

JAN 26 2009

A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 329-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Any of the following substances, except those
4 narcotic drugs listed in other schedules, whether produced
5 directly or indirectly by extraction from substances of
6 vegetable origin, or independently by means of chemical
7 synthesis, or by combination of extraction and chemical
8 synthesis:

9 (1) Opium and opiate, and any salt, compound, derivative,
10 or preparation of opium or opiate, including the
11 following:

- 12 (A) Raw opium;
13 (B) Opium extracts;
14 (C) Opium fluid;
15 (D) Powdered opium;
16 (E) Granulated opium;
17 (F) Codeine;

(G) Ethylmorphine;

(H) Etorphine hydrochloride;

(I) Hydrocodone;

(J) Hydromorphone;

(K) Metopon;

(L) Morphine;

(M) Oxycodone;

(N) Oxymorphone; [and]

(O) Thebaine;

(P) Dihydroetorphine;

(Q) Oripavine; and

(R) Tincher of opium.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances,

1 but not including decocanized coca leaves or
2 extractions which do not contain cocaine or ecgonine;
3 cocaine or any salt or isomer thereof; and

4 (5) Concentrate of poppy straw (the crude extract of poppy
5 straw in either liquid, solid, or powder form that
6 contains the phenanthrene alkaloids of the opium
7 poppy)."

8 SECTION 2. Section 329-16, Hawaii Revised Statutes, is
9 amended by amending subsection (e) to read as follows:

10 "(e) Stimulants. Any material, compound, mixture, or
11 preparation which contains any quantity of the following
12 substances having a danger or probable danger associated with a
13 stimulant effect on the central nervous system:

14 (1) Amphetamine, its salts, optical isomers, and salts of
15 its optical isomers;

16 (2) Any substance which contains any quantity of
17 methamphetamine, including its salts, isomers, and
18 salts of isomers;

19 (3) Phenmetrazine and its salts; ~~and~~

20 (4) Methylphenidate[-]; and

21 (5) Lisdexamfetamine, its salts, isomers, and salts of its
22 isomers."

SECTION 3. Section 329-18, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Any anabolic steroid. The term "anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone;
- (2) Clostebol (4-Chlorotestosterone);
- (3) Dehydrochlormethyltestosterone;
- (4) Dihydrotestosterone (4-dihydrotestosterone);
- (5) Drostanolone;
- (6) Ethylestrenol;
- (7) Fluoxymesterone;
- (8) Formebolone (Formyldienolone);
- (9) Mesterolone;
- (10) Methandranone;
- (11) Methandriol;
- (12) Methandrostenolone (Methandienone);
- (13) Methenolone;
- (14) Methyltestosterone;
- (15) Mibolerone;

- 1 (16) Nandrolone;
- 2 (17) Norethandrolone;
- 3 (18) Oxandrolone;
- 4 (19) Oxymesterone;
- 5 (20) Oxymetholone;
- 6 (21) Stanolone (Dihydrotestosterone);
- 7 (22) Stanozolol;
- 8 (23) Testolactone;
- 9 (24) Testosterone;
- 10 (25) Trenbolone; [~~and~~]
- 11 (26) 3[beta], 17-dihydroxy-5a-androstane;
- 12 (27) 3[alpha], 17[beta]-dihydroxy-5a-androstane;
- 13 (28) 5[alpha]-androstane-3, 17-dione;
- 14 (29) 1-androstenediol (3[beta], 17[beta]-dihydroxy-
- 15 5[alpha]-androst-1-ene);
- 16 (30) 1-androstenediol (3[alpha], 17[beta]-dihydroxy-
- 17 5[alpha]-androst-1-ene);
- 18 (31) 4-androstenediol (3[beta], 17[beta]-dihydroxy-
- 19 androst-4-ene);
- 20 (32) 5-androstenediol (3[beta], 17[beta]-dihydroxy-
- 21 androst-5-ene);

- 1 (33) 1-androstenedione ([5[alpha]]-androst-1-en-3, 17-
2 dione);
- 3 (34) 4-androstenedione (androst-4-en-3, 17-dione);
- 4 (35) 5-androstenedione (androst-5-en-3, 17-dione);
- 5 (36) Bolasterone (7[alpha], 17[alpha]-dimethyl-
6 17[beta]-hydroxyandrost-4-en-3-one);
- 7 (37) Calusterone (7[beta], 17[alpha]-dimethyl-17[beta]-
8 hydroxyandrost-4-en-3-one);
- 9 (38) [Delta]1-dihydrotestosterone (a.k.a. '1-
10 testosterone') (17[beta]-hydroxy-5[alpha]-androst-
11 1-en-3-one);
- 12 (39) Furazabol (17[alpha]-methyl-17[beta]-
13 hydroxyandrostano[2,3-c]-furazan);
- 14 (40) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;
- 15 (41) 4-hydroxytestosterone (4,17[beta]-dihydroxy-
16 androst-4-en-3-one);
- 17 (42) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-
18 estr-4-en-3-one);
- 19 (43) Mesterolone (1[alpha]methyl-17[beta]-hydroxy-
20 [5[alpha]]-androstan-3-one);
- 21 (44) Methandienone (17[alpha]-methyl-17[beta]-
22 hydroxyandrost-1,4-dien-3-one);

- 1 (45) Methandriol (17[alpha]-methyl-3[beta],17[beta]-
2 dihydroxyandrost-5-ene);
- 3 (46) Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-
4 androst-1-en-3-one);
- 5 (47) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxy-5a-
6 androstane;
- 7 (48) 17[alpha]-methyl-3[alpha], 17[beta]-dihydroxy-5a-
8 androstane;
- 9 (49) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-4-
10 ene;
- 11 (50) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-
12 methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);
- 13 (51) Methyldienolone (17[alpha]-methyl-17[beta]-
14 hydroxyestra-4,9(10)-dien-3-one);
- 15 (52) Methyltrienolone (17[alpha]-methyl-17[beta]-
16 hydroxyestra-4, 9-11-trien-3-one);
- 17 (53) 17[alpha]-methyl-[Delta]1-dihydrotestosterone
18 (17b[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-
19 1-en-3-one) (a.k.a. '17-[alpha]-methyl-1-
20 testosterone');
- 21 (54) 19-nor-4-androstenediol (3[beta], 17[beta]-
22 dihydroxyestr-4-ene);

- 1 (55) 19-nor-4-androstenediol (3[alpha], 17[beta]-
2 dihydroxyestr-4-ene);
- 3 (56) 19-nor-5-androstenediol (3[beta], 17[beta]-
4 dihydroxyestr-5-ene);
- 5 (57) 19-nor-5-androstenediol (3[alpha], 17[beta]-
6 dihydroxyestr-5-ene);
- 7 (58) 19-nor-4-androstenedione (estr-4-en-3, 17-dione);
- 8 (59) 19-nor-5-androstenedione (estr-5-en-3, 17-dione;
9 (60) Norbolethone (13[beta], 17[alpha]-diethyl-
10 17[beta]-hydroxygon-4-en-3-one);
- 11 (61) Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-
12 3-one);
- 13 (62) Normethandrolone (17[alpha]-methyl-17[beta]-
14 hydroxyestr-4-en-3-one);
- 15 (63) Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-
16 androst-1-en-3-one);
- 17 (64) Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-
18 17[beta]-hydroxygon-4,9,11-trien-3-one); and
- 19 ~~[(26+)]~~ (65) Any salt, ester, or isomer of a drug or
20 substance described or listed in this subsection,
21 if that salt, ester, or isomer promotes muscle
22 growth, except the term "anabolic steroid" does not

1 include an anabolic steroid which is expressly
2 intended for administration through implants to
3 cattle or other nonhuman species and which has been
4 approved by the Secretary of Health and Human
5 Services for nonhuman administration. If any
6 person prescribes, dispenses, or distributes an
7 anabolic steroid intended for administration to
8 nonhuman species for human use, the person shall be
9 considered to have prescribed, dispensed, or
10 distributed an anabolic steroid within the meaning
11 of this paragraph."

12 SECTION 4. Section 329-33, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The department of public safety shall register an
15 applicant to manufacture, dispense, prescribe, or distribute
16 controlled substances included in sections 329-14, 329-16,
17 329-18, 329-20, and 329-22 unless it determines that the
18 issuance of that registration would be inconsistent with the
19 public interest. In determining the public interest, the
20 department of public safety shall consider the following
21 factors:

- (1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
- (2) Compliance with applicable state and local law;
- (3) Any convictions of the applicant under any federal and state laws relating to any controlled substance;
- (4) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
- (5) Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
- (6) Suspension ~~[or]~~, revocation, or surrender of the applicant's federal registration to manufacture, distribute, prescribe, or dispense controlled substances as authorized by federal law; and
- (7) Any other factor relevant to and consistent with the public health and safety."

SECTION 5. Section 329-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A registration under section 329-33 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department of public safety upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this chapter;

(2) Has been convicted of a felony or has been granted a motion for the deferral of acceptance of a guilty plea or a nolo contendere plea to a felony, pursuant to chapter 853 and under any state or federal law relating to any controlled substance;

(3) Has had the registrant's federal registration suspended or revoked to manufacture, distribute, prescribe, or dispense controlled substances; [or]

(4) Has been requested to surrender the registrant's federal registration to manufacture, distribute, prescribe, or dispense controlled substances by the Drug Enforcement Administration; or

1 [~~(4)~~] (5) Has had the registrant's state license to
2 practice the registrant's profession suspended or
3 revoked by the applicable governing state board."

4 SECTION 6. Section 329-38, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) The transfer of original prescription information for
7 a controlled substance listed in schedule III, IV, or V for the
8 purpose of [~~refill~~] dispensing is permissible between pharmacies
9 on a one time basis[~~, subject to the following requirements:~~]
10 only. However, pharmacies electronically sharing a real-time,
11 online database may transfer up to the maximum refills permitted
12 by law and the prescriber's authorization. Transfers are
13 subject to the following requirements:

14 (1) The transfer shall be communicated directly between
15 two licensed pharmacists, and the transferring
16 pharmacist shall:

17 (A) Write or otherwise place the word "VOID" on the
18 face of the invalidated prescription;

19 (B) Record on the reverse of the invalidated
20 prescription the name, address, and DEA
21 registration number of the pharmacy to which it

1 was transferred and the name of the pharmacist
2 receiving the prescription information; and

3 (C) Record the date of the transfer and the name of
4 the pharmacist transferring the information;

5 (2) The pharmacist receiving the transferred prescription
6 information shall[+] reduce to writing the following:

7 (A) Write or otherwise place the word "transfer" on
8 the face of the transferred prescription;

9 (B) Record all information required to be on a
10 prescription, including:

11 (i) The date of issuance of original
12 prescription;

13 (ii) The original number of refills authorized on
14 original prescription;

15 (iii) The date of original dispensing;

16 (iv) The number of valid refills remaining and
17 ~~[date of last refill;]~~ dates and locations
18 of previous refills;

19 (v) The pharmacy's name, address, DEA
20 registration number, and original
21 prescription number from which the

prescription information was transferred;

[and]

(vi) The name of transferor pharmacist; and

(vii) The pharmacy's name, address, and DEA

registration number, along with the

prescription number from which the

prescription was originally filled.

(3) Both the original and transferred prescription shall be maintained for a period of five years from the date of last refill;

~~[(4) The procedure allowing the transfer of prescription information for refill purposes is permissible only between pharmacies located on the same island in this State,] and~~

~~[+5)]~~ (4) Any pharmacy electronically accessing a prescription record shall satisfy all information requirements of a manual mode prescription transferal.

Failure to comply with this subsection shall void the authority of the pharmacy to transfer prescriptions or receive a transferred prescription to or from another pharmacy."

SECTION 7. Section 329-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

1 "(a) It is unlawful for any person:

2 (1) Who is subject to part III to distribute, administer,
3 prescribe, or dispense a controlled substance in
4 violation of section 329-38 or rules authorized under
5 section 329-31; however, a licensed manufacturer or
6 wholesaler may sell or dispense a controlled substance
7 to a master of a transpacific ship or a person in
8 charge of a transpacific aircraft upon which no
9 physician is regularly employed, for the actual
10 medical needs of persons on board such ship or
11 aircraft when not in port; provided schedule I or II
12 controlled substances shall be sold to the master of
13 such ship or person in charge of such aircraft only in
14 accordance with the provisions set forth in 21 Code of
15 Federal Regulations, Sections 1301, 1305, and 1307,
16 adopted pursuant to Title 21, United States Code,
17 Section 821;

18 (2) Who is a registrant to manufacture a controlled
19 substance not authorized by the registrant's
20 registration or to distribute or dispense a controlled
21 substance not authorized by the registrant's

1 registration to another registrant or another
2 authorized person;

3 (3) To refuse or fail to make available, keep, or furnish
4 any record, notification, order form, prescription,
5 statement, invoice, or information in patient charts
6 relating to the administration, dispensing, or
7 prescribing of controlled substances;

8 (4) To refuse any lawful entry into any premises for any
9 inspection authorized by this chapter;

10 (5) Knowingly to keep or maintain any store, shop,
11 warehouse, dwelling, building, vehicle, boat,
12 aircraft, or other structure or place for the purpose
13 of using these substances or which is used for keeping
14 or selling them in violation of this chapter or
15 chapter 712, part IV;

16 (6) Who is a practitioner or pharmacist to dispense a
17 controlled substance to any individual not known to
18 the practitioner or pharmacist, without first
19 obtaining proper identification and documenting[~~by~~
20 ~~signature on a log book kept by the practitioner or~~
21 ~~pharmacist, the identity of and the type of~~
22 ~~identification presented by]~~ in a log book the full

1 name, identification number, identification type, and
2 signature of the individual obtaining the controlled
3 substance. If the individual does not have any form
4 of proper identification, the pharmacist shall verify
5 the validity of the prescription and identity of the
6 patient with the prescriber, or their authorized
7 agent, before dispensing the controlled substance.

8 For the purpose of this section, "proper
9 identification" means government-issued identification
10 containing the photograph, printed name,
11 identification number, and signature of the individual
12 obtaining the controlled substance;

13 (7) Who is a practitioner to predate or pre-sign
14 prescriptions to facilitate the obtaining or attempted
15 obtaining of controlled substances; or

16 (8) Who is a practitioner to facilitate the issuance or
17 distribution of a written prescription or to issue an
18 oral prescription for a controlled substance when not
19 physically in the State."

20 SECTION 8. Section 329-52, Hawaii Revised Statutes, is
21 amended to read as follows:

1 "**§329-52 Administrative inspections** [~~and warrants~~]. [~~(a)~~—

2 ~~Issuance and execution of administrative inspection warrants~~

3 ~~shall be as follows:~~

4 ~~(1) A judge of the circuit court, or any district judge~~
5 ~~within the judge's jurisdiction, and upon proper oath~~
6 ~~or affirmation showing probable cause, may issue~~
7 ~~warrants for the purpose of conducting administrative~~
8 ~~inspections authorized by this chapter or rules~~
9 ~~hereunder, and seizures of the property appropriate to~~
10 ~~the inspections. For purposes of the issuance of~~
11 ~~administrative inspection warrants, probable cause~~
12 ~~exists upon showing a valid public interest in the~~
13 ~~effective enforcement of this chapter or rules~~
14 ~~hereunder, sufficient to justify administrative~~
15 ~~inspection of the area, premises, building or~~
16 ~~conveyance in the circumstances specified in the~~
17 ~~application for the warrant,~~

18 ~~(2) A warrant shall issue only upon an affidavit of a~~
19 ~~designated officer or employee having knowledge of the~~
20 ~~facts alleged, sworn to before the judge and~~
21 ~~establishing the grounds for issuing the warrant. If~~
22 ~~the judge is satisfied that grounds for the~~

1 ~~application exist or that there is probable cause to~~
2 ~~believe they exist, the judge shall issue a warrant~~
3 ~~identifying the area, premises, building, or~~
4 ~~conveyance to be inspected, the purpose of the~~
5 ~~inspection, and, if appropriate, the type of property~~
6 ~~to be inspected, if any. The warrant shall:~~

7 ~~(A) State the grounds for its issuance and the name~~
8 ~~of each person whose affidavit has been taken in~~
9 ~~support thereof;~~

10 ~~(B) Be directed to a person authorized by section~~
11 ~~329-51 to execute it;~~

12 ~~(C) Command the person to whom it is directed to~~
13 ~~inspect the area, premises, building, or~~
14 ~~conveyance identified for the purpose specified~~
15 ~~and, if appropriate, direct the seizure of the~~
16 ~~property specified;~~

17 ~~(D) Identify the item or types of property to be~~
18 ~~seized, if any;~~

19 ~~(E) Direct that it be served during normal business~~
20 ~~hours and designate the judge to whom it shall be~~
21 ~~returned;~~

1 ~~(3) A warrant issued pursuant to this section must be~~
2 ~~executed and returned within ten days of its date~~
3 ~~unless, upon a showing of a need for additional time,~~
4 ~~the court orders otherwise. If property is seized~~
5 ~~pursuant to a warrant, a copy shall be given to the~~
6 ~~person from whom or from whose premises the property~~
7 ~~is taken, together with a receipt for the property~~
8 ~~taken. The return of the warrant shall be made~~
9 ~~promptly, accompanied by a written inventory of any~~
10 ~~property taken. The inventory shall be made in the~~
11 ~~presence of the person executing the warrant and of~~
12 ~~the person from whose possession or premises the~~
13 ~~property was taken, if present, or in the presence of~~
14 ~~at least one credible person other than the person~~
15 ~~executing the warrant. A copy of the inventory shall~~
16 ~~be delivered to the person from whom or from whose~~
17 ~~premises the property was taken and to the applicant~~
18 ~~for the warrant,~~

19 ~~(4) The judge who has issued a warrant shall attach~~
20 ~~thereto a copy of the return and all papers returnable~~
21 ~~in connection therewith and file them with the chief~~

1 ~~clerk of the judicial circuit in which the inspection~~
2 ~~was made.~~

3 ~~(b) The department of public safety may make~~
4 ~~administrative inspections of controlled premises in accordance~~
5 ~~with the following provisions:~~

6 ~~(1) For purposes of this section only, "controlled~~
7 ~~premises" means:~~

8 ~~(A) Places where persons registered or exempted from~~
9 ~~registration requirements under this chapter are~~
10 ~~required to keep records; and~~

11 ~~(B) Places including factories, warehouses,~~
12 ~~establishments, and conveyances in which persons~~
13 ~~registered or exempted from registration~~
14 ~~requirements under this chapter are permitted to~~
15 ~~hold, manufacture, compound, process, sell,~~
16 ~~deliver, or otherwise dispose of any controlled~~
17 ~~substance.~~

18 ~~(2) When authorized by an administrative inspection~~
19 ~~warrant issued pursuant to subsection (a) an officer~~
20 ~~or employee designated by the department of public~~
21 ~~safety, upon presenting the warrant and appropriate~~
22 ~~credentials to the owner, operator, or agent in~~

1 ~~charge, may enter controlled premises for the purpose~~
2 ~~of conducting an administrative inspection.~~

3 ~~(3) When authorized by an administrative inspection~~
4 ~~warrant, an officer or employee designated by the~~
5 ~~department of public safety may:~~

6 ~~(A) Inspect and copy records required by this chapter~~
7 ~~to be kept;~~

8 ~~(B) Inspect, within reasonable limits and in a~~
9 ~~reasonable manner, controlled premises and all~~
10 ~~pertinent equipment, finished and unfinished~~
11 ~~material, containers and labeling found therein,~~
12 ~~and, except as provided in subsection (b) (5), all~~
13 ~~other things therein, including records, files,~~
14 ~~papers, processes, controls, and facilities~~
15 ~~bearing on violation of this chapter; and~~

16 ~~(C) Inventory any stock of any controlled substance~~
17 ~~therein and obtain samples thereof.~~

18 ~~(4) This section does not prevent the inspection without a~~
19 ~~warrant of books and records pursuant to an~~
20 ~~administrative subpoena issued in accordance with law,~~
21 ~~nor does it prevent entries and administrative~~

1 ~~inspections, including seizures of property, without a~~
2 ~~warrant.~~

3 ~~(A) If the owner, operator, or agent in charge of the~~
4 ~~controlled premises consents;~~

5 ~~(B) In situations presenting imminent danger to~~
6 ~~health or safety;~~

7 ~~(C) In situations involving inspection of conveyances~~
8 ~~if there is reasonable cause to believe that the~~
9 ~~mobility of the conveyance makes it impracticable~~
10 ~~to obtain a warrant;~~

11 ~~(D) In any other exceptional or emergency~~
12 ~~circumstance where time or opportunity to apply~~
13 ~~for a warrant is lacking; or~~

14 ~~(E) In all other situations in which a warrant is not~~
15 ~~constitutionally required.~~

16 ~~(5) An inspection authorized by this section shall not~~
17 ~~extend to financial data, sales data, other than~~
18 ~~shipment data, or pricing data unless the owner,~~
19 ~~operator, or agent in charge of the controlled~~
20 ~~premises consents in writing.]~~

21 (a) The administrator or any of the administrator's agents may
22 make administrative inspections of controlled premises upon

1 presenting appropriate credentials to the registrant or persons
2 subject to parts III, IV, VIII, and IX of this chapter or their
3 agents in accordance with the following provisions:

4 (1) Inspections shall be at reasonable times and within
5 reasonable limits and in a reasonable manner of
6 controlled premises and vehicles in which persons
7 registered or exempted from registration requirements
8 under this chapter are permitted to hold, manufacture,
9 compound, process, sell, dispense, deliver, or
10 otherwise dispose of any controlled substance or
11 regulated chemical designated under section 329-61 and
12 all pertinent equipment, finished and unfinished
13 materials, containers, and labeling therein to
14 determine if this chapter is being violated;

15 (2) The administrator or any of the administrator's agents
16 shall have access to and may copy any and all records,
17 books, logs, or documents pertaining to the
18 administering, prescribing, dispensing, or sale of
19 controlled substances or regulated chemicals
20 designated under this chapter without a warrant; and

21 (3) The administrator or any of the administrator's agents
22 may inventory any stock of any controlled substance or

1 regulated chemical designated under section 329-61 and
2 secure samples or specimens of any drug, device, or
3 chemical not seized as evidence by paying or offering
4 to pay for the sample. The administrator shall make
5 or cause to be made examinations of samples secured
6 under this section to determine whether or not this
7 chapter is being violated.

8 (b) An inspection of records authorized by this section
9 shall not extend to financial data, data relating to pricing of
10 items, other than shipment and sale amounts, unless the owner,
11 operator, or agent in charge of the controlled premises consents
12 in writing.

13 (c) For purposes of this section, "controlled premises"
14 means:

15 (1) Places where persons registered or exempted from
16 registration requirements under this chapter are
17 required to keep records; and

18 (2) Places, including factories, warehouses,
19 establishments, and conveyances in which persons
20 registered or exempted from registration requirements
21 under this chapter are permitted to hold, manufacture,
22 compound, process, sell, dispense, deliver, or

Report Title:

Controlled Substances

Description:

Makes Hawaii's controlled substance laws consistent with that of federal law and clarifies sections of chapter 329 relating to controlled substances.

JUSTIFICATION SHEET

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES.

PURPOSE: Update chapter 329, Hawaii Revised Statutes, (HRS), to include amendments made to the federal Controlled Substance Act; clarify sections of chapter 329 relating to the issuance, revocation, and suspension of a registrants controlled substance registration; clarify sections of chapter 329, HRS, relating to the filling of controlled substances prescriptions; amend violations in prohibited acts B penalties; and amend the procedures for administrative inspections of registrants.

MEANS: Amend sections 329-16(b) and (e), 329-18(g), 329-33(a), 329-34(a), 329-38(c), 329-41(a), and 329-52, Hawaii Revised Statutes.

JUSTIFICATION: Proposed amendments to chapter 329, HRS, will accomplish the following:

- (1) Conform Hawaii's Controlled Substance Act (Chapter 329, HRS) with the federal Controlled Substance Act, Title 21, Chapter II, Part 1308.12(b) and (c), by adding the narcotic drugs Dihydroetorphine, Oripavine and Tincher of opium to Schedule II, as required by section 329-11(d), HRS.
- (2) Conform Hawaii's Controlled Substance Act (Chapter 329, HRS) with the federal Controlled Substance Act Title 21, Chapter II, Part 1308.12(d) by adding the stimulant drug Lisdexamfetamine to Schedule II, as required by section 329-11(d), HRS.
- (3) Conform Hawaii's Controlled Substance Act (Chapter 329, HRS) with the federal Controlled Substance Act Title 21, Chapter II, Part 1308.13(f) by adding the following list of Anabolic Steroids to Schedule III, as required by section 329-11(d), HRS:

3[beta], 17-dihydroxy-5a-androstane;
3[alpha], 17[beta]-dihydroxy-5a-
androstane;
5[alpha]-androstan-3, 17-dione;
1-androstenediol (3[beta], 17[beta]-
dihydroxy-5[alpha]-androst-1-ene);
1-androstenediol (3[alpha], 17[beta]-
dihydroxy-5[alpha]-androst-1-ene);
4-androstenediol (3[beta], 17[beta]-
dihydroxy-androst-4-ene);
5-androstenediol (3[beta], 17[beta]-
dihydroxy-androst-5-ene);
1-androstenedione ([5[alpha]]-androst-1-
en-3, 17-dione);
4-androstenedione (androst-4-en-3, 17-
dione);
5-androstenedione (androst-5-en-3, 17-
dione);
Bolasterone (7[alpha], 17[alpha]-
dimethyl-17[beta]-hydroxyandrost-4-
en-3-one);
Calusterone (7[beta], 17[alpha]-
dimethyl-17[beta]-hydroxyandrost-4-
en-3-one);
[Delta]1-dihydrotestosterone (a.k.a. '1-
testosterone') (17[beta]-hydroxy-
5[alpha]-androst-1-en-3-one);
Furazabol (17[alpha]-methyl-17[beta]-
hydroxyandrostano[2, 3-c]-furazan);
13[beta]-ethyl-17[beta]-hydroxygon-4-en-
3-one;
4-hydroxytestosterone (4, 17[beta]-
dihydroxy-androst-4-en-3-one);
4-hydroxy-19-nortestosterone (4,
17[beta]-dihydroxy-estr-4-en-3-one);
Mesterolone (1[alpha]methyl-17[beta]-
hydroxy-[5[alpha]]-androstan-3-one);
Methandienone (17[alpha]-methyl-
17[beta]-hydroxyandrost-1, 4-dien-3-
one);
Methandriol (17[alpha]-methyl-3[beta],
17[beta]-dihydroxyandrost-5-ene);
Methenolone (1-methyl-17[beta]-hydroxy-
5[alpha]-androst-1-en-3-one);
17[alpha]-methyl-3[beta], 17[beta]-
dihydroxy-5a-androstane;
17[alpha]-methyl-3[alpha], 17[beta]-
dihydroxy-5a-androstane;
17[alpha]-methyl-3[beta], 17[beta]-
dihydroxyandrost-4-ene;

- 17[alpha]-methyl-4-hydroxynandrolone
(17[alpha]-methyl-4-hydroxy-17[beta]-
hydroxyestr-4-en-3-one);
Methyldienolone (17[alpha]-methyl-
17[beta]-hydroxyestra-4, 9(10)-dien-
3-one);
Methyltrienolone (17[alpha]-methyl-
17[beta]-hydroxyestra-4, 9-11-trien-
3-one);
17[alpha]-methyl-[Delta]1-
dihydrotestosterone (17b[beta]-
hydroxy-17[alpha]-methyl-5[alpha]-
androst-1-en-3-one) (a.k.a. '17-
[alpha]-methyl-1-testosterone');
19-nor-4-androstenediol (3[beta],
17[beta]-dihydroxyestr-4-ene);
19-nor-4-androstenediol (3[alpha],
17[beta]-dihydroxyestr-4-ene);
19-nor-5-androstenediol (3[beta],
17[beta]-dihydroxyestr-5-ene);
19-nor-5-androstenediol (3[alpha],
17[beta]-dihydroxyestr-5-ene);
19-nor-4-androstenedione (estr-4-en-
3,17-dione);
19-nor-5-androstenedione (estr-5-en-
3,17-dione);
Norbolethone (13[beta], 17[alpha]-
diethyl-17[beta]-hydroxygon-4-en-3-
one);
Norclostebol (4-chloro-17[beta]-
hydroxyestr-4-en-3-one);
Normethandrolone (17[alpha]-methyl-
17[beta]-hydroxyestr-4-en-3-one);
Stenbolone (17[beta]-hydroxy-2-methyl-
[5[alpha]]-androst-1-en-3-one);
Tetrahydrogestrinone (13[beta],
17[alpha]-diethyl-17[beta]-
hydroxygon-4, 9, 11-trien-3-one).
- (4) Clarify in sections 329-33 and 329-34
that if a practitioner during a DEA
investigation surrenders the
practitioner's Federal controlled
substance registration then the
practitioner's State registration shall
be suspended.
- (5) Amend section 329-38 relating to refills
of schedule III through V controlled
substance prescriptions. The amendment
would allow retail pharmacies that
electronically share the same real time,

on line database to transfer up to the maximum number of refills. Section 329-38 is also amended to allow a pharmacy to transfer a refill for a controlled substance between islands.

- (6) Clarify the requirement for a pharmacy to verify the identity of the individual picking up the controlled substance by documenting, by signature on a logbook kept by the practitioner or pharmacist, recording the full name, type and adds the requirement of listing the identification number on the identification. This is necessary to better identify the person picking up the controlled substance.
- (7) Amend section 329-52, relating to administrative inspections and warrants, to conform to existing language in section 328-23, relating to inspections of registrants that administer, prescribe or dispense drugs.

Impact on the public: Protect the public by updating Hawaii's controlled substance schedules as well as assist pharmacist and physicians in better serving their patients by streamlining the requirements for dispensing controlled substances.

Impact on the department and other agencies: These proposed amendments would assist the Department's Narcotics Enforcement Division in clarifying regulations of the Uniform Controlled Substances Act.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGATION: PSD 502.

OTHER AFFECTED
AGENCIES: Department of Health, Food and Drug
Branch.

EFFECTIVE DATE: Upon approval.