement Act of 2018, or the plan submitted by the Louisiana Department of
19 Agriculture and Forestry that is in compliance with the U.S. Department of
20 Agriculture rules.

21 * * *

22 §964. Composition of schedules

23 Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S.
24 40:962, consist of the following drugs or other substances, by whatever official
25 name, common or usual name, chemical name, or brand name designated:

26 SCHEDULE I

27 A. Opiates. Unless specifically excepted or unless listed in another schedule,
28 any of the following opiates, including their isomers, esters, ethers, salts, or salts of

1 isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers,
2 or salts is possible within the specific chemical designation:

3 * * *

4 (62) Methoxyacetylfentanyl (2-methoxy-N-[1-(2-phenylethyl)piperidin-4-
5 yl]-N-phenylacetamide)

6 (63) Para-fluorobutyrylfentanyl (N-(4-fluorophenyl)-N-[1-(2-phenylethyl)
7 piperidin-4-yl]butanamide)

8 (64) Tetrahydrofuranylfentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-
9 yl]tetrahydrofuran-2-carboxamide)

10 (65) U-49900 (3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methyl-
11 benzamide)

12 (66) U-51754 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-
13 benzeneacetamide)

14 (67) U-48800 (2,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-
15 benzeneacetamide)

16 * * *

17 C. Hallucinogenic substances. Unless specifically excepted or unless listed
18 in another schedule, any material, compound, mixture, or preparation, which
19 contains any quantity of the following hallucinogenic substances, or which contains
20 any of their salts, isomers, or salts of isomers, whenever the existence of such salts,
21 isomers, or salts of isomers is possible within the specific chemical designation, for
22 purposes of this Paragraph only, the term "isomer" includes the optical, position, and
23 geometric isomers:

24 * * *

25 (27) Tetrahydrocannabinols, including synthetic equivalents and derivatives,
26 except for tetrahydrocannabinols in hemp

27 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (65) Deschloro-N-ethyl-ketamine (2-(ethylamino)-2-phenylcyclohexan-1-
2 one)

3 * * *

4 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
5 listed in Schedule I; possession of marijuana, synthetic cannabinoids, and
6 heroin

7 A. Manufacture; distribution. Except as authorized by this Part, it shall be
8 unlawful for any person knowingly or intentionally:

9 * * *

10 (3) To cultivate, possess, process, or sell industrial hemp, industrial hemp
11 products, or viable industrial hemp seeds not in accordance with the U.S. Agriculture
12 Improvement Act of 2018 or the plan submitted by the Louisiana Department of
13 Agriculture and Forestry that is in compliance with the U.S. Department of
14 Agriculture rules.

15 * * *

16 Section 2. The Louisiana State Law Institute is hereby authorized and directed to
17 renumber the terms defined in R.S. 40:961 to ensure that such terms are in alphabetical
18 order.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 138 Reengrossed 2019 Regular Session Connick

Abstract: Amends the definition of "marijuana" to exclude industrial hemp, adds a definition of "industrial hemp", and adds certain substances to Schedule I of the Uniform Controlled Dangerous Substances Law.

Present law provides for a definition of "marijuana" which means all parts of plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

Present law further provides that the term "marijuana" does not include the mature stalks of plants of the genus Cannabis, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake,

or the sterilized seed of such plant which is incapable of germination, or cannabidiol when contained in a drug product approved by the U.S. Food and Drug Administration.

Proposed law adds industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the La. Dept. of Agriculture and Forestry, or is cultivated and processed in accordance with the U.S. Agriculture Improvement Act of 2018 as an exception to the present law definition of "marijuana".

Proposed law defines "industrial hemp" as the plant *Cannabis sativa* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis and cultivated and processed in accordance with the U.S. Agriculture Improvement Act of 2018, or the plan submitted by the La. Dept. of Agriculture and Forestry that is in compliance with the U.S. Dept. of Agriculture rules.

Present law provides for the designation of controlled dangerous substances into Schedules I, II, III, IV, and V based upon the substances' potential for addiction and abuse.

Proposed law retains present law.

Proposed law adds Methoxyacetylfentanyl, Para-fluorobutyrylfentanyl, Tetrahydrofuranylfentanyl, U-49900, U-51754, U-48800, and Deschloro-N-ethyl-ketamine to Schedule I.

Present law provides that no person shall knowingly or intentionally:

- (1) Produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled dangerous substance analogue classified in Schedule I.
- (2) Create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule I.

Proposed law adds to present law that no person shall knowingly or intentionally cultivate, possess, process, or sell industrial hemp products, or viable industrial hemp seeds not in accordance with the U.S. Agriculture Improvement Act of 2018 or the plan submitted by the La. Dept. of Agriculture and Forestry that is in compliance with the U.S. Dept. of Agriculture rules.

(Amends R.S. 40:961(26) and 964(Schedule I)(C)(27); Adds R.S. 40:961(45), 964(Schedule I)(A)(62) through (67) and (C)(65), and 966(A)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Change proposed law references of "hemp" to industrial hemp".
2. Provide that the present law definition of "marijuana" does not apply to industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the La. Dept. of Agriculture and Forestry, or is cultivated and processed in accordance with the U.S. Agriculture and Improvement Act of 2018.

3. Amend the proposed law definition of "industrial hemp" to include that it is cultivated and processed in accordance with the U.S. Agriculture Improvement Act of 2018, or the plan submitted by the La. Dept. of Agriculture and Forestry.
4. Prohibit any person from cultivating, possessing, or selling industrial hemp, industrial hemp products, or viable industrial hemp seeds not in accordance with the U.S. Agriculture Improvement Act of 2018 or the plan submitted by the La. Dept. of Agriculture and Forestry.