



GOV. MSG. NO. 826

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 17, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 17, 2008, the following bill was signed into law:

SB2373 SD1 HD2 CD1

A BILL FOR AN ACT RELATING TO
PSEUDOEPHEDRINE SALES.
(ACT 184)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on JUN 17 2008

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

ACT 184

S.B. NO. 2373
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO PSEUDOEPHEDRINE SALES.

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

1 SECTION 1. Section 329-75, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§329-75 Sales of products, mixtures, or preparations**
4 **containing pseudoephedrine; reporting requirement for**
5 **wholesalers.** (a) Notwithstanding any other law to the
6 contrary, a pharmacy or retailer may [~~dispense~~] sell[~~7~~] or
7 distribute to a person without a prescription not more than 3.6
8 grams per day, without regard to the number of transactions, of
9 any product, mixture, or preparation containing any detectable
10 quantity of pseudoephedrine, its salts, optical isomers, or
11 salts of optical isomers[~~7~~] as the only active ingredient or in
12 combination with other active ingredients; provided that the
13 pharmacy or retailer [~~complies~~] shall comply with the following
14 conditions:

15 (1) The product, mixture, or preparation shall be
16 [~~dispensed~~] sold[~~7~~] or distributed from an area not
17 accessible by customers or the general public, such as



1 behind the counter or in a locked display case and
2 where the seller delivers the product directly into
3 the custody of the purchaser; [and]

4 (2) Any person purchasing or otherwise acquiring any
5 product, mixture, or preparation shall[+

6 ~~(A) Produce]~~ produce proper identification containing
7 the photograph, date of birth, printed name,
8 ~~[and]~~ signature, and address of the individual
9 obtaining the ~~[controlled]~~ substance; [and

10 ~~(B) Sign a written log, receipt, or other program or~~
11 ~~mechanism approved by the administrator, showing~~
12 ~~the date of the transaction, name and address of~~
13 ~~the person, and the amount of the compound,~~
14 ~~mixture, or preparation.]~~

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

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

20 (B) The name, address, and date of birth of the
21 person;



1 (C) The type of identification provided by the
2 individual obtaining the substance;

3 (D) The agency issuing the identification used; and

4 (E) The name of the compound, mixture, or
5 preparation, and the amount; and

6 (4) The pharmacy or retailer shall:

7 (A) Record the information required under paragraph
8 (3) on an electronic worksheet on software
9 provided by the narcotics enforcement division of
10 the department; and

11 (B) Electronically mail the worksheet record to the
12 narcotics enforcement division once a month.

13 The information shall be retained by the pharmacy or
14 retailer for a period of two years. The electronic
15 log shall be capable of being checked for compliance
16 against all state and federal laws, including
17 interfacing with other states to ensure comprehensive
18 compliance, and shall be subject to random and
19 warrantless inspection by county or state law
20 enforcement officers.

21 (b) No person shall knowingly purchase, possess, receive,
22 or otherwise acquire more than nine grams of any product,



1 mixture, or preparation containing any detectable quantity of
2 pseudoephedrine or its salts, isomers, or salts of optical
3 isomers within a thirty-day period, except that this limit shall
4 not apply to any quantity of such product, mixture, or
5 preparation dispensed pursuant to a valid prescription.

6 ~~[(b) The sales restriction in this section, as it applies~~
7 ~~to products, mixtures, or preparations containing any detectable~~
8 ~~quantity of pseudoephedrine, its salts, optical isomers, or~~
9 ~~salts of optical isomers, shall not apply to any products,~~
10 ~~mixtures, or preparations that are in liquid, liquid capsule, or~~
11 ~~gel capsule form if pseudoephedrine is not the only active~~
12 ~~ingredient.]~~

13 (c) Any person who violates subsection (b) is guilty of a
14 class C felony.

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



1 ~~(d)~~ (e) Notwithstanding any other provision of this
2 chapter to the contrary, every wholesaler shall report to the
3 administrator all sales made to any retailer, of any product,
4 mixture, or preparation containing any detectable quantity of
5 pseudoephedrine, its salts, optical isomers, or salts of optical
6 isomers, as the only active ingredient or in combination with
7 other active ingredients. The department shall provide a common
8 reporting form that contains at least the following information
9 about the product, mixture, or preparation:

- 10 (1) Generic or other name;
- 11 (2) Quantity sold;
- 12 (3) Date of sale;
- 13 (4) Name and address of the wholesaler; and
- 14 (5) Name and address of the retailer.

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



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2008;
7 provided that a pharmacy or retailer shall have until January 1,
8 2010, to establish the electronic log using software provided by
the narcotics enforcement division of the department of public
10 safety required under this Act.

APPROVED this 17 day of JUN, 2008


GOVERNOR OF THE STATE OF HAWAII

