

## ACT 98

S.B NO. 2930

A Bill for an Act Relating to Controlled Substances.

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

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Alpha-Methylfentanyl;
- (7) Benzethidine;
- (8) Betacetylmethadol;
- (9) Betameprodine;
- (10) Betamethadol;
- (11) Betaprodine;
- (12) Clonitazene;
- (13) Dextromoramide;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Difenoxin;
- (17) Dimenoxadol;
- (18) Dimepheptanol;
- (19) Dimethylthiambutene;

- (20) Dioxaphetyl butyrate;
- (21) Dipipanone;
- (22) Ethylmethylthiambutene;
- (23) Etonitazene;
- (24) Etoxidine;
- (25) Furethidine;
- (26) Hydroxypethidine;
- (27) Ketobemidone;
- (28) Levomoramide;
- (29) Levophenacymorphan;
- (30) Morpheridine;
- (31) Noracymethadol;
- (32) Norlevorphanol;
- (33) Normethadone;
- (34) Norpipanone;
- (35) Para-fluorofentanyl;
- (36) Phenadoxone;
- (37) Phenampromide;
- (38) Phenomorphan;
- (39) Phenoperidine;
- (40) Piritramide;
- (41) Proheptazine;
- (42) Properidine;
- (43) Propiram;
- (44) Racemoramide;
- (45) Tilidine;
- (46) Trimerperidine;
- (47) N-[1-(1-methyl-2-phenyl)ethyl-4-piperidyl]-N-phenylacetamide (acetyl-alpha-methylfentanyl);
- (48) N-[1<sup>1</sup>-1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (alpha-methylthiofentanyl);
- (49) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl);
- (50) N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (beta-hydroxyfentanyl);
- (51) N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide (beta-hydroxy-3-methylfentanyl);
- (52) N-[3-methyl-1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (3-methylthiofentanyl);
- (53) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl);
- (54) N-phenyl-N-[1-(2<sup>2</sup>thienyl)ethyl-4-piperidinyl]-propanamide (thiofentanyl);
- (55) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);
- (56) 1-(2 phenylethyl)-4-phenyl-4-acetoxypiperidine (PEPAP);
- (57) 3-Methylfentanyl.]
- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levo- alphacetylmethadol also known as LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;

- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide;
- (12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidyl]-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacymorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4-piperidyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl] propanamide;
- (43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine;
- (44) Phenadoxone;
- (45) Phenamprodine;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Propерidine;
- (51) Propiram;
- (52) Racemoramide;

- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidinyl]-propanamide);
- (54) Tilidine; and
- (55) Trimeperidine.”

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk Dextropropoxyphene (nondosage form);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Glutethimide;
- (11) Isomethadone;
- (12) Levo-alphaacetylmethadol (LAAM);
- (13) Levomethorphan;
- (14) Levorphanol;
- (15) Metazocine;
- (16) Methadone;
- (17) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (18) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (19) Oxycodone;
- [(19)] (20) Pethidine;
- [(20)] (21) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- [(21)] (22) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- [(22)] (23) Pethidine-Intermediate-C, 1-methyl-4 phenylpiperidine-4-carboxylic acid;
- [(23)] (24) Phenazocine;
- [(24)] (25) Piminodine;
- [(25)] (26) Racemethorphan;
- [(26)] (27) Racemorphan;
- [(27)] (28) Sufentanil.”

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

- “(g) Hallucinogenic substances, including but not limited to:
- (1) Dronabinol (synthetic), in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product; and
  - (2) Nabilone.”

SECTION 4. Section 329-18, Hawaii Revised Statutes, is amended to read as follows:

“§329-18 Schedule III. (a) The controlled substances listed in this section are included in schedule III.

(b) Stimulants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

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

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
- (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) Any substance that contains any quantity of a derivative of barbituric acid or any salt thereof;
- (4) Chlorexadol;
- (5) Ketamine hydrochloride;
- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane;
- (12) Tiletamine/Zolazepam (Telazol).

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts, or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (3) Not more than 300 milligrams of dihydrocodeinone (Hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium provided that these narcotic drugs shall be monitored pursuant to section 329-101;

- (4) Not more than 300 milligrams of dihydrocodeinone (Hydrocodone), or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts provided that these narcotic drugs shall be monitored pursuant to section 329-101;
- (5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
- (7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
- (8) Not more than 50 milligrams of morphine or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) The department of public safety may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(g) Any anabolic steroid. The term "anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone;
- (2) Clostebol (4-Chlorotestosterone);
- (3) Dehydrochloromethyltestosterone;
- (4) Dihydrotestosterone (4-dihydrotestosterone);
- (5) Drostanolone;
- (6) Ethylestrenol;
- (7) Fluoxymesterone;
- (8) Formebolone (Formyldienolone);
- (9) Mesterolone;
- (10) Methandranone;
- (11) Methandriol;
- (12) Methandrostenolone (Methandienone);
- (13) Methenolone;
- (14) Methyltestosterone;
- (15) Mibolerone;
- (16) Nandrolone;
- (17) Norethandrolone;
- (18) Oxandrolone;
- (19) Oxymesterone;
- (20) Oxymetholone;
- (21) Stanolone (Dihydrotestosterone);
- (22) Stanozolol;
- (23) Testolactone;
- (24) Testosterone;

- (25) Trenbolone; and
- (26) Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth, except the term “anabolic steroid” does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for nonhuman administration. If any person prescribes, dispenses, or distributes an anabolic steroid intended for administration to nonhuman species for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

(h) Hallucinogenic substances, including but not limited to: Dronabinol (synthetic), in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product.”

SECTION 5. Section 329-20, Hawaii Revised Statutes, is amended to read as follows:

“**§329-20 Schedule IV.** (a) The controlled substances listed in this section are included in schedule IV.

(b) Depressants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Alprazolam;
- (2) Barbital;
- (3) Bromazepam;
- (4) Butorphanol;
- (5) Camazepam;
- (6) Carisoprodol;
- (7) Chloral betaine;
- (8) Chloral hydrate;
- (9) Chlordiazepoxide;
- (10) Clobazam;
- (11) Clonazepam;
- (12) Clorazepate;
- (13) Clotiazepam;
- (14) Cloxazolam;
- (15) Delorazepam;
- (16) Diazepam;
- (17) Estazolam;
- (18) Ethchlorvynol;
- (19) Ethinamate;
- (20) Ethyl loflazepate;
- (21) Fludiazepam;
- (22) Flunitrazepam;
- (23) Flurazepam;
- (24) Halazepam;
- (25) Haloxazolam;
- (26) Ketazolam;
- (27) Loprazolam;
- (28) Lorazepam;
- (29) Lormetazepam;
- (30) Mebutamate;
- (31) Medazepam;

- (32) Meprobamate;
- (33) Methohexital;
- (34) Methylphenobarbital (mephobarbital);
- (35) Midazolam;
- (36) Nimetazepam;
- (37) Nitrazepam;
- (38) Nordiazepam;
- (39) Oxazepam;
- (40) Oxazolam;
- (41) Paraldehyde;
- (42) Petrichloral;
- (43) Phenobarbital;
- (44) Pinazepam;
- (45) Prazepam;
- (46) Quazepam;
- (47) Temazepam;
- (48) Tetrazepam;
- (49) Triazolam;
- (50) Zolpidem.

(c) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

[(1)] Fenfluramine.

(d) Stimulants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline (including organometallic complexes and chelates thereof).

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

- [(1)] Dextropropoxyphene;
- (2)] Pentazocine.

(f) The department of public safety may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) or any stimulant listed in subsection (d) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the degree of danger or probable danger of the substances which have a depressant or stimulant effect on the central nervous system.

(g) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit (modafinil); and
- (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane)."



SECTION 6. Section 329-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) It is unlawful for any person knowingly or intentionally:
- (1) To distribute as a registrant a controlled substance classified in schedule I or II, except pursuant to an order form as required by section 329-37;
  - (2) To use in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;
  - (3) To [acquire or] obtain [possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;] or attempt to obtain any controlled substance or procure or attempt to procure the administration of any controlled substance:
    - (A) By fraud, deceit, misrepresentation, embezzlement, theft;
    - (B) By the forgery or alteration of a prescription or of any written order;
    - (C) By furnishing fraudulent medical information or the concealment of a material fact; or
    - (D) By the use of a false name, patient identification number, or the giving of false address;
  - (4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter;
  - (5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance;
  - (6) To misapply or divert to the person’s own use or other unauthorized or illegal use or to take, make away with, or secrete, with intent to misapply or divert to the person’s own use or other unauthorized or illegal use, any controlled substance that shall have come into the person’s possession or under the person’s care as a registrant or as an employee of a registrant who is authorized to possess controlled substances or has access to controlled substances by virtue of the person’s<sup>3</sup> employment; or
  - (7) To make, distribute, possess, or sell any prescription form, whether blank, faxed, computer generated, photocopied, or reproduced in any other manner without the authorization of the licensed practitioner.”

SECTION 7. Section 329-69, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§329-69]]~~ **Subpoena powers.** Subject to the privileges which witnesses have in the courts of this State, the director of public safety or the director’s designated subordinate is empowered pursuant to and in accordance with the rules of court to subpoena witnesses, examine them under oath and require the production of books, papers, documents or objects where the director of public safety reasonably believes the information sought is relevant or material to enforcement of this [part.] chapter. Books, papers, documents, or objects obtained pursuant to exercise of these powers may be retained by the director of public safety or the director’s designate for [a reasonable period of time] forty-eight hours for the purpose of examination, audit, copying, testing, or photographing. Upon application by the director of public safety,

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obedience to the subpoenas may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.”

SECTION 8. Statutory material to be repealed is bracketed, except bracketed material contained within the name of the new substances listed in section 329-14(b), Hawaii Revised Statutes, in section 1 of this Act is not to be repealed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved May 16, 2000.)

### Notes

1. So in original.
2. Prior to amendment hyphen appeared here.
3. Prior to amendment “person’s” appeared here.