

JAN 18 2008

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# A BILL FOR AN ACT

RELATING TO FOOD.

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

1           SECTION 1. The legislature finds it is imperative for the  
2 public health, safety and welfare to declare that aspartame and  
3 its derivative compounds, in all of their trade names, are  
4 poisonous and deleterious food additives due to their neurotoxic  
5 and carcinogenic metabolites.

6           The legislature finds that federal authorities have not  
7 intended to or expressed an intention to occupy and preempt  
8 areas of concern regarding the prohibition of toxic, neurotoxic,  
9 carcinogenic, poisonous or deleterious food additives, and  
10 therefore the legislature may prohibit the sale of products  
11 containing aspartame and its derivative compounds in order to  
12 protect and ensure the public health, safety and welfare.

13           SECTION 2. Section 328-1, Hawaii Revised Statutes, is  
14 amended by adding a new definition to be appropriately inserted  
15 and to read as follows:

16           "Aspartame" means the artificial sweetener with the  
17 technical name L-aspartyl-L-phenylalanine methyl ester."



1 SECTION 3. 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;

18 (6) The refusal to permit entry or inspection, or to  
19 permit the taking of a sample, as authorized by  
20 sections 328-22 and 328-23 to 328-27, or to permit  
21 access to or copying of any record as authorized by  
22 section 328-23;



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



1 representation or suggestion that an application with  
2 respect to the drug is effective under section 328-17,  
3 or that the drug complies with that section;

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

11 (13) In the case of a prescription drug distributed or  
12 offered for sale in this State, the failure of the  
13 manufacturer, packer, or distributor thereof to  
14 maintain for transmittal, or to transmit, to any  
15 practitioner who makes written request for information  
16 as to the drug, true and correct copies of all printed  
17 matter which is required to be included in any package  
18 in which that drug is distributed or sold, or such  
19 other printed matter as is approved under the Federal  
20 Act. Nothing in this paragraph shall be construed to  
21 exempt any person from any labeling requirement  
22 imposed by or under other provisions of this part;



- 1           (14) (A)   Placing or causing to be placed upon any drug or  
2                           device or container thereof, with intent to  
3                           defraud, the trade name or other identifying  
4                           mark, or imprint of another or any likeness of  
5                           any of the foregoing; or
- 6           (B)   Selling, dispensing, disposing of, or causing to  
7                           be sold, dispensed, or disposed of, or concealing  
8                           or keeping in possession, control, or custody,  
9                           with intent to sell, dispense, or dispose of, any  
10                          drug, device, or any container thereof, with  
11                          knowledge that the trade name or other  
12                          identifying mark or imprint of another or any  
13                          likeness of any of the foregoing has been placed  
14                          thereon in a manner prohibited by subparagraph  
15                          (A); or
- 16           (C)   Making, selling, disposing of, or causing to be  
17                           made, sold, or disposed of, or keeping in  
18                           possession, control, or custody, or concealing,  
19                           with intent to defraud, any punch, die, plate, or  
20                           other thing designed to print, imprint, or  
21                           reproduce that trade name or other identifying  
22                           mark or imprint of another or any likeness of any



1                   of the foregoing upon any drug, device, or  
2                   container thereof;

3       (15) Except as provided in part VI and section 461-1,  
4           dispensing or causing to be dispensed a different drug  
5           or brand of drug in place of the drug or brand of drug  
6           ordered or prescribed without express permission in  
7           each case of the person ordering or prescribing;

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

17           (A) Are engaged in the packaging or labeling of such  
18           commodities; or

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

21       (17) The selling or dispensing in restaurants, soda  
22          fountains, drive-ins, lunch wagons, or similar public



1 eating establishments of imitation milk and imitation  
2 milk products in place of fresh milk and fresh milk  
3 products respectively; of liquid or dry products which  
4 simulate cream but do not comply with content  
5 requirements for cream in place of cream; of non-dairy  
6 frozen desserts which do not comply with content  
7 requirements for dairy frozen desserts in place of  
8 dairy frozen desserts; and of any other imitation food  
9 or one made in semblance of a genuine food in place of  
10 such genuine food, unless the consumer is notified by  
11 either proper labeling or conspicuous posted signs or  
12 conspicuous notices on menu cards and advertisements  
13 informing of such substitution, to include but not  
14 limited to the substitution of imitation milk in milk  
15 shake and malted milk drinks;

16 (18) Wilfully and falsely representing or using any  
17 devices, substances, methods, or treatment as  
18 effective in the diagnosis, cure, mitigation,  
19 treatment, or alleviation of cancer. This paragraph  
20 shall not apply to any person who depends exclusively  
21 upon prayer for healing in accordance with teachings  
22 of a bona fide religious sect, denomination, or



1 organization, nor to a person who practices such  
2 teachings;

3 (19) The selling or offering for sale at any food facility  
4 which serves or sells over the counter directly to the  
5 consumer an unlabeled or unpackaged food that is a  
6 confectionery which contains alcohol in excess of one-  
7 half of one per cent by weight unless the consumer is  
8 notified of that fact by either proper labeling or  
9 conspicuous posted signs or conspicuous notices on  
10 menu cards and advertisements;

11 (20) The sale to a person below the age of twenty-one years  
12 of any food which is a confectionery which contains  
13 alcohol in excess of one-half of one per cent by  
14 weight[-];

15 (21) After December 31, 2008, the manufacture, sale or  
16 delivery or holding or offering for sale of any food  
17 containing any amount of aspartame and its derivative  
18 compounds in any of their trade names."

19 SECTION 4. This section shall not apply to the sale,  
20 delivery, holding, or offering for sale of any food product  
21 containing aspartame prior to January 1, 2009.





1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

*J. P. Egan*  
*By Request*



**Report Title:**

Artificial Sweetener; Aspartame; Ban; Food

**Description:**

Bans the use of the artificial sweetener aspartame in food products.

