H.B. NO. ¹¹⁴⁹ H.D. 1

1

A BILL FOR AN ACT

RELATING TO DRUGS.

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

| 1 | SECT | ION 1. Section 329-65, Hawaii Revised Statutes, is |
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| 2 | amended b | y amending subsection (d) to read as follows: |
| 3 | "(d) | Any manufacturer, wholesaler, retailer, or other |
| 4 | person wh | o possesses any of the substances listed in section |
| 5 | 329-61 wi | th the intent to unlawfully manufacture any controlled |
| 6 | substance | shall be fined not more than $$100,000, [or]$ imprisoned |
| 7 | not more | than ten years, or both[-]; provided that: |
| 8 | (1) | Any person convicted of possessing any substance |
| 9 | | regulated under section 329-61 with the intent to |
| 10 | | unlawfully manufacture a controlled substance knowing |
| 11 | | that a child under the age of sixteen is present in |
| 12 | | the structure where the offense occurs shall be |
| 13 | | sentenced pursuant to section 712-1240.5(1); and |
| 14 | (2) | Any person convicted of possessing any substance |
| 15 | | regulated under section 329-61 with the intent to |
| 16 | | unlawfully manufacture a controlled substance knowing |
| 17 | | that a child under the age of eighteen is present in |
| 18 | | the structure where the offense occurs and causes the |
| | HB1149 HD | 1 HMS 2007-2106 |



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| 1 | child to suffer serious or substantial bodily injury | |
|----|---|--|
| 2 | as defined in section 707-700 shall be sentenced | |
| 3 | pursuant to section 712-1240.5(2)." | |
| 4 | SECTION 2. Section 712-1240.5, Hawaii Revised Statutes, is | |
| 5 | amended to read as follows: | |
| 6 | "[[]§712-1240.5[]] Manufacturing a controlled substance <u>or</u> | |
| 7 | possessing a precursor chemical with a child present. (1) | |
| 8 | Except as provided in subsection (2), any person convicted of | |
| 9 | manufacturing a controlled substance in violation of this | |
| 10 | chapter[$_{	au}$] or convicted of possessing any substance regulated | |
| 11 | under section 329-61 with the intent to unlawfully manufacture a | |
| 12 | controlled substance, and who commits the offense knowing that a | |
| 13 | child under the age of sixteen is present in the structure where | |
| 14 | the offense occurs, shall be sentenced to a term of two years | |
| 15 | imprisonment to run consecutively [to]: | |
| 16 | (a) To the maximum indeterminate term of imprisonment | |
| 17 | for the conviction of any offense involving the | |
| 18 | manufacturing of a controlled substance[-]; or | |
| 19 | (b) To the maximum indeterminate term of imprisonment | |
| 20 | imposed pursuant to section 329-65(d)(1) for the | |
| 21 | possession of a regulated substance with the intent to | |
| 22 | unlawfully manufacture a controlled substance. | |
| | | |



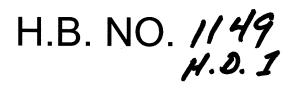
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| 1 | (2) Any person convicted of manufacturing a controlled |
|----|---|
| 2 | substance in violation of this chapter[τ] or convicted of |
| 3 | possessing any substance regulated under section 329-61 with the |
| 4 | intent to unlawfully manufacture a controlled substance, and who |
| 5 | commits the offense knowing that a child under the age of |
| 6 | eighteen is present in the structure where the offense occurs |
| 7 | and causes the child to suffer serious or substantial bodily |
| 8 | injury as defined in section 707-700, shall be sentenced to a |
| 9 | term of five years imprisonment to run consecutively [to]: |
| 10 | (a) To the maximum indeterminate term of imprisonment for |
| 11 | the conviction of any offense involving the |
| 12 | manufacturing of a controlled substance $[-]$; |
| 13 | (b) To the maximum indeterminate term of imprisonment |
| 14 | imposed pursuant to section 329-65(d)(2) for the |
| 15 | possession of a regulated substance with the intent to |
| 16 | unlawfully manufacture a controlled substance. |
| 17 | (3) As used in this section, "structure" means any house, |
| 18 | apartment building, shop, warehouse, building, vessel, cargo |
| 19 | container, motor vehicle, tent, recreational vehicle, trailer, |
| 20 | or other enclosed space capable of holding a child and equipment |
| 21 | for the manufacture of a controlled substance. " |





1 SECTION 3. This Act does not affect rights and duties that 2 matured, penalties that were incurred, and proceedings that were 3 begun, before its effective date. 4 SECTION 4. Statutory material to be repealed is bracketed 5 and stricken. New statutory material is underscored. 6

SECTION 5. This Act shall take effect on January 1, 2050.



Report Title:

Controlled Substance; Child

Description:

Increases the penalties for intent to manufacture a controlled substance with knowledge that a child is present in the structure where the offense occurs. Effective date of January 1, 2050. (HB1449 HD1)

