

ACT 148

H.B. NO. 1087

A Bill for an Act Relating to Health.

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

SECTION 1. Section 328-25, Hawaii Revised Statutes, is amended to read as follows:

“§328-25 Director’s right of inspection,¹ demand for records, and seizure; hearings. (a) The director of health or any of his agents may in the performance of their duties [enter]:

- (1) Enter at all reasonable hours into any creamery, factory, restaurant, store, salesroom, [storage-room,] storage room, drug store, or laboratory, or any place where they have probable cause to believe that food, drugs, devices, cosmetics, or consumer commodity as defined by this part are made, prepared, sold, or kept; exhibited or offered for sale, and open any cask, tub, bottle, case, or package containing or supposed to contain any such food, drug, device, cosmetic, or consumer commodity, and examine or cause to be examined the contents thereof[.]; and
- (2) Demand a person to provide records or copies of records relating to the manufacture, distribution, or sale of food, drugs, devices, cosmetics,

or consumer commodity which the director has probable cause to believe is adulterated or misbranded; provided that no confidential information concerning secret processes or methods of manufacture secured pursuant to this section by any person who is an official or employee of the department of health within the scope of and course of the person's employment shall be disclosed by the person except as it relates directly to the adulteration or misbranding of a commodity, and then, only in connection with the person's official duties and within the scope and course of the person's employment. Any officer, employee or agent of the department acquiring confidential information concerning secret processes or methods of manufacture who divulges information except as authorized in this section or as ordered by a court or at an administrative hearing regarding an alleged adulteration or misbranding or of any rule or regulation or standard adopted pursuant to this part shall be guilty of a misdemeanor.

(b) [In case] If any food, drug, device, cosmetic, or consumer commodity is found to be adulterated or misbranded within the meaning of this part and the owner or person in charge thereof refuses to comply with the instructions of the director or any of his agents for the proper disposal thereof, the food, drug, device, cosmetic, or consumer commodity shall be liable to seizure. The director or any of his agents shall affix to the article or articles a tag or other appropriate marking, giving notice that the article is, or is suspected of being adulterated or misbranded, and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the director or any of his agents or by the court or judge having jurisdiction over such matters. Upon the request of the director or any of his agents, made to such court, the court shall order and direct that the food, drug, device, cosmetic, or consumer commodity be seized and delivered into the custody of the court, and the same shall be held in such custody until a hearing has been held to determine whether or not it is adulterated or misbranded."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

Note

1. Underscoring missing.