

2015 Regular Session

HOUSE BILL NO. 174

BY REPRESENTATIVE LEBAS

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

CONTROLLED SUBSTANCES: Provides with respect to the scheduling of controlled dangerous substances

1 AN ACT

2 To amend and reenact R.S. 40:966(B)(3), (E), and (F) and to enact R.S. 40:964(Schedule
3 I)(G), (Schedule IV)(A)(3) and (B)(45.5) and to repeal R.S. 40:964(Schedule
4 III)(D)(1)(c) and (d) and R.S. 40:989.3, relative to the Uniform Controlled
5 Dangerous Substances Law; to add certain substances to Schedules I and IV; to
6 provide with respect to classifications in Schedule III; to reschedule certain products
7 containing hydrocodone; to provide for criminal penalties for offenses involving a
8 substance containing mitragynine or 7-Hydroxymitragynine; to repeal the crime of
9 unlawful distribution of products containing *Mitragyna speciosa* to a minor; and to
10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 40:966(B)(3), (E), and (F) are hereby amended and reenacted and
13 R.S. 40:964(Schedule I)(G), (Schedule IV)(A)(3) and (B)(45.5) are hereby enacted to read
14 as follows:

15 §964. Composition of schedules

16 Schedules I, II, III, IV, and V shall, unless and until added to pursuant to R.S.
17 40:962, consist of the following drugs or other substances, by whatever official
18 name, common or usual name, chemical name, or brand name designated:

19 SCHEDULE I

20 * * *

1 G. Miscellaneous. Unless specifically excepted or contained within a
 2 pharmaceutical product approved by the United States Food and Drug
 3 Administration, or unless listed in another schedule, any material, compound,
 4 mixture, or preparation which contains any quantity of the following substances
 5 including its salts, isomers, or salts of isomers, whenever the existence of such salts,
 6 isomers, or salts of isomers is possible within the specific chemical designation:

7 (1) Mitragynine

8 (2) 7-Hydroxymitragynine

9 * * *

10 SCHEDULE IV

11 A. Narcotic drugs

12 * * *

13 (3) Tramadol (2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)

14 cyclohexanol), its salts, isomers, and salts of its isomers.

15 B. Depressants

16 Unless specifically excepted or unless listed in another schedule, any
 17 material, compound, mixture, or preparation containing any quantity of the following
 18 substances, including its salts, isomers, and salts of isomers, whenever the existence
 19 of such salts, isomers, and salts of isomers is possible within the specific chemical
 20 designation:

21 * * *

22 (45.5) Suvorexant

23 * * *

24 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
 25 listed in Schedule I; possession of marijuana; possession of synthetic
 26 cannabinoids; possession of heroin; possession of mitragynine or
 27 7-Hydroxymitragynine

28 * * *

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

3 * * *

4 (3) A substance classified in Schedule I which is marijuana,
5 tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, ~~or~~ synthetic
6 cannabinoids, or a substance which contains any amount of mitragynine or
7 7-Hydroxymitragynine shall upon conviction be sentenced to a term of imprisonment
8 at hard labor for not less than five nor more than thirty years, and pay a fine of not
9 more than fifty thousand dollars.

10 * * *

11 E. Possession of marijuana, ~~or~~ synthetic cannabinoids, mitragynine or
12 7-Hydroxymitragynine. (1) Except as provided in Subsections E and F of this
13 Section, on a first conviction for violation of Subsection C of this Section with
14 regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, ~~or~~
15 synthetic cannabinoids, or a substance which contains any amount of mitragynine or
16 7-Hydroxymitragynine, the offender shall be fined not more than five hundred
17 dollars, imprisoned in the parish jail for not more than six months, or both.

18 (2)(a) Except as provided in Subsection F or G of this Section, on a second
19 conviction for violation of Subsection C of this Section with regard to marijuana,
20 tetrahydrocannabinol or chemical derivatives thereof, ~~or~~ synthetic cannabinoids, or
21 a substance which contains any amount of mitragynine or 7-Hydroxymitragynine,
22 the offender shall be fined not less than two hundred fifty dollars, nor more than two
23 thousand dollars, imprisoned with or without hard labor for not more than five years,
24 or both.

25 (b) If the court places the offender on probation, the probation shall provide
26 for a minimum condition that he participate in a court-approved substance abuse
27 program and perform four eight-hour days of court-approved community service
28 activities. Any costs associated with probation shall be paid by the offender.

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

1 (3) Except as provided in Subsection F or G of this Section, on a third or
2 subsequent conviction for violation of Subsection C of this Section with regard to
3 marijuana, tetrahydrocannabinol or chemical derivatives thereof, ~~or~~ synthetic
4 cannabinoids, or a substance which contains any amount of mitragynine or
5 7-Hydroxymitragynine, the offender shall be sentenced to imprisonment with or
6 without hard labor for not more than twenty years, and may, in addition, be
7 sentenced to pay a fine of not more than five thousand dollars.

8 (4) A conviction for the violation of any other statute or ordinance with the
9 same elements as R.S. 40:966(C) prohibiting the possession of marijuana,
10 tetrahydrocannabinol or chemical derivatives thereof, ~~or~~ synthetic cannabinoids, or
11 a substance which contains any amount of mitragynine or 7-Hydroxymitragynine
12 shall be considered as a prior conviction for the purposes of this Subsection relating
13 to penalties for second, third, or subsequent offenders.

14 (5) A conviction for the violation of any other statute or ordinance with the
15 same elements as R.S. 40:966(B)(3) prohibiting the distributing or dispensing or
16 possession with intent to distribute or dispense marijuana, of marijuana,¹
17 tetrahydrocannabinol or chemical derivatives thereof, ~~or~~ synthetic cannabinoids, or
18 a substance which contains any amount of mitragynine or 7-Hydroxymitragynine
19 shall be considered as a prior conviction for the purposes of this Subsection relating
20 to penalties for second, third, or subsequent offenders.

21 F. Except as otherwise authorized in this Part:

22 (1) Any person who knowingly or intentionally possesses sixty pounds or
23 more, but less than two thousand pounds of marijuana, tetrahydrocannabinol or
24 chemical derivatives thereof, ~~or~~ synthetic cannabinoids, or a substance which
25 contains any amount of mitragynine or 7-Hydroxymitragynine shall be sentenced to
26 serve a term of imprisonment at hard labor of not less than five years, nor more than
27 thirty years, and to pay a fine of not less than fifty thousand dollars nor more than
28 one hundred thousand dollars.

1 (2) Any person who knowingly or intentionally possesses two thousand
2 pounds or more, but less than ten thousand pounds of marijuana,
3 tetrahydrocannabinol or chemical derivatives thereof, ~~or~~ synthetic cannabinoids, or
4 a substance which contains any amount of mitragynine or 7-Hydroxymitragynine
5 shall be sentenced to serve a term of imprisonment at hard labor of not less than ten
6 years nor more than forty years, and to pay a fine of not less than one hundred
7 thousand dollars nor more than four hundred thousand dollars.

8 (3) Any person who knowingly or intentionally possesses ten thousand
9 pounds or more of marijuana, tetrahydrocannabinol or chemical derivatives thereof,
10 ~~or~~ synthetic cannabinoids, or a substance which contains any amount of mitragynine
11 or 7-Hydroxymitragynine shall be sentenced to serve a term of imprisonment at hard
12 labor of not less than twenty-five years, nor more than forty years and to pay a fine
13 of not less than four hundred thousand dollars nor more than one million dollars.

14 * * *

15 Section 2. R.S. 40:964(Schedule III)(D)(1)(c) and (d) and R.S. 40:989.3 are hereby
16 repealed in their entirety.

17 Section 3. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 effective on the day following such approval.

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 174 Engrossed

2015 Regular Session

LeBas

Abstract: Adds certain substances to Schedules I and IV.

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 adds two substances to Schedule I (including mitragynine) and two substances to Schedule IV.

Present law provides for the crime of unlawful distribution of products containing Mitragyna speciosa to a minor.

Proposed law repeals this provision of present law.

Proposed law provides penalties for violations involving Mitragynine and 7-Hydroxymitragynine which are identical to penalties for violations involving marijuana and synthetic cannabinoids.

Present law provides that hydrocodone is a Schedule II drug, but is a Schedule III drug when found in combination with other substances.

Proposed law repeals the Schedule III classification for hydrocodone combination products to make La. law consistent with federal scheduling classifications.

(Amends 40:966(B)(3), (E), and (F); Adds R.S. 40:964(Schedule I)(G), (Schedule IV)(A)(3) and (B)(45.5); Repeals R.S. 40:964(Schedule III)(D)(1)(c) and (d) and 989.3)

Effective upon signature of governor or lapse of time for gubernatorial action.

Summary of Amendments Adopted by House

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

1. Add emergency effective date.
2. Provide penalties for violations involving Mitragynine and 7-Hydroxymitragynine.