
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 328-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§328-6 Prohibited acts.** The following acts and the
4 causing thereof within the State by any person are prohibited:

5 (1) The manufacture, sale, delivery, holding, or offering
6 for sale of any food, drug, device, or cosmetic that
7 is adulterated or misbranded;

8 (2) The adulteration or misbranding of any food, drug,
9 device, or cosmetic;

10 (3) The receipt in commerce of any food, drug, device, or
11 cosmetic that is adulterated or misbranded, and the
12 delivery or proffered delivery thereof for pay or
13 otherwise;

14 (4) The sale, delivery for sale, holding for sale, or
15 offering for sale of any article in violation of
16 section 328-11, 328-12, or 328-17;

17 (5) The dissemination of any false advertisement;



- 1 (6) The refusal to permit entry or inspection, or to
2 permit the taking of a sample, as authorized by
3 sections 328-22 and 328-23 to 328-27, or to permit
4 access to or copying of any record as authorized by
5 section 328-23;
- 6 (7) The giving of a guaranty or undertaking which guaranty
7 or undertaking is false, except by a person who relied
8 on a guaranty or undertaking to the same effect signed
9 by, and containing the name and address of the person
10 residing in the State from whom the person received in
11 good faith the food, drug, device, or cosmetic;
- 12 (8) The removal or disposal of a detained or embargoed
13 article in violation of sections 328-25 to 328-27;
- 14 (9) The alteration, mutilation, destruction, obliteration,
15 or removal of the whole or any part of the labeling
16 of, or the doing of any other act with respect to a
17 food, drug, device, or cosmetic, if the act is done
18 while the article is held for sale and results in the
19 article being adulterated or misbranded;
- 20 (10) Forging, counterfeiting, simulating, or falsely
21 representing, or without proper authority using any
22 mark, stamp, tag, label, or other identification



1 device authorized or required by rules adopted under
2 this part or regulations adopted under the Federal
3 Act;

4 (11) The use, on the labeling of any drug or in any
5 advertisement relating to the drug, of any
6 representation or suggestion that an application with
7 respect to the drug is effective under section 328-17,
8 or that the drug complies with that section;

9 (12) The use by any person to the person's own advantage,
10 or revealing other than to the department of health or
11 to the courts when relevant in any judicial proceeding
12 under this part, any information acquired under
13 authority of section 328-11, 328-12, 328-17, or 328-
14 23, concerning any method or process which as a trade
15 secret is entitled to protection;

16 (13) In the case of a prescription drug distributed or
17 offered for sale in this State, the failure of the
18 manufacturer, packer, or distributor thereof to
19 maintain for transmittal, or to transmit, to any
20 practitioner who makes written request for information
21 as to the drug, true and correct copies of all printed
22 matter which is required to be included in any package



1 in which that drug is distributed or sold, or such
2 other printed matter as is approved under the Federal
3 Act. Nothing in this paragraph shall be construed to
4 exempt any person from any labeling requirement
5 imposed by or under other provisions of this part;

6 (14) (A) Placing or causing to be placed upon any drug or
7 device or container thereof, with intent to
8 defraud, the trade name or other identifying
9 mark, or imprint of another or any likeness of
10 any of the foregoing; or

11 (B) Selling, dispensing, disposing of, or causing to
12 be sold, dispensed, or disposed of, or concealing
13 or keeping in possession, control, or custody,
14 with intent to sell, dispense, or dispose of, any
15 drug, device, or any container thereof, with
16 knowledge that the trade name or other
17 identifying mark or imprint of another or any
18 likeness of any of the foregoing has been placed
19 thereon in a manner prohibited by subparagraph
20 (A); or

21 (C) Making, selling, disposing of, or causing to be
22 made, sold, or disposed of, or keeping in



1 possession, control, or custody, or concealing,
2 with intent to defraud, any punch, die, plate, or
3 other thing designed to print, imprint, or
4 reproduce that trade name or other identifying
5 mark or imprint of another or any likeness of any
6 of the foregoing upon any drug, device, or
7 container thereof;

8 (15) Except as provided in part VI and section 461-1,
9 dispensing or causing to be dispensed a different drug
10 or brand of drug in place of the drug or brand of drug
11 ordered or prescribed without express permission in
12 each case of the person ordering or prescribing;

13 (16) The distribution in commerce of a consumer commodity
14 as defined in this part, if such commodity is
15 contained in a package, or if there is affixed to that
16 commodity a label, which does not conform to this part
17 and of rules adopted under authority of this part;
18 provided that this prohibition shall not apply to
19 persons engaged in business as wholesale or retail
20 distributors of consumer commodities except to the
21 extent that such persons:



1 (A) Are engaged in the packaging or labeling of such
2 commodities; or

3 (B) Prescribe or specify by any means the manner in
4 which such commodities are packaged or labeled;

5 (17) The selling or dispensing in restaurants, soda
6 fountains, drive-ins, lunch wagons, or similar public
7 eating establishments of imitation milk and imitation
8 milk products in place of fresh milk and fresh milk
9 products respectively; of liquid or dry products which
10 simulate cream but do not comply with content
11 requirements for cream in place of cream; of non-dairy
12 frozen desserts which do not comply with content
13 requirements for dairy frozen desserts in place of
14 dairy frozen desserts; and of any other imitation food
15 or one made in semblance of a genuine food in place of
16 such genuine food, unless the consumer is notified by
17 either proper labeling or conspicuous posted signs or
18 conspicuous notices on menu cards and advertisements
19 informing of such substitution, to include but not
20 limited to the substitution of imitation milk in milk
21 shake and malted milk drinks;



- 1 (18) Wilfully and falsely representing or using any
2 devices, substances, methods, or treatment as
3 effective in the diagnosis, cure, mitigation,
4 treatment, or alleviation of cancer. This paragraph
5 shall not apply to any person who depends exclusively
6 upon prayer for healing in accordance with teachings
7 of a bona fide religious sect, denomination, or
8 organization, nor to a person who practices such
9 teachings;
- 10 (19) The selling or offering for sale at any food facility
11 which serves or sells over the counter directly to the
12 consumer an unlabeled or unpackaged food that is a
13 confectionery which contains alcohol in excess of one-
14 half of one per cent by weight unless the consumer is
15 notified of that fact by either proper labeling or
16 conspicuous posted signs or conspicuous notices on
17 menu cards and advertisements;
- 18 (20) The sale to a person below the age of twenty-one years
19 of any food which is a confectionery which contains
20 alcohol in excess of one-half of one per cent by
21 weight;



1 (21) The force feeding of a bird for the purpose of
2 enlarging the bird's liver beyond normal size, or the
3 hiring of another person to do so. For purposes of
4 this subsection, "force feeding" means a process that
5 causes the bird to consume more food than a typical
6 bird of the same species would consume voluntarily."

7 SECTION 2. New statutory material is underscored.

8 SECTION 3. This Act shall take effect on January 1, 2007.

9

10

INTRODUCED BY: *Chris Spil by Report*

JAN 25 2006



HB 3012

Report Title:

Health

Description:

Prohibits the force feeding of birds.

HB HMIA 51-2006

