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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HEALTH'S AUTHORITY TO REGULATE FOOD, DRUGS, and COSMETICS.

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

1        SECTION 1. The purpose of this Act is to relocate from  
2 chapter 321, Hawaii Revised Statutes, the department of health's  
3 authority to regulate the manufacture, sale, holding for sale,  
4 and distribution of food, and transfer this same authority under  
5 chapter 328, Hawaii Revised Statutes, where duplicative  
6 authority currently resides such that all of the relevant  
7 authority will then be consolidated into one chapter. This will  
8 improve the safety of food, drugs, and cosmetics, and facilitate  
9 the development of food and related goods made and sold in  
10 Hawaii by clarifying the department's legal authority pertaining  
11 to the regulation of food, drugs, and cosmetics as it relates to  
12 food safety and public health.

13       To this end, conforming amendments are made to chapter 328,  
14 Hawaii Revised Statutes, including the addition of authority  
15 respecting the collection and disposition of fees and penalties,  
16 and the adoption of rules related to the issuance of permits and  
17 variances. The consolidation of the department's regulatory

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1 authority into one chapter will support the efficient  
2 administration of the department's retail-focused program, the  
3 food safety branch, and the regulation by the department of  
4 higher volume food manufacturing and wholesale distribution by  
5 its food and drug branch, both of which will be governed by  
6 chapter 328 and the rules adopted thereto.

7 SECTION 2. Chapter 328, Hawaii Revised Statutes, is  
8 amended by adding a new part to be appropriately designated and  
9 to read as follows:

10 "PART . FOOD SAFETY CONSULTATIVE AND EDUCATION PROGRAM

11 §328- **Food safety consultative and education program.**

12 (a) There is established the food safety consultative and  
13 education program within the department. The department may  
14 place this program within any appropriate division.

15 (b) The program shall be managed and staffed by persons  
16 who are trained and experienced in public health aspects of  
17 food, including food science, foodborne disease epidemiology,  
18 food microbiology, and food sanitation.

19 (c) Generic food safety information gained from studies  
20 conducted as part of the program may be shared with foodhandlers  
21 in certification workshops and food safety classes.

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1       **§328-**       **Food safety control system.** The department may  
2       conduct studies using the hazard analysis critical control  
3       points system after foodborne disease outbreak investigations  
4       are completed by the department or when requested by food  
5       service operators.

6       **§328-**       **Public information monitoring system.** Within the  
7       program, the department shall investigate foodhandling practices  
8       which appear to represent poor food safety techniques, and shall  
9       develop ways in which the public can gain information on food  
10       safety and can report practices that appear to represent poor  
11       food safety techniques."

12       SECTION 3. Chapter 328, Hawaii Revised Statutes, is  
13       amended by adding to part I four new sections to be  
14       appropriately designated and to read as follows:

15       "**§328-**       **Producers of hand-pounded poi; exemption.** A  
16       producer of hand-pounded poi shall not be required to process  
17       poi in a certified food-processing establishment or be required  
18       to obtain a permit from the department, if the producer:  
19               (1)       Sells hand-pounded poi directly to consumers;  
20               (2)       Prepares hand-pounded poi adjacent to permanent or  
21               temporary hand-washing facilities; and

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1        (3) Complies with rules adopted by the department to  
2                    protect the health and safety of the public.  
3                    The department shall adopt rules pursuant to section 91 to  
4                    effectuate this section.

5        **§328- Agricultural processing facilities; permits;**  
6        **priority.** (a) Any agency subject to this chapter or title 19  
7                    that issues permits shall establish and implement a procedure  
8                    for the priority processing of permit applications and renewals,  
9                    at no additional cost to the applicant, for agricultural  
10                  processing facilities that process crops or livestock from an  
11                  agribusiness; provided that the majority of the lands held,  
12                  owned, or used by the agribusiness shall be land designated as  
13                  important agricultural lands pursuant to part III of chapter  
14                  205, excluding lands held, owned, or used by the agribusiness in  
15                  a conservation district.

16                  Any priority permit processing procedure established  
17                  pursuant to this section shall not provide or imply that any  
18                  permit application filed under the priority processing procedure  
19                  shall be automatically approved.

20        (b) As used in this section, "agribusiness" means a  
21                  business primarily engaged in the care and production of  
22                  livestock, livestock products, poultry, poultry products,

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1 apiary, horticultural or floricultural products, the planting,  
2 cultivating, and harvesting of crops or trees, or the farming or  
3 ranching of any plant or animal species in a controlled salt,  
4 brackish, or fresh water environment.

5 §328- Food safety and environmental health special  
6 fund. (a) There is established within the department the food  
7 safety and environmental health special fund into which shall be  
8 deposited all moneys collected from fees for permits, licenses,  
9 inspections, various certificates, variances, investigations,  
10 and reviews, pursuant to this chapter.

11 (b) Moneys in the fund shall be expended by the department  
12 to partially fund the operating costs of program activities and  
13 functions authorized pursuant to this chapter to enhance the  
14 capacity of food safety and environmental health programs to:

15 (1) Improve public outreach efforts and consultations to  
16 regulated businesses and industries;  
17 (2) Educate the public, staff, and regulated businesses  
18 and industries;  
19 (3) Plan for future growth and expansion to meet emerging  
20 needs;  
21 (4) Provide training opportunities to ensure the  
22 maintenance of professional competence among food

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safety and environmental health staff and  
administrators; and

(5) Conduct program activities and functions of the food  
safety, food and drug, and environmental health  
programs, including permit issuance, inspections, and  
enforcement and the hiring of additional inspectors;  
provided that for these programs, not more than  
\$140,000 of the fund may be used during any fiscal year  
for fund administration, including the hiring of not  
more than two full-time equivalent personnel, and the  
purchase of office and electronic equipment.

(c) Any amount in the fund in excess of \$1,500,000 on June  
30 of each year shall be deposited into the general fund.

(d) The department shall submit a report to the  
legislature concerning the status of the food safety and  
environmental health special fund, including:

(1) The amount of moneys taken in by and expended from the  
fund; and

(2) The sources of receipts and uses of expenditures, not  
less than twenty days prior to the convening of each  
regular session.

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1        **§328- Audit of food safety and food and drug programs.**

2        The department shall perform annual audits of the food safety  
3        and food and drug programs to be completed by November 30 of  
4        each year, and shall include an audit of:

5        (1) Fees collected;  
6        (2) The number and results of inspections;  
7        (3) The number of training seminars held; and  
8        (4) The cost of training personnel in the food safety and  
9        food and drug programs."

10       SECTION 4. Section 321-11, Hawaii Revised Statutes, is  
11       amended to read as follows:

12       "**§321-11 Subjects of health rules, generally.** The  
13       department of health pursuant to chapter 91 may adopt rules that  
14       it deems necessary for the public health and safety respecting:

15       (1) Nuisances, foul or noxious odors, gases, vapors,  
16       waters in which mosquitoes breed or may breed, sources  
17       of filth, and causes of sickness or disease, within  
18       the respective districts of the State, and on board  
19       any vessel;

20       [(2) ~~Adulteration and misbranding of food or drugs;~~  
21       (3) ] (2) Location, air space, ventilation, sanitation,  
22       drainage, sewage disposal, and other health conditions

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1                   of buildings, courts, construction projects,  
2                   excavations, pools, watercourses, areas, and alleys.  
3                   For purposes of this paragraph, "pool" means a  
4                   watertight artificial structure containing a body of  
5                   water that does not exchange water with any other body  
6                   of water, either naturally or mechanically, and is  
7                   used for swimming, diving, recreational bathing, or  
8                   therapy by humans;

9                   [+4] (3) Privy vaults and cesspools;

10                  [+5] (4) Fish and fishing;

11                  [+6] (5) Interments and dead bodies;

12                  [+7] (6) Disinterments of dead human bodies, including  
13                   the exposing, disturbing, or removing of these bodies  
14                   from their place of burial, or the opening, removing,  
15                   or disturbing after due interment of any receptacle,  
16                   coffin, or container holding human remains or a dead  
17                   human body or a part thereof and the issuance and  
18                   terms of permits for the aforesaid disinterments of  
19                   dead human bodies;

20                  [+8] (7) Cemeteries and burying grounds;

21                  [+9] (8) Laundries, and the laundering, sanitation, and  
22                   sterilization of articles including linen and uniforms

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1 used by or in the following businesses and  
2 professions: barber shops, manicure shops, beauty  
3 parlors, electrology shops, restaurants, soda  
4 fountains, hotels, rooming and boarding houses,  
5 bakeries, butcher shops, public bathhouses, midwives,  
6 masseurs, and others in similar calling, public or  
7 private hospitals, and canneries and bottling works  
8 where foods or beverages are canned or bottled for  
9 public consumption or sale; provided that nothing in  
10 this chapter shall be construed as authorizing the  
11 prohibiting of laundering, sanitation, and  
12 sterilization by those conducting any of these  
13 businesses or professions where the laundering or  
14 sterilization is done in an efficient and sanitary  
15 manner;

16 [←10] (9) Hospitals, freestanding surgical outpatient  
17 facilities, skilled nursing facilities, intermediate  
18 care facilities, adult residential care homes, adult  
19 foster homes, assisted living facilities, special  
20 treatment facilities and programs, home health  
21 agencies, home care agencies, hospices, freestanding  
22 birthing facilities, adult day health centers,

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1 independent group residences, and therapeutic living  
2 programs, but excluding youth shelter facilities  
3 unless clinical treatment of mental, emotional, or  
4 physical disease or handicap is a part of the routine  
5 program or constitutes the main purpose of the  
6 facility, as defined in section 346-16 under "child  
7 caring institution". For the purpose of this  
8 paragraph, "adult foster home" has the same meaning as  
9 provided in section 321-11.2;

10 [+(11)] (10) Hotels, rooming houses, lodging houses,  
11 apartment houses, tenements, and residences for  
12 persons with developmental disabilities including  
13 those built under federal funding;

14 [+(12)] (11) Laboratories;

15 [+(13)] (12) Any place or building where noisome or noxious  
16 trades or manufacturing is carried on, or intended to  
17 be carried on;

18 [+(14)] Milk;

19 [+(15)] (13) Poisons and hazardous substances, the latter  
20 term including any substance or mixture of substances  
21 that:

22 (A) Is corrosive;

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- (B) Is an irritant;
- (C) Is a strong sensitizer;
- (D) Is inflammable; or
- (E) Generates pressure through decomposition, heat,  
or other means,

if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;

[~~(16)~~] (14) Pig and duck ranches;

[-(17)] (15) Places of business, industry, employment, and commerce, and the processes, materials, tools, machinery, and methods of work done therein; and places of public gathering, recreation, or entertainment;

[18] Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use.

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1       (19) ~~Foods, drugs, and cosmetics, and the manufacture,~~  
2       ~~compounding, processing, extracting, preparing,~~  
3       ~~storing, selling, and offering for sale, consumption,~~  
4       ~~or use of any food, drug, or cosmetic;~~  
5       (20)] (16) Device as defined in section 328-1;  
6       [+21)] (17) Sources of ionizing radiation;  
7       [+22)] (18) Medical examination, vaccination,  
8       revaccination, and immunization of school children.  
9       No child shall be subjected to medical examination,  
10      vaccination, revaccination, or immunization, whose  
11      parent or guardian objects in writing thereto on  
12      grounds that the requirements are not in accordance  
13      with the religious tenets of an established church of  
14      which the parent or guardian is a member or adherent,  
15      but no objection shall be recognized when, in the  
16      opinion of the department, there is danger of an  
17      epidemic from any communicable disease;  
18      [+23)] (19) Disinsectization of aircraft entering or within  
19      the State as may be necessary to prevent the  
20      introduction, transmission, or spread of disease or  
21      the introduction or spread of any insect or other  
22      vector of significance to health;

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1       [~~24~~] (20) Fumigation, including the process by which  
2                   substances emit or liberate gases, fumes, or vapors  
3                   that may be used for the destruction or control of  
4                   insects, vermin, rodents, or other pests, which, in  
5                   the opinion of the department, may be lethal,  
6                   poisonous, noxious, or dangerous to human life;

7        [~~25~~] (21) Ambulances and ambulance equipment;

8        [~~26~~] (22) Development, review, approval, or disapproval  
9                   of management plans submitted pursuant to the Asbestos  
10                   Hazard Emergency Response Act of 1986, Public Law 99-  
11                   519; and

12       [~~27~~] (23) Development, review, approval, or disapproval  
13                   of an accreditation program for specially trained  
14                   persons pursuant to the Residential Lead-Based Paint  
15                   Hazard Reduction Act of 1992, Public Law 102-550.

16           The department of health may require any certificates,  
17           permits, or licenses that it may deem necessary to adequately  
18           regulate the conditions or businesses referred to in this  
19           section."

20           SECTION 5. Section 328-8, Hawaii Revised Statutes, is  
21           amended to read as follows:

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1        "§328-8    **Regulations to be prescribed.**    (a)   Whenever in  
2        the judgment of the department such action will promote honesty  
3        and fair dealing in the interest of consumers, the department  
4        shall prescribe regulations fixing and establishing for any food  
5        or class of food a reasonable definition and standard of  
6        identity, or reasonable standard of quality or fill of  
7        container.   In prescribing a definition and standard of identity  
8        for any food or class of food in which optional ingredients are  
9        permitted, the department shall, for the purpose of promoting  
10      honesty and fair dealing in the interest of consumers, designate  
11      the optional ingredients which shall be named on the label.   The  
12      definitions and standards so prescribed shall conform so far as  
13      practicable to the definitions and standards promulgated under  
14      authority of the Federal Act.

15        (b)   ~~Temporary permits now or hereafter granted for~~  
16      ~~interstate shipment of experimental packs of food varying from~~  
17      ~~the requirements of federal definitions and standards of~~  
18      ~~identity are automatically effective in this State under the~~  
19      ~~conditions provided in such permits.   In addition, the director~~  
20      ~~may issue additional permits where they are necessary to the~~  
21      ~~completion or conclusiveness of an otherwise adequate~~  
22      ~~investigation and where the interests of consumers are~~

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1 safeguarded.] No person shall manufacture, produce, process,  
2 package, offer, distribute, or hold for sale any food without a  
3 permit or variance issued by the department, which shall remain  
4 valid for a period of one year unless suspended by the  
5 department, after which they shall expire unless renewed, except  
6 that no permit or variance shall be required for a producer of  
7 hand-pounded poi who sells directly to consumers, producers of  
8 homemade food products, or producers of non-time/temperature  
9 control for safety foods, as those may be defined by department  
10 rules. Such permits shall be subject to such terms and  
11 conditions as the director may prescribe.

12 (c) The director may establish rules as necessary for the  
13 enforcement of this part[-], including but not limited to the  
14 establishment and collection of fees for permits and variances.

15 The rules shall be adopted pursuant to chapter 91; except that  
16 the director may, without regard to chapter 91, establish  
17 tolerance levels and regulatory or action levels by reference to  
18 the provisions of the regulations or guidelines of the United  
19 States established in 40 Code of Federal Regulations Parts 180  
20 and 185 or the United States Food and Drug Administration  
21 Compliance Policy Guides as the regulations or guidelines become  
22 effective at any time or from time to time."

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1 SECTION 6. Section 328-21, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§328-21 Rules and regulations, hearings.** (a) Subject to  
4 chapter 91 the director may adopt and enforce such rules or  
5 regulations as the director may deem necessary for the efficient  
6 enforcement of this part. The director may make the rules or  
7 regulations prescribed under this part conform insofar as  
8 practicable with those promulgated under the Federal Act.

9 (b) The subjects of the rules may include, generally:

10 (1) Adulteration and misbranding of food or drugs;  
11 (2) Foods, drugs, and cosmetics, and the manufacture,  
12 compounding, processing, extracting, preparing,  
13 storing, selling, and offering for sale, consumption,  
14 or use of any food, drug, or cosmetic;  
15 (3) Any restaurant, theater, market, stand, shop, store,  
16 factory, building, wagon, vehicle, or place where any  
17 food, drug, or cosmetic is manufactured, compounded,  
18 processed, extracted, prepared, stored, distributed,  
19 sold, offered for sale, or offered for human  
20 consumption or use;  
21 (4) Milk; and  
22 (5) Shellfish.

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1           [+(b)] (c) Hearings authorized or required by this part  
2        shall be conducted by the director or any officer, agent, or  
3        employee designated by the director for that purpose and shall  
4        be subject to chapter 91."

5           SECTION 7. Section 321-4.5, Hawaii Revised Statutes, is  
6        repealed.

7           ["~~S321-4.5 Inspection of food establishments.~~ Inspections  
8        ~~of food establishments may be performed only by a registered~~  
9        ~~sanitarian or a food and drug inspector.~~"]

10          SECTION 8. Section 321-4.6, Hawaii Revised Statutes, is  
11        repealed.

12          ["~~S321-4.6 Advisory council on food protection practices;~~  
13        ~~created.~~ (a) There is created within the department for  
14        ~~administrative purposes only, an advisory council on food~~  
15        ~~protection practices, whose members shall be appointed by the~~  
16        ~~director of health, consisting of one representative from at~~  
17        ~~least the following:~~

18           (1) An organization representing the restaurant industry;  
19           (2) An organization representing the hotel industry;  
20           (3) An organization representing the food manufacturing  
21        industry;

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1                   (4) ~~An organization representing the food service~~  
2                   ~~industry;~~  
3                   (5) ~~A registered sanitarian from the department of health;~~  
4                   (6) ~~The University of Hawaii, food technology department;~~  
5                   (7) ~~The community college food service program;~~  
6                   (8) ~~A corporate chain restaurant doing business in Hawaii;~~  
7                   and  
8                   (9) ~~A member of the general public.~~  
9                   (10) ~~Each member shall serve for a term of three years;~~  
10                  ~~provided that the director shall initially appoint three members~~  
11                  ~~to serve for one year, three members to serve for two years, and~~  
12                  ~~three members to serve for three years. No member shall serve~~  
13                  ~~for more than two consecutive three year terms.~~  
14                  (11) ~~Vacancies occurring before the expiration of a~~  
15                  ~~member's term shall be filled by election of the council.~~  
16                  Individuals elected to fill a vacancy shall serve only for the  
17                  remainder of the unexpired term.  
18                  (12) ~~The council shall appoint from its members a~~  
19                  ~~chairperson, vice chairperson, secretary, treasurer, and any~~  
20                  ~~other officers that the council may deem necessary or desirable~~  
21                  ~~to carry out its functions.~~

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1           (e) Members shall serve without compensation, but may be  
2           reimbursed for the necessary expenses, including travel  
3           expenses, incurred in the performance of their duties.

4           (f) The council shall:

5           (1) Advise the department on sanitation issues and food  
6           protection practices;  
7           (2) Review and advise the department, in consultation with  
8           the department of the attorney general, regarding the  
9           adoption of rules relating to sanitation and food  
10           protection practices; and  
11           (3) Advise the department on the incorporation of salient  
12           provisions of the most recent version of the United  
13           States Food and Drug Administration's Model Food Code  
14           into the department's food sanitation rules."]

15           SECTION 9. Section 321-4.7, Hawaii Revised Statutes, is  
16           repealed.

17           ["**S321-4.7 Producers of hand-pounded poi; exemption.** A  
18           producer of hand-pounded poi shall not be required to process  
19           poi in a certified food processing establishment or be required  
20           to obtain a permit from the department of health, if the  
21           producer:

22           (1) Sells hand-pounded poi directly to consumers;

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1           (2) Prepares hand-pounded poi adjacent to permanent or  
2           temporary hand-washing facilities; and  
3           (3) Complies with rules adopted by the department to  
4           protect the health and safety of the public.  
5           The department shall adopt rules pursuant to section 91 to  
6           effectuate this section no later than December 31, 2011."]

7           SECTION 10. Section 321-10.5, Hawaii Revised Statutes, is  
8           repealed.

9           ["**S321-10.5 Agricultural processing facilities; permits;**  
10          **priority.** (a) Any agency subject to this chapter or title 19  
11          that issues permits shall establish and implement a procedure  
12          for the priority processing of permit applications and renewals,  
13          at no additional cost to the applicant, for agricultural  
14          processing facilities that process crops or livestock from an  
15          agribusiness; provided that the majority of the lands held,  
16          owned, or used by the agribusiness shall be land designated as  
17          important agricultural lands pursuant to part III of chapter  
18          205, excluding lands held, owned, or used by the agribusiness in  
19          a conservation district.

20           Any priority permit processing procedure established  
21          pursuant to this section shall not provide or imply that any

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1 ~~permit application filed under the priority processing procedure~~  
2 ~~shall be automatically approved.~~

3 ~~(b) As used in this section, "agribusiness" means a~~  
4 ~~business primarily engaged in the care and production of~~  
5 ~~livestock, livestock products, poultry, poultry products,~~  
6 ~~apiary, horticultural or floricultural products, the planting,~~  
7 ~~cultivating, and harvesting of crops or trees, or the farming or~~  
8 ~~ranching of any plant or animal species in a controlled salt,~~  
9 ~~brackish, or fresh water environment."~~ ]

10 SECTION 11. Section 321-11.51, Hawaii Revised Statutes, is  
11 repealed.

12 ~~[ "§321-11.51 Sanitation permits; transfer. Sanitation~~  
13 ~~permits that have not expired as of July 2, 1997, shall be~~  
14 ~~transferable upon the sale of a food establishment; provided~~  
15 ~~that such transfers are subject to the new owner agreeing to~~  
16 ~~abide by the compliance schedule of the department of health." ]~~

17 SECTION 12. Section 321-27, Hawaii Revised Statutes, is  
18 repealed.

19 ~~[ "§321-27 Sanitation and environmental health special~~  
20 ~~fund. (a) There is established within the department of health~~  
21 ~~the sanitation and environmental health special fund into which~~  
22 ~~shall be deposited all moneys collected from fees for permits,~~

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1    ~~licenses, inspections, various certificates, variances,~~  
2    ~~investigations, and reviews, pursuant to sections 321-11.5(c)~~  
3    ~~and 321-15.~~

4    ~~(b) Money in the fund shall be expended by the department~~  
5    ~~to partially fund the operating costs of program activities and~~  
6    ~~functions authorized pursuant to section 321-11 to enhance the~~  
7    ~~capacity of sanitation and environmental health programs to:~~

- 8    ~~(1) Improve public outreach efforts and consultations to~~  
9    ~~regulated businesses and industries;~~
- 10   ~~(2) Educate the public, staff, and regulated businesses~~  
11   ~~and industries;~~
- 12   ~~(3) Plan for future growth and expansion to meet emerging~~  
13   ~~needs;~~
- 14   ~~(4) Provide training opportunities to ensure the~~  
15   ~~maintenance of professional competence among~~  
16   ~~sanitation and environmental health staff and~~  
17   ~~administrators; and~~
- 18   ~~(5) Conduct program activities and functions of the~~  
19   ~~sanitation branch, including permit issuance,~~  
20   ~~inspections, and enforcement and the hiring of~~  
21   ~~additional inspectors; provided that for environmental~~  
22   ~~health programs, not more than \$140,000 of the fund~~

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1                   ~~may be used during any fiscal year for fund~~  
2                   ~~administration, including the hiring of not more than~~  
3                   ~~two full-time equivalent personnel, and the purchase~~  
4                   ~~of office and electronic equipment.~~

5                   ~~(c) Any amount in the fund in excess of \$1,500,000 on June~~  
6                   ~~30 of each year shall be deposited into the general fund.~~

7                   ~~(d) The department of health shall submit a report to the~~  
8                   ~~legislature concerning the status of the sanitation and~~  
9                   ~~environmental health special fund, including:~~

10                  ~~(1) The amount of moneys taken in by and expended from the~~  
11                  ~~fund; and~~  
12                  ~~(2) The sources of receipts and uses of expenditures, not~~  
13                  ~~less than twenty days prior to the convening of each~~  
14                  ~~regular session."~~]

15                  SECTION 13. Section 321-27.5, Hawaii Revised Statutes, is  
16                  repealed.

17                  ["~~§321-27.5 Audit of sanitation branch.~~ The department  
18                  shall perform annual audits of the sanitation branch to be  
19                  completed by November 30 of each year, and shall include an  
20                  audit of:

21                  (1) Fees collected;  
22                  (2) The number and results of sanitation inspections;

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1           ~~(3) The number of training seminars held; and~~  
2           ~~(4) The cost of training personnel in the sanitation~~  
3           ~~branch.]~~

4           SECTION 14. Chapter 321, part XXXII, Hawaii Revised  
5           Statutes, is repealed.

6           SECTION 15. Statutory material to be repealed is bracketed  
7           and stricken. New statutory material is underscored.

8           SECTION 16. This Act shall take effect upon its approval.

9  
10           INTRODUCED BY: Mark K. Nakamura

11           BY REQUEST  
JAN 26 2026

H.B. NO. 2317

**Report Title:**

Department of Health; Food, Drugs, and Cosmetics; Consolidation of Food Safety into Chapter 328, HRS

**Description:**

Removes duplicative food-related statutory material and aligns all food-related provisions under chapter 328, HRS. Ensures adequate statutory authority for permits, fees, inspections, and enforcement.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

*H.B. No. 2317*

JUSTIFICATION SHEET

DEPARTMENT:

Health

TITLE:

A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HEALTH'S AUTHORITY TO REGULATE FOOD, DRUGS, AND COSMETICS.

PURPOSE:

To consolidate the Department's statutory authority pertaining to the regulation of food, drugs, and cosmetics in chapter 328, Hawaii Revised Statutes (HRS), by eliminating duplicative authority in existing chapter 321 and adding clarifying authority to chapter 328 related to the issuance of permits and variances and the collection of fees. The Department's authority to regulate retail food establishments (i.e., traditional restaurants) and food processing plants (i.e., wholesale food distributors and food manufacturers) is currently located in both chapters 321 and 328, HRS. Consolidation of this existing authority into one chapter, chapter 328, accompanied by the addition of specific rulemaking, permitting, and enforcement authority, will encourage a better understanding of the various roles and responsibilities of the Department with respect to the production and distribution of food in Hawaii.

MEANS:

Add a new part to chapter 328; add four new sections to part I of chapter 328; amend sections 321-11, 328-8, and 328-21, HRS; and repeal sections 321-4.5, 321-4.6, 321-4.7, 321-10.5, 321-11.51, 321-27, and 321-27.5, HRS, and part XXXII of chapter 321, HRS.

JUSTIFICATION:

The Department is responsible for protecting and improving the health and environment for all people in Hawaii, consistent with section 321-1.1, HRS. This includes overseeing local retail food establishments (i.e., takeout and restaurant facilities), local food manufacturers, home kitchens, and

local food distribution facilities to ensure that the food we consume is safe, not adulterated, and properly labeled.

The Department's current statutory authority for ensuring food safety is found in both chapters 321 and 328, HRS. This bill will consolidate the Department's oversight of food preparation, production, and distribution into chapter 328, HRS.

Consolidating all food-related statutes into one chapter will eliminate confusion and provide one statutory reference for all food oversight.

Impact on the public: This bill will provide clarity to local food businesses (i.e., food preparation, production, and/or distribution facilities) as to the Department's jurisdiction and oversight.

Impact on the department and other agencies: The Department will be empowered to revise chapters 11-29 and 11-50, Hawaii Administrative Rules, to further conform the Department's regulation of food with the scope and character of chapter 328, HRS. There is no impact to other agencies.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HTH 610.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.