ACT 193

S.B. NO. 1100

A Bill for an Act Relating to Pseudoephedrine.

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

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

"§329- **Pseudoephedrine permit.** (a) Beginning January 1, 2006, any person transporting by any means more than three packages of any product the sale of which is restricted by section 329- shall obtain a pseudoephedrine permit.

(b) The requirements imposed by section (a) shall not apply to persons registered with the department under section 329-67. A pseudoephedrine permit shall be issued by the department in a form and manner as prescribed by the department by rule. A pseudoephedrine permit shall be valid for one year and renewable annually.

§329- **Unlawful transport of pseudoephedrine.** (a) A person commits the offense of unlawful transport of pseudoephedrine if the person transports more than three packages of any product the sale of which is restricted by section 329- without a permit issued from the department.

(b) For purposes of this section, "transportation" means the transfer of a pseudoephedrine product by a person other than a wholesaler, distributor, or retailer of such product authorized to conduct business as such by the State.

(c) Unlawful transport of pseudoephedrine is a misdemeanor.

§329- **Sales of products, mixtures, or preparations containing pseudoephedrine; reporting requirement for wholesalers.** (a) Notwithstanding any other law to the contrary, a pharmacy or retailer may dispense, sell, or distribute without a prescription not more than three packages or not more than nine grams per transaction, of any product, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts, optical isomers, or salts of optical isomers, as the only active ingredient or in combination with other active ingredients; provided that the pharmacy or retailer complies with the following conditions:

(1) The product, mixture, or preparation shall be dispensed, sold, or distributed from an area that is in the direct line of sight of an employee at the check-out station or counter;

(2) The product, mixture, or preparation shall be dispensed, sold, or distributed from an area that is under constant video monitoring with signage placed near the drug that warns that the area is under constant video monitoring; or

(3) The product, mixture, or preparation shall be dispensed, sold, or distributed from an area not accessible by customers or the general public, such as behind the counter or in a locked display case.

(b) The sales restriction in this section, as it applies to products, mixtures, or preparations containing any detectable quantity of pseudoephedrine, its salts, optical isomers, or salts of optical isomers, shall not apply to any products, mixtures, or preparations that are in liquid, liquid capsule, or gel capsule form if pseudoephedrine is not the only active ingredient.

(c) The department, by rule, may exempt other products from this section, including extended-release pseudoephedrine combination products, if the administrator finds that the products are not used in the illegal manufacture of methamphetamine or other controlled substances. A manufacturer of a drug product may apply for removal of the product from this section if the product is determined by the administrator to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) Notwithstanding any other provision of this chapter to the contrary, every wholesaler shall report to the administrator all sales made to any retailer, of any product, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts, optical isomers, or salts of optical isomers, as the only active ingredient or in combination with other active ingredients. The department

shall provide a common reporting form that contains at least the following information about the product, mixture, or preparation:

(1) Generic or other name;
(2) Quantity sold;
(3) Date of sale;
(4) Name and address of the wholesaler; and
(5) Name and address of the retailer.

(e) For purposes of this section, "extended-release pseudoephedrine combination product" means any product containing pseudoephedrine that also contains other ingredients that protect the pseudoephedrine from immediate release and prevent the pseudoephedrine from being extracted."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. New statutory material is underscored.[1]

SECTION 4. This Act shall take effect on July 1, 2005.

(Approved July 5, 2005.)

Note

1. Edited pursuant to HRS §23G-16.5.