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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 neotame and their derivative compounds, in all of their trade  
4 names, are poisonous and deleterious food additives due to their  
5 neurotoxic 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 neotame and their derivative compounds  
12 in order to protect and ensure the public health, safety and  
13 welfare.

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

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



1        "Neotame" means the artificial sweetener with the technical  
2 name N-[N-(3,3-dimethylbutyl)-L-alpha-aspartyl]-L-phenylalanine  
3 1-methyl ester."

4        SECTION 3. Section 328-6, Hawaii Revised Statutes, is  
5 amended to read as follows:

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

8        (1) The manufacture, sale, delivery, holding, or offering  
9            for sale of any food, drug, device, or cosmetic that  
10           is adulterated or misbranded;

11        (2) The adulteration or misbranding of any food, drug,  
12           device, or cosmetic;

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

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

20        (5) The dissemination of any false advertisement;

21        (6) The refusal to permit entry or inspection, or to  
22           permit the taking of a sample, as authorized by



1 sections 328-22 and 328-23 to 328-27, or to permit  
2 access to or copying of any record as authorized by  
3 section 328-23;

4 (7) The giving of a guaranty or undertaking which guaranty  
5 or undertaking is false, except by a person who relied  
6 on a guaranty or undertaking to the same effect signed  
7 by, and containing the name and address of the person  
8 residing in the State from whom the person received in  
9 good faith the food, drug, device, or cosmetic;

10 (8) The removal or disposal of a detained or embargoed  
11 article in violation of sections 328-25 to 328-27;

12 (9) The alteration, mutilation, destruction, obliteration,  
13 or removal of the whole or any part of the labeling  
14 of, or the doing of any other act with respect to a  
15 food, drug, device, or cosmetic, if the act is done  
16 while the article is held for sale and results in the  
17 article being adulterated or misbranded;

18 (10) Forging, counterfeiting, simulating, or falsely  
19 representing, or without proper authority using any  
20 mark, stamp, tag, label, or other identification  
21 device authorized or required by rules adopted under



1           this part or regulations adopted under the Federal  
2           Act;

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

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

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



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

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

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

20 (C) Making, selling, disposing of, or causing to be  
21 made, sold, or disposed of, or keeping in  
22 possession, control, or custody, or concealing,



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

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

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

21 (A) Are engaged in the packaging or labeling of such  
22 commodities; or



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

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

20 (18) Wilfully and falsely representing or using any  
21 devices, substances, methods, or treatment as  
22 effective in the diagnosis, cure, mitigation,



1 treatment, or alleviation of cancer. This paragraph  
2 shall not apply to any person who depends exclusively  
3 upon prayer for healing in accordance with teachings  
4 of a bona fide religious sect, denomination, or  
5 organization, nor to a person who practices such  
6 teachings;

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

15 (20) The sale to a person below the age of twenty-one years  
16 of any food which is a confectionery which contains  
17 alcohol in excess of one-half of one per cent by  
18 weight [-]; and

19 (21) After December 31, 2009, the manufacture, sale or  
20 delivery or holding or offering for sale of any food  
21 containing any amount of aspartame or neotame or their  
22 derivative compounds in any of their trade names."





# H.B. NO. 669

1 SECTION 4. This section shall not apply to the sale,  
2 delivery, holding, or offering for sale of any food product  
3 containing aspartame or neotame prior to January 1, 2010.

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

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

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INTRODUCED BY: *Mele Canale*

JAN 23 2009



**Report Title:**

Artificial Sweetener; Aspartame; Neotame; Ban

**Description:**

Bans the use of the artificial sweeteners aspartame and neotame in food products.

