



**DEPARTMENT OF PUBLIC SAFETY
REPORT TO THE 2006 LEGISLATURE**

**SECTIONS 329-11 AND 329-61,
HAWAII REVISED STATUTES**

**Annual Report
on Schedules for Controlled Substances,
and Regulated Chemicals for the Manufacture of
Controlled Substances**

November 2005

Statutory Reporting Requirements – Part II. Standards and Schedules

Part II—Standards and Schedules, Section 329-11(a), Hawaii Revised Statutes (HRS) authorizes the Department of Public Safety (PSD) to schedule controlled substances. This section also requires that PSD report to the Legislature annually upon convening: additions, deletions, or revisions in the schedules of substances enumerated in HRS Sections 329-14 (Schedule I), 329-16 (Schedule II), 329-18 (Section III), 329-20 (Schedule IV), and 329-22 (Schedule V), as well as any other recommendations that PSD deems necessary. Three months prior to the convening of each regular session, the Department shall post public notice of its recommendations to the Legislature concerning any additions, deletions, or revisions in these schedules; provided that the posting shall not be required if official notice has been received that the substance has been added, deleted, or rescheduled as a controlled substance under federal law.

HRS Section 329-11(d) provides that if a substance is added, deleted, or rescheduled as a controlled substance under federal law and notice of the designation is given to the Department of Public Safety, the Department shall recommend that a corresponding change in Hawaii law be made. PSD shall similarly designate the substance as added, deleted, or rescheduled under HRS Chapter 329 after the expiration of 30 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 HRS Section 329-11(d), the control shall be temporary and, if the next regular session of the Legislature has not made the corresponding changes in this chapter, the temporary designation of the added, deleted, or rescheduled substance shall be nullified.

Departmental Recommendation

The Department of Public Safety was notified by means of the Code of Federal Regulations that, on April 4, 2005, the substance *zopiclone (Lunesta)* was placed in Schedule IV by the federal government under 70 FR 16935. In accordance with HRS 329-11(d), if a substance is added, deleted, or rescheduled as a controlled substance under federal law and notice of the designation is given to the Department of Public Safety, the Department shall recommend that a corresponding change must be made in Hawaii law. The Department is therefore recommending that the controlled substance *zopiclone (Lunesta)* be listed under HRS Section 329-20 as a Schedule IV controlled substance.

Statutory Reporting Requirements – Part VI. Regulated Chemicals for the Manufacture of Controlled Substances

Part VI—Regulated Chemicals for the Manufacture of Controlled Substances, HRS Section 329-61(c) stipulates that, if a chemical is added or deleted as a regulated list 1 or list 2 chemical under federal law and notice of the designation is given to PSD, PSD may recommend that a corresponding change be made to State law. The Department shall designate the chemical as added or deleted under this chapter after the expiration of 30 days from publication in the Federal Register of a final order, and the change shall have the effect of law. If a chemical is added or deleted under HRS Section 329-61(c), the control shall be temporary and, if the temporary designation of the added or deleted chemical is not permanently enacted in corresponding changes to this chapter at the next regular session of the Legislature, the temporary designation shall be nullified.

During this reporting period the Department did not receive any notification of additional chemicals added or deleted by the Federal Government that would affect Chapter 329, Part IV Hawaii Revised Statutes. However, there is an active but pending federal bill relating to the control of over-the-counter *pseudo-ephedrine* products.