

ACT 193

H.B. NO. 2206

A Bill for an Act Relating to Controlled Substances.

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

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

“§329- Requirements when selling specific chemicals. (a) Any manufacturer, wholesaler, retailer, or other person in this State who sells to any person in this State or any other state any quantity of sodium cyanide, potassium cyanide, cyclohexanone, bromobenzene, magnesium turnings, mercuric chloride, sodium metal, lead acetate, paladium black, red phosphorus, white phosphorus (other names yellow phosphorus), iodine, hydrogen chloride gas, trichlorofluoromethane (fluorotrichloromethane), dichlorodifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane (trichlorotrifluoroethane), sodium acetate, or acetic anhydride, notwithstanding any other provision of law, shall do the following:

- (1) Require proper purchaser identification for in-state sales that shall include a valid motor vehicle operator’s license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of the motor vehicle used by the purchaser at the time of purchase, a description of how the substance is to be used, the Environmental Protection Agency certification number or general excise tax license number assigned to the individual or business entity for which the individual is purchasing any chlorofluorocarbon product, and the signature of the purchaser. Proper purchaser identification for out-of-state sales shall include all of the above information, except the motor vehicle license number and the signature of the purchaser. The out-of-state sale information shall also include the means by which the purchase was delivered or provided to the purchaser and the delivery address, if different from the identification address provided by the purchaser;
- (2) Prepare a bill of sale that both describes with particularity the specific items and quantities sold and sets forth the proper purchaser identification information and affix to the bill of sale the preparer’s signature as witness to the sale and identification of the purchaser;
- (3) Retain the original bill of sale containing the purchaser identification information for at least three years in a readily producible manner, and produce the bill of sale containing the sale information and purchaser identification information upon demand by any law enforcement officer or authorized representative of the department; and
- (4) Submit a report to the department of public safety of all sales covered by this section.

(b) Any manufacturer, wholesaler, retailer, or other person in this State who purchases any item listed in subsection (a) shall do the following:

- (1) Prepare a record of the purchase including information identifying the source of the items purchased, the date of purchase, the specific items purchased, the quantities of each item purchased, and the cost of the items purchased; and
- (2) Retain the record of purchase for at least three years in a readily producible manner and produce the record of purchase upon demand to any law enforcement officer or authorized representative of the department.

(c) Additional requirements for manufacturers, wholesalers, retailers, or other persons who sell iodine or red or white phosphorous are as follows:

- (1) Except as provided in subsection (d), no manufacturer, wholesaler, retailer, or other person shall sell to any individual, and no individual shall buy, more than four ounces of iodine in any thirty-day period; and
- (2) Except as provided in subsection (d), no manufacturer, wholesaler, retailer, or other person shall sell to any individual, and no individual shall buy, more than two ounces of red or white phosphorous in any thirty day period. This paragraph shall not apply to any sale of red phosphorous made to a person or business that is licensed or regulated by state or federal law with respect to the purchase or use of red or white phosphorous.

(d) The requirements of this section do not apply to either of the following:

- (1) Any sale of iodine at concentrations less than 1.5 per cent by weight in a solution or matrix under the threshold of two ounces in a single transaction; or
- (2) Any sale of iodine made to a licensed health care facility, any manufacturer licensed by the department of health, or wholesaler licensed by the Hawaii state board of pharmacy who sells, transfers, or otherwise furnishes the iodine to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(e) A person violating this section shall be guilty of a misdemeanor and fined not more than \$100,000.

§329- Rules. The department of public safety may adopt rules and assess reasonable fees relating to the registration and control of the sale, distribution, or possession of regulated chemicals under part VI of chapter 329.”

SECTION 2. Section 329-18, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
- (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) Any substance that contains any quantity of a derivative of barbituric acid or any salt thereof, including the substance butalbital;
- (4) Chlorhexadol;

- (5) Ketamine [hydrochloride;], its salts, isomers, and salts of isomers, also known as (+ or -)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane; [and]
- (12) Tiletamine/Zolazepam (Telazol, 2-(ethylamino)-2-(-thienyl)-cyclohexanone, flupyrzapon) or any salts thereof[-]; and
- (13) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers that are contained in a drug product for which an application has been approved under section 505 of the federal Food, Drug, and Cosmetic Act.”

SECTION 3. Section 329-61, Hawaii Revised Statutes, is amended to read as follows:

“**§329-61 Substances subject to reporting.** (a) List 1 chemicals. 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 all those transactions:

- (1) Phenyl-2-propanone;
- (2) Methylamine and its salts;
- (3) Phenylacetic acid, its esters and salts;
- (4) Ephedrine, its salts, optical isomers, and salts of optical isomers;
- (5) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (6) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (7) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;
- (8) Hydriodic acid;
- (9) Benzyl cyanide;
- (10) Benzyl chloride;
- (11) N-methylformamide;
- (12) N-methylephedrine, its salts, optical isomers, and salts of optical isomers;
- (13) N-ethylephedrine;
- (14) N-ethylpseudoephedrine;
- (15) N-methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (16) Chloroephedrine;
- (17) Chloropseudoephedrine;
- (18) Ethylamine;
- (19) D-lysergic acid;
- (20) Ergotamine and its salts;
- (21) Piperidine and its salts;
- (22) N-acetylanthranilic acid, its esters and salts;
- (23) Anthranilic acid, its esters and salts;
- (24) Propionic anhydride;
- (25) Isosafrole;
- (26) Safrole;
- (27) Piperonal;

- (28) Thionychloride;
- (29) Ergonovine and its salts;
- (30) 3,4-Methylenedioxyphenyl-2-propanone;
- (31) Benzaldehyde;
- (32) Nitroethane;
- (33) Red phosphorus;
- (34) Iodine crystals;
- (35) Iodine at concentrations greater than 1.5 per cent by weight in a solution or matrix above the threshold of two ounces in a single transaction;
- (36) Gamma butyrolactone (GBL) including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone; and 4-hydroxybutanoic acid lactone with chemical abstract service number 96-48-0;
- (37) 1,4-butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; and tetramethylene; 1,4-diol;
- (38) Hypophosphorous acid and its salts (including ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, and sodium hypophosphite);
- (39) White phosphorus (other names yellow phosphorus); and
- (40) Anhydrous ammonia.

(b) List 2 chemicals. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any extraordinary quantity of any of the following chemicals, or sells, transfers, or otherwise furnishes the chemicals through the use of an uncommon method of payment or delivery or under any other circumstances that may make that person believe that the following chemicals could be used in violation of this part by any person in this State, shall report to the department all those transactions of:

- (1) Acetic anhydride;
- (2) Acetone;
- (3) Ethyl ether;
- (4) Potassium permanganate;
- (5) 2-Butanone (or methyl ethyl ketone or MEK);
- (6) Toluene;
- (7) Hydrochloric acid;
- (8) Sulfuric acid;
- (9) Methyl isobutyl ketone (MIBK);
- (10) Hydrogen chloride; and
- (11) Methyl sulfone (MSM, DMS, Dimethyl sulfone or DMSO2).

(c) Additional chemicals. If a chemical is added or deleted as a regulated list 1 or list 2 chemical under federal law and notice of the designation is given to the department, the department may recommend that a corresponding change be made to state law. The department of public safety shall designate the chemical as added or deleted under this chapter after the expiration of thirty days from publication in the Federal Register of a final order and the change shall have the effect of law. If a chemical is added or deleted under this subsection, the control shall be temporary and, if the temporary designation of the added or deleted chemical is not permanently enacted in corresponding changes to this chapter at the next regular session of the legislature, the temporary designation shall be nullified.

(d) The department of public safety shall adopt rules pursuant to chapter 91 necessary for the purposes of this section; provided the rules adopted to add or subtract to list 1 or list 2 may be adopted without regard to chapter 91.

SECTION 4. Section 712-1240, Hawaii Revised Statutes, is amended by amending the definitions of “dangerous drugs” and “harmful drug” to read as follows:

““Dangerous drugs” means any substance or immediate precursor defined or specified as a “Schedule I substance” or a “Schedule II substance” by chapter 329, or a substance specified in section 329-18(c)(13), except marijuana or marijuana concentrate.

“Harmful drug” means any substance or immediate precursor defined or specified as a “Schedule III substance” or a “Schedule IV substance” by chapter 329, or any marijuana concentrate except marijuana[-] and a substance specified in section 329-18(c)(13).”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved July 9, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.