ACT 200 H.B. NO. 929

A Bill for an Act Relating to the Hawaii Food, Drug, and Cosmetic Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 328-1, Hawaii Revised Statutes, is amended by amending the definition of "consumer commodity" to read as follows:

"(12) "Consumer commodity" as herein defined means any food, drug, cosmetic or device as those terms are defined by this part or the Federal Act. Such term shall not include:

(A) Any meat or meat products or poultry or poultry products, except as these products are sold at retail in stores and restaurant in normal retail quantities, provided that any labeling requirements imposed under authority of this part shall comply with those established by the Secretary of Agriculture, United States Department of Agriculture.

(B) Any tobacco or tobacco products.

(C) Any commodity subject to packaging and labelling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide and Rodenticide Act or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat 832-833; 21 USC 151-157), commonly known as the Virus-Serum-Toxin Act;

(D) Any drug subject to the provisions of Section 503(b)(1) or 506 of the Federal Food, Drug and Cosmetic Act (21 USC 353(b)(1) and 356);

(E) Any beverage subject to or complying with packaging and labeling requirements imposed under the Federal Alcohol Administration Act (27 USC 201 et seq.); or

(F) Any commodity subject to the provisions of the Federal Seed Act (7 USC 1551-1610)."

SECTION 2. Section 328-8, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 328-8 Regulations to be prescribed.** (a) Whenever in the judgment of the department of health such action will promote honesty and fair dealing in the interest of consumers, the department shall prescribe regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill or container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the department shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so prescribed shall conform so far as practicable to the definitions and standards promulgated under authority of the federal act.

(b) Temporary permits now or hereafter granted for interstate shipment of experimental packs of food varying from the requirements of federal definitions

and standards of identity are automatically effective in this State under the conditions provided in such permits. In addition, the director may issue additional permits where they are necessary to the completion or conclusiveness of an otherwise adequate investigation and where the interests of consumers are safeguarded. Such permits shall be subject to such terms and conditions as the director may prescribe.

(c) All regulations and their amendments adopted by the Federal Food and Drug Administration as of the effective date of this subsection under the authority of the Federal Food, Drug, and Cosmetic Act applicable to the General Regulations Relating to Definitions and Standards for Food (21 CFR Part 10), Standards of Quality for Foods for Which There are No Standards of Identity (21 CFR Part 11), Color Additives (21 CFR Part 8), Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act (21 CFR Part 1), Tolerances and Exemptions From Tolerances for Pesticides Chemicals in or on Raw Agricultural Commodities (40 CFR Part 180), Regulations on Food Additives (21 CFR Part 121), Food for Special Dietary Uses (21 CFR Part 125), Human Foods, Current Good Manufacturing Practices (21 CFR Part 128), Fish and Seafood Products (21 CFR Part 128a), Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers (21 CFR Part 128b), Processing and Bottling of Bottled Drinking Water (21 CFR Part 128d); Cosmetic Labeling (21 CFR Part 701), are adopted for the use of the department; provided that when in the director's judgment such action will promote honesty and fair dealing in the interest of consumers, the director may establish such additional rules as may be necessary. All such regulations adopted or amended after the effective date of this subsection shall be adopted under chapter 91."

SECTION 3. Section 328-2.1, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory materials to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1977.)

*Edited accordingly.