

ACT 325

H.B. NO. 2373-86

A Bill for an Act Relating to the Defense of Intoxication.

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

SECTION 1. Section 702-200, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Where the defense provided in subsection (1) is based on a physical or mental disease, disorder, or defect which precludes or impairs a voluntary act or a voluntary omission, the defense shall be treated exclusively according to [the provisions of] chapter 704[.], except that a defense based on intoxication which is pathological or not self-induced which precludes or impairs a voluntary act or a voluntary omission shall be treated exclusively according to this chapter.”

SECTION 2. Section 702-230, Hawaii Revised Statutes, is amended to read as follows:

“§702-230 Intoxication. (1) Self-induced intoxication is prohibited as a defense to any offense, except as specifically provided in this section.

[(1)] (2) Evidence of the non-self induced or pathological intoxication of the defendant shall be admissible to prove or negative the conduct alleged or the state of mind sufficient to establish an element of the offense. Evidence of self-induced intoxication of the defendant is admissible to prove or negative conduct or to prove state of mind sufficient to establish an element of an offense. Evidence of self-induced intoxication of the defendant is not admissible to negative the state of mind sufficient to establish an element of the offense.

[(2)] (3) Intoxication does not, in itself, constitute a physical or mental disease, disorder, or defect within the meaning of section 704-400.

[(3)] (4) Intoxication which (a) is not self-induced or (b) is pathological is a defense if by reason of such intoxication the defendant at the time of his conduct lacks substantial capacity either to appreciate its wrongfulness or to conform his conduct to the requirements of law.

[(4)] (5) In this section:

- (a) "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body;
- (b) "Self-induced intoxication" means intoxication caused by substances which the defendant knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such circumstances as would afford a defense to a charge of a penal offense;
- (c) "Pathological intoxication" means intoxication grossly excessive in degree, given the amount of the intoxicant, to which the defendant does not know he is susceptible and which results from a physical abnormality of the defendant."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1986.)