

**ACT 168**

S.B. NO. 2318

A Bill for an Act Relating to Anabolic Steroids.

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

SECTION 1. Section 329-45, Hawaii Revised Statutes, is amended to read as follows:

**“~~§329-45~~ Anabolic steroids; penalties.** (a) Except as authorized by law, or upon the prescription issued for a legitimate medical purpose by a practitioner

acting in the usual course of his professional practice, it is unlawful for any person to knowingly:

- (1) Possess an anabolic steroid;
- (2) Possess any anabolical steroid with intent to distribute;
- (3) Distribute any anabolic steroid; or
- (4) Manufacture, compound, convert, produce, derive, process, or prepare, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any anabolic steroid.

For the purpose of this section, "distribute" means to sell, transfer, prescribe, administer, give, or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same.

(b) Any person who violates [subsections] subsection (a)(2), (3) or (4) [of this section] is guilty of a class C felony.

(c) Any person who violates subsection (a)(1) [of this section] is guilty of a misdemeanor.

(d) The property of any person who violates this section shall be subject to forfeiture as provided in section 329-55.

[(d)] (e) This section shall not apply to anabolic steroids that are expressly intended for administration through implants to cattle or other nonhuman species, and that are approved by the United States Food and Drug Administration for such use."

SECTION 2. Section 329-55, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following are subject to forfeiture according to the procedures set forth in the Penal Code:

- (1) All controlled substances and anabolic steroids which have been manufactured, cultivated, grown, distributed, dispensed, or acquired in violation of this chapter;
- (2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any controlled substance or anabolic steroid in violation of this chapter;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2);
- (4) All conveyances, including aircraft, vehicles, or vessels which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2) but:
  - (A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
  - (B) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent; and
  - (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission;

- (5) All books, records, and research products and materials, including formulas, microfilms, tapes, and data which are used, or intended for use, in violation of this chapter;
- (6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or anabolic steroid in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner;
- (7) All firearms which are visible, carried during, or used in furtherance of a violation of this chapter or chapter 712, part IV; and
- (8) All drug paraphernalia as defined by section 329-1 [of this chapter].”

SECTION 3. Section 329-55, Hawaii Revised Statutes, is amended to read as follows:

“**§329-55 Forfeitures.** (a) The following are subject to forfeiture according to the procedures set forth in the Penal Code:

- (1) All controlled substances and anabolic steroids which have been manufactured, cultivated, grown, distributed, dispensed, or acquired in violation of this chapter;
- (2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any controlled substance or anabolic steroid in violation of this chapter;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2);
- (4) All conveyances, including aircraft, vehicles, or vessels which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale, delivery or receipt of property described in paragraph (1) or (2), subject to the provisions of chapter 712A;
- (5) All books, records, and research products and materials, including formulas, microfilms, tapes, and data which are used, or intended for use, in violation of this chapter;
- (6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or anabolic steroid in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter, subject to the provisions of chapter 712A;
- (7) All firearms which are visible, carried during, or used in furtherance of a violation of this chapter or chapter 712, part IV; and
- (8) All drug paraphernalia as defined by section 329-1 [of this chapter].

(b) Property subject to forfeiture under this chapter may be seized in accordance with the provisions of chapter 712A.

(c) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the State. Controlled substances listed

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in Schedule I, which are seized or come into the possession of the State, the owners of which are unknown, are contraband and shall be summarily forfeited to the State.

(d) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.

(e) The failure, upon demand by the department, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that the person is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.”

SECTION 4. This Act does not apply to acts which occurred prior to its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 1990; provided that if Act 260, Session Laws of Hawaii 1988 is repealed effective July 1, 1990, SECTION 2 shall take effect but SECTION 3 shall not take effect; provided further that if Act 260, Session Laws of Hawaii 1988 is not repealed effective July 1, 1990, SECTION 3 shall take effect but SECTION 2 shall not take effect.

(Approved June 19, 1990.)