

JAN 21 2011

A BILL FOR AN ACT

RELATING TO PSEUDOEPHEDRINE.

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

1 SECTION 1. The legislature finds that Act 193, Session
2 Laws of Hawaii 2005, was enacted to control access to
3 pseudoephedrine - a key ingredient in "ice" - and a contributor
4 to Hawaii's illegal drug trade. While Act 193 established
5 limits on the sale of pseudoephedrine without a prescription and
6 restrictions on the transportation of the drug, access to
7 pseudoephedrine remains a problem.

8 The purpose of this Act is to further control access to
9 pseudoephedrine by adding the drug to the list of schedule III
10 controlled substances and repealing those sections of the Hawaii
11 Revised Statutes that allow any sale of pseudoephedrine without
12 a prescription and related provisions regarding transport of the
13 drug.

14 SECTION 2. Section 329-18, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Stimulants. Unless listed in another schedule, any
17 material, compound, mixture, or preparation which contains any
18 quantity of the following substances having a stimulant effect



1 on the central nervous system, including their salts, isomers,
2 and salts of isomers, whenever the existence of these salts,
3 isomers, and salts of isomers is possible within the specific
4 chemical designation:

- 5 (1) Those compounds, mixtures, or preparations in dosage
6 unit form containing any stimulant substance listed in
7 schedule II, and any other drug of the quantitative
8 composition or which is the same except that it
9 contains a lesser quantity of controlled substances;
- 10 (2) Benzphetamine;
- 11 (3) Chlorphentermine;
- 12 (4) Clortermine;
- 13 (5) Mazindol;
- 14 (6) Phendimetrazine[-];
- 15 (7) Pseudoephedrine."

16 SECTION 3. Section 329-64, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The requirements imposed by sections 329-62 and 329-
19 63(a) of this part shall not apply to any of the following:

- 20 (1) Any pharmacist or other authorized person who sells or
21 furnishes a substance upon the prescription of a
22 physician, dentist, podiatrist, or veterinarian;



1 (2) Any physician, dentist, podiatrist, or veterinarian
2 who administers or furnishes a substance to patients;
3 and

4 (3) Any manufacturer or wholesaler licensed by the State
5 who sells, transfers, or otherwise furnishes a
6 substance to a licensed pharmacy, physician, dentist,
7 podiatrist, or veterinarian [~~and~~

8 ~~(4) Any sale, transfer, furnishing, or receipt of any drug
9 that contains pseudoephedrine or norpseudoephedrine
10 that is lawfully sold, transferred, or furnished over
11 the counter without a prescription pursuant to the
12 federal Food, Drug, and Cosmetic Act (21 United States
13 Code section 301 et seq.) or regulations adopted
14 thereunder as long as it complies with the
15 requirements of sections 329-73, 329-74, and 329-75]."~~

16 SECTION 4. Sections 329-73, 329-74, and 329-75, Hawaii
17 Revised Statutes, are repealed.

18 ~~["~~§329-73~~ Pseudoephedrine permit. (a) Beginning
19 January 1, 2006, any person transporting by any means more than
20 three packages of any product the sale of which is restricted by
21 section 329-75 shall obtain a pseudoephedrine permit.~~

1 ~~(b) The requirements imposed by [subsection] (a) shall not~~
2 ~~apply to persons registered with the department under section~~
3 ~~329 67. A pseudoephedrine permit shall be issued by the~~
4 ~~department in a form and manner as prescribed by the department~~
5 ~~by rule. A pseudoephedrine permit shall be valid for one year~~
6 ~~and renewable annually.~~

7 ~~§329 74 Unlawful transport of pseudoephedrine. (a) A~~
8 ~~person commits the offense of unlawful transport of~~
9 ~~pseudoephedrine if the person transports more than three~~
10 ~~packages of any product the sale of which is restricted by~~
11 ~~section 329 75 without a permit issued from the department.~~

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

16 ~~(c) Unlawful transport of pseudoephedrine is a~~
17 ~~misdemeanor.~~

18 ~~§329 75 Sales of products, mixtures, or preparations~~
19 ~~containing pseudoephedrine; reporting requirement for~~
20 ~~wholesalers. (a) Notwithstanding any other law to the~~
21 ~~contrary, a pharmacy or retailer may sell or distribute to a~~
22 ~~person without a prescription not more than 3.6 grams per day,~~

1 ~~without regard to the number of transactions, of any product,~~
2 ~~mixture, or preparation containing any detectable quantity of~~
3 ~~pseudoephedrine, its salts, optical isomers, or salts of optical~~
4 ~~isomers as the only active ingredient or in combination with~~
5 ~~other active ingredients, provided that the pharmacy or retailer~~
6 ~~shall comply with the following conditions:~~

7 ~~(1) The product, mixture, or preparation shall be sold or~~
8 ~~distributed from an area not accessible by customers~~
9 ~~or the general public, such as behind the counter or~~
10 ~~in a locked display case and where the seller delivers~~
11 ~~the product directly into the custody of the~~
12 ~~purchaser;~~

13 ~~(2) Any person purchasing or otherwise acquiring any~~
14 ~~product, mixture, or preparation shall produce proper~~
15 ~~identification containing the photograph, date of~~
16 ~~birth, printed name, signature, and address of the~~
17 ~~individual obtaining the substance;~~

18 ~~(3) The pharmacy or retailer shall record, in an~~
19 ~~electronic log on software provided by the narcotics~~
20 ~~enforcement division of the department and approved by~~
21 ~~the administrator:~~

22 ~~(A) The date of any transaction under paragraph (2);~~



1 ~~(b) No person shall knowingly purchase, possess, receive,~~
2 ~~or otherwise acquire more than nine grams of any product,~~
3 ~~mixture, or preparation containing any detectable quantity of~~
4 ~~pseudoephedrine or its salts, isomers, or salts of optical~~
5 ~~isomers within a thirty day period, except that this limit shall~~
6 ~~not apply to any quantity of such product, mixture, or~~
7 ~~preparation dispensed pursuant to a valid prescription.~~

8 ~~(c) Any person who violates subsection (b) is guilty of a~~
9 ~~class C felony.~~

10 ~~(d) The department, by rule, may exempt other products~~
11 ~~from this section, if the administrator finds that the products~~
12 ~~are not used in the illegal manufacture of methamphetamine or~~
13 ~~other controlled substances. A manufacturer of a drug product~~
14 ~~may apply for removal of the product from this section if the~~
15 ~~product is determined by the administrator to have been~~
16 ~~formulated in such a way as to effectively prevent the~~
17 ~~conversion of the active ingredient into methamphetamine.~~

18 ~~(e) Notwithstanding any other provision of this chapter to~~
19 ~~the contrary, every wholesaler shall report to the administrator~~
20 ~~all sales made to any retailer, of any product, mixture, or~~
21 ~~preparation containing any detectable quantity of~~
22 ~~pseudoephedrine, its salts, optical isomers, or salts of optical~~



1 ~~isomers, as the only active ingredient or in combination with~~
2 ~~other active ingredients. The department shall provide a common~~
3 ~~reporting form that contains at least the following information~~
4 ~~about the product, mixture, or preparation:~~

5 ~~(1) Generic or other name;~~

6 ~~(2) Quantity sold;~~

7 ~~(3) Date of sale;~~

8 ~~(4) Name and address of the wholesaler; and~~

9 ~~(5) Name and address of the retailer.~~

10 ~~(f) Intentional or knowing failure of a retailer or~~
11 ~~pharmacy to transmit any information as required by this section~~
12 ~~shall be a misdemeanor and shall result in the immediate~~
13 ~~suspension of that retailer's ability to sell any product,~~
14 ~~mixture, or preparation containing any detectable quantity of~~
15 ~~pseudoephedrine, its salts, optical isomers, or salts of optical~~
16 ~~isomers as the only active ingredient or in combination with~~
17 ~~other active ingredients until authorized by the~~
18 ~~administrator."]~~

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

21



Report Title:

Pseudoephedrine; Prescription Required

Description:

Adds pseudoephedrine to the list of schedule III controlled substances; repeals the sale of pseudoephedrine without a prescription and related provisions regarding transport of the drug.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

