

ACT 200

H.B. NO. 2546

A Bill for an Act Relating to Methamphetamine.

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

SECTION 1. Chapter 329, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . PRECURSORS TO THE MANUFACTURE OF
METHAMPHETAMINE**

§329- Substances subject to reporting. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this State or for use in this State shall submit a report to the department of public safety of all such transactions:

- (1) Phenyl-2-propanone;
- (2) Methylamine;
- (3) Phenylacetic acid;
- (4) Ephedrine;
- (5) Pseudoephedrine;
- (6) Norpseudoephedrine;
- (7) Phenylpropanolamine;
- (8) Hydriodic acid;
- (9) Benzyl cyanide;
- (10) Benzyl chloride;
- (11) N-methylformamide;
- (12) N-methylephedrine;
- (13) N-ethylephedrine;
- (14) N-ethylpseudoephedrine;
- (15) N-methylpseudoephedrine;
- (16) Chloroephedrine;
- (17) Chloropseudoephedrine; and¹

§329- Proper identification. (a) Any manufacturer, wholesaler, retailer, or other person who receives from a source outside of the State any substance specified in section 329- prior to selling, transferring, or otherwise furnishing any substance specified in section 329- to a person in this State, shall require proper identification from the purchaser.

(b) For the purposes of this section, “proper identification” means a motor vehicle operator’s license or other official state-issued identification of the purchaser which contains a photograph of the purchaser; the residential or mailing address of the purchaser other than a post office box number, or the tax map key number if no other address is available; the motor vehicle license

number of any motor vehicle owned or operated by the purchaser; a letter of authorization from the business for which any substance specified in section 329- is being furnished, which includes the general excise license number and address of the business; a full description of how the substance is to be used; and the signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in section 329- shall sign as a witness to the signature and identification of the purchaser.

(c) Any manufacturer, wholesaler, retailer or other person who does not obtain the proper identification as required by this section shall be fined not more than \$5,000, or imprisoned not more than thirty days, or both.

§329- Report of transaction. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, receives, or brings in from outside the State, or otherwise furnishes a substance specified in section 329- for use by a person in this State, not less than twenty-one days prior to delivery of the substance, shall submit a report of the transaction, which includes the identification information specified in section 329- to the department of public safety. However, the department of public safety may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the department of public safety determines that either of the following exist:

- (1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance and the recipient of the substance; or
- (2) The recipient has established a record of utilization of the substance for lawful purposes.

(b) The department of public safety shall provide a common reporting form for the substances in section 329- which contains at least the following information:

- (1) Name of the substance;
- (2) Quantity of the substance sold, transferred, or furnished;
- (3) The date the substance was sold, transferred, or furnished;
- (4) The name and address of the person buying or receiving the substance; and
- (5) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing such substance.

§329- Exceptions. This chapter shall not apply to any of the following:

- (1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian;
- (2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to patients;
- (3) Any manufacturer or wholesaler licensed by the State who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian; and
- (4) Any sale, transfer, furnishing, or receipt of any drug which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the

federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder.

§329- Penalty. (a) Any manufacturer, wholesaler, retailer or other person who does not submit a report as required by section 329- or who knowingly submits a report with false or fictitious information shall be fined not more than \$5,000, or imprisoned not more than thirty days, or both.

(b) Any manufacturer, wholesaler, retailer or other person who has previously been convicted of violating subsection (a), upon a subsequent conviction thereof, shall be fined not more than \$100,000, or imprisoned not more than one year, or both.

(c) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the substances listed in section 329- with knowledge or the intent that the recipient will use the substance to unlawfully manufacture methamphetamine shall be fined not more than \$100,000, or imprisoned not more than five years, or both.

§329- Theft, loss, and discrepancy reports. (a) The theft or loss of any substance regulated pursuant to section 329- discovered by any person regulated by this chapter shall be reported to the department of public safety within three days of the receipt of actual knowledge of the discrepancy.

(b) Any report made pursuant to this section shall also include the name of the common carrier or person who transports the substance and date of shipment of the substance.

§329- Permit for conduct of business; applications; forms; fees; renewal; violations. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in section 329- for use by a person in this State or who receives from a source outside of the State any substance specified in section 329- shall obtain a permit for the conduct of that business from the department of public safety.

(b) Applications for permits shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(c) The department of public safety may grant permits which shall be effective for not more than one year from the date of issuance. Applications and permits shall be uniform through the State, on forms prescribed by the department of public safety.

(d) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department of public safety which shall not exceed the applications processing costs.

(e) A permit granted pursuant to this chapter may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs.

- (f) (1) Any manufacturer, wholesaler, retailer or other person who sells, transfers, or otherwise furnishes, or receives any substance specified in section 329- without a permit shall be fined not more than \$5,000, or imprisoned not more than thirty days, or both; and
- (2) Any manufacturer, wholesaler, retailer or other person who has previously been convicted of violating subsection 329- (a), upon a subsequent conviction thereof shall be fined not more than \$100,000, or imprisoned not more than one year, or both.

§329- Protection of records; divulging confidential information prohibited; penalties. (a) All records and information required under this chapter shall be kept confidential, provided that disclosure of records and information to authorized State and federal agencies is permissible.

(b) The department of public safety shall adopt and enforce rules as may be necessary to prevent improper acquisition or use of confidential information.

(c) Any manufacturer, wholesaler, retailer or other person, including one who is authorized to obtain information, who, knowing the information obtained is from confidential records or files, intentionally discloses the records or information other than authorized by law, or who intentionally or knowingly aids or abets in the inspection or disclosure of such records or information by any person not authorized to inspect such records and information, shall be imprisoned not more than thirty days or fined not more than \$5,000, or both.

§329- Subpoena powers. Subject to the privileges which witnesses have in the courts of this State, the director or the director's designated subordinate is empowered pursuant to and in accordance with the rules of court to subpoena witnesses, examine them under oath and require the production of books, papers, documents or objects where the director reasonably believes the information sought is relevant or material to enforcement of this part. Books, papers, documents, or objects obtained pursuant to exercise of these powers may be retained by the director or the director's designate for a reasonable period of time for the purpose of examination, audit, copying, testing, or photographing. Upon application by the director, obedience to the subpoenas may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.

§329- Forfeiture. Precursor chemicals that are possessed, transferred, sold or offered for sale in violation of this part shall be subject to seizure and forfeiture as provided in Chapter 712A."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, or proceedings that commenced prior to its effective date.

SECTION 3. This Act shall take effect on January 1, 1991.

(Approved June 19, 1990.)

Note

1. So in original.