

ACT 203

S.B. NO. 1178

A Bill for an Act Relating to Controlled Substances.

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

SECTION 1. Section 329-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Locum tenens practitioner” means a practitioner:

- (1) Who is licensed in this State and registered under section 329-32 to administer, prescribe, or dispense a controlled substance in the course of professional practice, who temporarily substitutes for another registered practitioner for a period not to exceed sixty days at that other practitioner’s registered place of business; and
- (2) Whose Drug Enforcement Administration controlled substance registration number has not been transferred to the State of Hawaii.

Locum tenens practitioners are not eligible to receive an oral code number as designated by section 328-16(j).”

SECTION 2. 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) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levo- alphacetylmethadol, levomethadyl acetate, [also known as] or 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-piperidinyl]-N-phenylpropanamide)] (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-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) Levophenacylmorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-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-piperidinyl] propanamide);
- (43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Pir tramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (54) Tilidine; and
- (55) Trimeperidine.”

SECTION 3. Section 329-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (b) and (c) to read:

“(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate[-], including the following:
 - (A) Raw opium;
 - (B) Opium extracts;
 - (C) Opium fluid;
 - (D) Powdered opium;
 - (E) Granulated opium;
 - (F) Codeine;
 - (G) Ethylmorphine;
 - (H) Etorphine hydrochloride;
 - (I) Hydrocodone;
 - (J) Hydromorphone;
 - (K) Metopon;
 - (L) Morphine;
 - (M) Oxycodone;
 - (N) Oxymorphone; and
 - (O) Thebaine;
- (2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium[-];
- (3) Opium poppy and poppy straw[-]; and
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocanized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt of isomer thereof.

(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;
- (20) Pethidine[;] (Meperidine);
- (21) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (22) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (23) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (24) Phenazocine;
- (25) Piminodine;
- (26) Racemethorphan;
- (27) Racemorphan;
- (28) Remifentanil; and
- ~~(28)~~ (29) Sufentanil.”

2. By amending subsection (g) to read:

“(g) Hallucinogenic substances~~[-, including but not limited to:], unless listed in another schedule, shall include Nabilone.”~~

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

1. By amending subsection (c) to read:

“(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation [~~that contains~~] containing 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[;], including the substance butalbital;
- (4) Chlorexadol;
- (5) Ketamine hydrochloride;
- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;

- (10) Sulfonethylmethane;
- (11) Sulfonmethane; and
- (12) Tiletamine/Zolazepam (Telazol)[-] or any salts thereof.”

2. By amending subsection (h) to read:

“(h) Hallucinogenic substances[~~, including but not limited to:~~], unless listed in another schedule, shall include 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 as follows:

1. By amending subsection (d) to read:

“(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) Cathine ((+)-norpseudoephedrine);
- ~~[(4)]~~ (2) Diethylpropion;
- ~~[(2)]~~ Phentermine;
- (3) Pemoline ~~(including organometallic complexes and chelates thereof).~~];
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;
- (8) Phentermine;
- (9) Pemoline (including organometallic complexes and chelates thereof);
- (10) Pipradrol;
- (11) Sibutramine; and
- (12) SPA ((-)-1-dimethylamino- 1,2-diphenylethane).”

2. By amending subsection (g) to read:

“(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 329-61, Hawaii Revised Statutes, is amended to read as follows:

“**§329-61 Substances subject to reporting.** (a) List 1 chemicals. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this State or for use in this State shall submit a report to the department [~~of public safety~~] of all those transactions:

- (1) Phenyl-2-propanone;
- (2) Methylamine[;] and its salts;
- (3) Phenylacetic acid[;], its esters and salts;
- (4) Ephedrine[;], its salts, optical isomers, and salts of optical isomers;

- (5) Pseudoephedrine[;], its salts, optical isomers, and salts of optical isomers;
- (6) Norpseudoephedrine[;], its salts, optical isomers, and salts of optical isomers;
- (7) Phenylpropanolamine[;], its salts, optical isomers, and salts of optical isomers;
- (8) Hydriodic acid;
- (9) Benzyl cyanide;
- (10) Benzyl chloride;
- (11) N-methylformamide;
- (12) N-methylephedrine[;], its salts, optical isomers, and salts of optical isomers;
- (13) N-ethylephedrine;
- (14) N-ethylpseudoephedrine;
- (15) N-methylpseudoephedrine[;], its salts, optical isomers, and salts of optical isomers;
- (16) Chloroephedrine;
- (17) Chloropseudoephedrine;
- (18) Ethylamine;
- (19) D-lysergic acid;
- (20) Ergotamine [tartrate;] and its salts;
- (21) Piperidine[;] and its salts;
- (22) N-acetylanthranilic acid[;], its esters and salts;
- (23) Anthranilic acid[;], its esters and salts;
- (24) Propionic anhydride;
- (25) Isosafrole;
- (26) Safrole;
- (27) Piperonal;
- (28) Thionylchloride;
- (29) Ergonovine [maleate;] and its salts;
- (30) 3,4-Methylenedioxyphenyl-2-propanone;
- (31) Benzaldehyde;
- (32) Nitroethane;
- (33) Red phosphorus;
- (34) Iodine crystals;
- [(35) Gamma-butyrolactone (GBL)-]
- (35) Iodine at concentrations greater than 1.5 per cent by weight in a solution or matrix above the threshold of two ounces in a single transaction;
- (36) Gamma butyrolactone (GBL) including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone; and 4-hydroxybutanoic acid lactone with chemical abstract service number 96-48-0; and
- (37) 1,4-butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; and tetramethylene 1,4-diol.

(b) List 2 chemicals. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any extraordinary quantity of any of the following chemicals, or sells, transfers, or otherwise furnishes the chemicals through the use of an uncommon method of payment or delivery or under any other circumstances that may make that person believe that the following chemicals could

be used in violation of this part by any person in this State, shall report to the department all those transactions of:

- (1) Acetic anhydride;
- (2) Acetone;
- (3) Benzyl chloride;
- (4) Ethyl ether;
- (5) Potassium permanganate;
- (6) 2-Butanone (or methyl ethyl ketone or MEK);
- (7) Toluene;
- (8) Hydrochloric acid;
- (9) Sulfuric acid;
- (10) Methyl isobutyl ketone (MIBK)[-];
- (11) Anhydrous ammonia;
- (12) Hydrogen chloride; and
- (13) Methyl sulfone (MSM, DMS, Dimethyl sulfone or DMSO2).''

SECTION 7. Section 329-65,¹ Hawaii Revised Statutes, is amended to read as follows:

“(a) Any manufacturer, wholesaler, retailer, or other person who does not submit a report as required by section 329-63 or who knowingly submits a report with false or fictitious information shall be fined not more than \$5,000, or imprisoned not more than thirty days, or both.

(b) Any manufacturer, wholesaler, retailer, or other person who has previously been convicted of violating subsection (a), upon a subsequent conviction thereof, shall be fined not more than \$100,000, or imprisoned not more than one year, or both.

(c) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the substances listed in section 329-61 with knowledge or the intent that the recipient will use the substance to unlawfully manufacture any controlled substance shall be fined not more than \$100,000, or imprisoned not more than five years, or both.

(d) Any manufacturer, wholesaler, retailer, or other person who possesses any of the substances listed in section 329-61 with the intent to illegally manufacture any controlled substance shall be fined not more than \$100,000, or imprisoned not more than ten years, or both.

(e) Any person who possesses, sells, distributes, purchases for resale, or causes to be sold, distributed, or purchased for resale any ephedrine-containing product with a label that claims or implies that consumption of the product will produce effects such as ecstasy, euphoria, increased sexual sensations, legal “highs”, and other similar effects shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(f) It is unlawful for any person to knowingly or intentionally obtain or attempt to obtain any of the substances listed in section 329-61 or procure or attempt to procure any substances listed in section 329-61:

- (1) By fraud, deceit, misrepresentation, embezzlement, or theft;
- (2) By furnishing fraudulent documentation or information or the concealment of a material fact regarding the use, location, or ultimate user of the substances listed in section 329-61; or
- (3) By the use of a false name, photo identification, general excises tax information, or the giving of a false address.

Any person who violates this section shall be fined not more than \$100,000, or imprisoned not more than five years, or both.’’

SECTION 8. Section 329-101, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The information required by this section shall be transmitted: on an electronic device that is compatible with the receiving device of the central repository; or by computer diskette, magnetic tape, or pharmacy universal claim form that meets the specifications provided in the rules of the designated state agency. The information to be transmitted under subsection (b) shall include at least the following for each dispensation:

- (1) The patient’s name;
- (2) The patient’s identification number;
- (3) The patient’s date of birth;
- (4) The patient’s address;
- ~~[(4)]~~ (5) The eight-digit national drug code number of the substance dispensed;
- (6) The date the prescription was issued;
- ~~[(5)]~~ (7) The date of dispensation;
- ~~[(6)]~~ (8) The quantity and number of refills authorized;
- ~~[(7)]~~ (9) The practitioner’s Drug Enforcement Administration registration number;
- ~~[(8)]~~ (10) The pharmacy’s National Association of Boards of Pharmacy number and location; and
- ~~[(9)]~~ (11) The practitioner’s practice specialty and subspecialties, as determined by the applicable licensure boards.”

SECTION 9. Statutory material to be repealed is bracketed and stricken; except bracketed material contained within the name of substances listed in section 329-14(b)(1), (7), (11), (12), (34), (35), (42), and (53), Hawaii Revised Statutes, or bracketed material which is also underscored in section 329-14(b)(8), Hawaii Revised Statutes, in section 3¹ of this Act is not to be repealed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 31, 2001.)

Note

1. So in original.