

**ACT 194**

**H.B. NO. 1658**

**A Bill for an Act Relating to Controlled Substances.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

“(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 2, 5 dimethoxyamphetamine (2, 5-DMA);
- (2) 3, 4-methylenedioxy amphetamine;
- (3) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (4) 4-bromo-2, 5 dimethoxyamphetamine (4-bromo-2, 5-DMA);
- (5) 3, 4, 5-trimethoxy amphetamine;
- (6) Bufotenine;
- (7) 4-methoxyamphetamine (PMA);
- (8) Diethyltryptamine;
- (9) Dimethyltryptamine;
- (10) 4-methyl-2, 5-dimethoxylamphetamine;
- (11) Ibogaine;
- (12) Lysergic acid diethylamide;
- (13) Marijuana;
- (14) Mescaline;
- (15) Peyote;
- (16) N-ethyl-3-piperidyl benzilate;
- (17) N-methyl-3-piperidyl benzilate;
- (18) Psilocybin;
- (19) Psilocyn;
- (20) Tetrahydrocannabinols;
- (21) Ethylamine analog of phencyclidine (PCE);
- (22) Pyrrolidine analog of phencyclidine (PcPy, PHP);
- (23) Tiophene analog of phencyclidine (TPCP; TCP)."

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

"(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Amobarbital;
- (2) Methaqualone;
- (3) Pentobarbital;
- (4) Phencyclidine;
- (5) Phencyclidine immediate precursors:
  - (A) 1-phenylcyclohexylamine;
  - (B) 1-piperidinocyclohexanecarbonitrile (PCC);
- (6) Secobarbital."

SECTION 3. Section 329-20, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 329-20 Schedule IV.** (a) The controlled substances listed in this section are included in Schedule IV.

(b) Depressants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;

- (4) Chlorazepate;
- (5) Chlordiazepoxide;
- (6) Clonazepam;
- (7) Diazepam;
- (8) Ethchlorvynol;
- (9) Ethinamate;
- (10) Flurazepam;
- (11) Lorazepam;
- (12) Mebutamate;
- (13) Meprobamate;
- (14) Methohexital;
- (15) Methlyphenobarbital;
- (16) Oxazepam;
- (17) Paraldehyde;
- (18) Petrichloral;
- (19) Phenobarbital;
- (20) Prazepam.

(c) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

- (1) Fenfluramine.

(d) Stimulants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline (including organometallic complexes and chelates thereof).

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

- (1) Dextropropoxyphene;
- (2) Pentazocine.

(f) The department may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) or any stimulant listed in subsection (d) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the degree of danger or probable danger of the substances which have a depressant or stimulant effect on the central nervous system.”

SECTION 4. Section 329-23, Hawaii Revised Statutes, is amended to read:

“Sec. 329-23 Republishing and distribution of schedules. (a) The depart-

ment shall republish the schedules annually or more often, as may be necessary to update the schedules.

(b) The department shall publicly announce and, in addition, shall make available to the public copies of any changes to the schedules as such changes are made.”

SECTION 5. Section 329-38, Hawaii Revised Statutes, is amended to read:

“**Sec. 329-38 Prescriptions.** (a) No controlled substance in Schedule II may be dispensed without a written prescription of a practitioner, except:

- (1) In an emergency situation such drugs may be dispensed upon oral prescription of a practitioner, provided that promptly thereafter the prescription is reduced to writing by the practitioner and filed by the pharmacy; or
- (2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in Schedule II shall affix to the package a label showing the date of dispensing, the dispensing practitioner’s name and address, name of the patient, directions for use, and cautionary statements, if any, contained in such prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. No prescription for a controlled substance in Schedule II may be refilled.

(b) No controlled substance in Schedule III or IV may be dispensed without a written or oral prescription of a practitioner, except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user. The practitioner in dispensing a controlled substance in Schedule III and IV shall affix to the package a label showing the date of dispensing, the dispensing practitioner’s name and address, name of the patient, directions for use, and cautionary statements, if any, contained in such prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. Such prescriptions may not be filled or refilled more than three months after the date thereof or be refilled more than two times after the date of the prescription unless renewed by the practitioner.

(c) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(d) The effectiveness of a prescription for the purposes of this section shall be determined as follows:

- (1) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of this section and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

- (2) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.
- (3) A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for "detoxification treatment" or "maintenance treatment".

(e) Prescriptions for controlled substances shall be issued only as follows:

- (1) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, and the name, address, and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this section.
- (2) An intern, resident, or foreign-trained physician, or physician on the staff of a Veterans Administration facility, exempted from registration under this chapter, shall include on all prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.
- (3) An official exempted from registration shall include on all prescriptions issued by him his branch of service or agency (e.g., "U.S. Army" or "Public Health Service") and his service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his Social Security identification number. Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.

(f) A prescription for controlled substances may only be filled by a pharmacist acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy or registered institutional practitioner."

SECTION 6. Section 329-51, Hawaii Revised Statutes, is amended to read:

**"Sec. 329-51 Powers of enforcement personnel.** Any officer or employee of the department designated by the director of health may:

- (1) Carry firearms in the performance of his official duties;
- (2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this State;
- (3) Make arrests without warrant for any offense under this chapter and under

part IV of chapter 712 committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this chapter or part IV of chapter 712 which may constitute a felony;

(4) Make seizures of property pursuant to this chapter; or

(5) Perform other law enforcement duties as the director of health designates.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 6, 1979.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.