

ACT 179

H.B. NO. 2003-86

A Bill for an Act Relating to Poisons.

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

SECTION 1. The purpose of this Act is to clarify the definition of poison and to properly place the prescription requirements for drugs in chapter 328, Hawaii Revised Statutes.

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

**“§328- Record of prescriptions.** Every licensed physician, druggist, or apothecary, who compounds, sells, or delivers any prescription containing any poisonous drug, or substance deleterious to human life, to be used as medicine, shall enter upon his books the prescription written out in full, with the date thereof, with his own name appended thereto, or the name of the physician who prescribed the same, and the person to whom the same was delivered. No such prescription shall be compounded, sold, or delivered, unless the name of the person compounding, selling, or delivering the same, or the name of the physician prescribing the same, be appended to the prescription in full, and every such prescription shall be preserved for a period of not less than five years. The books and prescriptions shall be subject at all times to the inspection of the director of health or his agent.”

SECTION 3. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§328- Out-of-state prescriptions.** An original prescription written by an out-of-state practitioner within the confines of his license and in accordance with Hawaii statutory law and regulation, excluding narcotics and habit-forming drugs, may be filled but once and only if filled within ninety days of the date of

the original prescription. The pharmacist filling the prescription shall demand proper identification from the person whose name appears on the prescription prior to filling the prescription. The pharmacist who fills an out-of-state prescription is responsible in case the prescription is not written in the form prescribed by law and regulation. The pharmacist shall properly identify the prescriptions as “Out-of-State Filled” together with the date of filling and the local address of the person whose name appears on the prescription. Filled out-of-state prescriptions are to be kept in a special file for two years.”

SECTION 4. Section 328-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“( ) “Out-of-state practitioner” includes a physician, surgeon, osteopathic physician and surgeon, dentist, podiatrist, veterinarian, or any other person who is authorized to prescribe drugs to patients under the applicable laws of any state of the United States.”

SECTION 5. Section 330-1, Hawaii Revised Statutes, is amended to read as follows:

“§330-1 Definition of poison. The term “poison”, as used in this chapter, in chapter 461, and in the laws relating to the department of health, includes any chemical, drug, or preparation which has properties which are commonly considered poisonous or which is capable of affecting the human organism in such a way and to such an extent that its possession, sale, transfer, use, or storage shall be found by the department in its rules [and regulations] to require regulation for the public health and safety. Poison does not include any drug for which a prescription is required by state or federal law.”

SECTION 6. Section 330-5, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 330-6, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 330-7, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect upon its approval.

(Approved May 17, 1986.)

**Note**

1. Edited pursuant to HRS §23G-16.5.