

A Bill for an Act Relating to Developmentally Disabled.

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

SECTION 1. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

“§321-11 Subjects of health rules, generally. The department of health pursuant to chapter 91 may adopt rules as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, adult foster [care] homes, special treatment facilities and programs, home health agencies, freestanding birthing facilities, adult day health centers, independent group residences, but excluding youth shelter facilities unless clinical treatment of mental, emotional, or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under “child care

- institution". For the purpose of this paragraph, "adult foster [care] home" means a private home providing care on a twenty-four hour basis for not more than two developmentally disabled adults at any point in time who are unrelated to the foster family;
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
 - (12) Laboratories;
 - (13) Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;
 - (14) Milk;
 - (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such 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) Pig and duck ranches;
 - (17) Places of business, industry, employment, commerce, and 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;
 - (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
 - (20) Devices as defined in section 328-1;
 - (21) Sources of ionizing radiation;
 - (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department, there is danger of an epidemic from any communicable disease;
 - (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
 - (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department, may be lethal, poisonous, noxious, or dangerous to human life; and

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(25) Ambulances and ambulance equipment.

The department may require such certificates, permits, or licenses as it may deem necessary [adequately] to adequately regulate the conditions or businesses referred to in this section."

SECTION 2. Section 2 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 2. [A child foster boarding home approved by the department of social services and housing under section 346-17, Hawaii Revised Statutes, which provides foster care to a developmentally disabled child beyond the eighteenth birthday through June 30, 1987, shall be authorized to operate as an adult foster care home upon application to the department of health.] The department of health is authorized to certify adult foster homes for developmentally disabled individuals requiring such care beyond the eighteenth birthday."

SECTION 3. Section 3 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 3. The rules of the department of social services and housing adopted under authority of section 346-17, Hawaii Revised Statutes, which prescribe the standards of conditions and competence of operation of child foster boarding homes shall apply to adult foster [care] homes [until June 30, 1987]. Notwithstanding chapter 91, Hawaii Revised Statutes, to the contrary, the rules shall be considered adopted by the department of health on the effective date of this Act for the purpose of regulating adult foster care homes and shall be valid until [June 30, 1987.] the department of health adopts rules pursuant to chapter 91. The department of health shall adopt rules pursuant to chapter 91 necessary for the purposes of this part."

SECTION 4. Section 4 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 4. [The department of health shall conduct a study of the problem of the displacement from child foster boarding homes of developmentally disabled persons who reach eighteen years of age. The study shall be for the purpose of determining the scope of the problem, alternative solutions to the problem, adequacy of current public assistance payments for developmentally disabled adults cared for in adult foster care homes, and necessary legislation and administrative rules to effectuate the regulation of adult foster care homes as provided under section 321-11(10), Hawaii Revised Statutes. In the conduct of the study, the department of health shall consult with the department of social services and housing and state planning council on developmental disabilities. The department of health shall submit a report of the findings and recommendations of the study and proposed legislation to the legislature prior to the convening of the Regular Session of 1987.] There is appropriated out of the general revenues of the State of Hawaii the sum of \$37,000, or so much thereof as may be necessary for fiscal year 1987-1988, to regulate adult foster homes. The sum appropriated shall be expended by the department of health for the purposes of this section."

SECTION 5. Section 5 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 5. [For the purposes of sections 2, 3, 4, and 6, "adult foster care home" means the same as defined under section 321-11(10), Hawaii Revised Statutes.] Rate of payment for adult foster homes is to be

determined on the same basis as domiciliary care homes as provided under section 346-53, Hawaii Revised Statutes.”

SECTION 6. Section 6 of Act 328, Session Laws of Hawaii 1986 is repealed.

[“SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$24,000, or so much thereof as may be necessary for fiscal year 1986-1987, to regulate adult foster care homes and conduct the study required under section 4. The sum appropriated shall be expended by the department of health for the purposes of this section.”]

SECTION 7. Section 7 of Act 328, Session Laws of Hawaii 1986, is repealed.

[“SECTION 7. Rate of payment for adult foster care is to be determined on the same basis as domiciliary care homes as provided under section 346-53, Hawaii Revised Statutes, for the period July 1, 1986 through June 30, 1987.”]

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 1987.

(Approved June 26, 1987.)