

Department of Public Safety

Amendments to Chapters 23-200 and 23-201
Hawaii Administrative Rules

September 1, 2015

1. Section 23-200-4, Hawaii Administrative Rules, is amended to read as follows:

"§23-200-4 Fees for registration or re-registration. ~~[(a)]~~ (a) For each registration or re-registration to manufacture controlled substances, the registrant shall pay an application fee of \$~~[100.00]~~ 195.00 for an annual registration.

(b) For each registration or re-registration to distribute controlled substances, the registrant shall pay an application fee of \$~~[75.00]~~ 145.00 for an annual registration.

~~[(c)]~~ (c) For each registration or re-registration to administer, prescribe, dispense, or to conduct instructional activities with, controlled substances listed in sections 329-16 through 329-22, Hawaii Revised Statutes (schedules II through V), the registrant shall pay an application fee of \$~~[60.00]~~ 115.00 for an annual registration.

~~[(d)]~~ (d) For each registration or re-registration to conduct research or instructional activities with a controlled substance listed in sections 329-14 through section 329-22, Hawaii Revised Statutes (schedules I through V), the registrant shall submit for approval, a research protocol of the activity to be conducted. The research protocol shall be in accordance with section 1301.13 and 1301.18, Title 21, Code of Federal Regulations. The applicant shall also pay an application fee of \$~~[60.00]~~ 115.00 for an annual registration.

~~[(e)]~~ (e) For each registration or re-registration to conduct chemical analysis with controlled substances listed in any schedule, the registrant shall pay an application fee of \$~~[60.00]~~ 115.00 for an annual registration.

~~[(f)]~~ (f) For each registration or re-registration to engage in a narcotics treatment program, including a compounder, the registrant shall pay an application fee of \$~~[60.00]~~ 115.00 for an annual registration.

~~[(g)]~~ (g) For each duplicate registration requested, the

registrant shall submit a written request and shall pay a fee of \$~~[10.00]~~20.00.

[Eff APR 15 2000] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §§329-32, 329-33)

2. Section 23-200-5, Hawaii Administrative Rules, is amended to read as follows:

"§23-200-5 Persons required to register but exempt from fee. ~~[-(a)]~~(a) The director shall exempt the requirement of [obtaining] paying a registration fee for registration or re-registration for:

- (1) Any hospital or other institution which is operated by an agency of the United States (including the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, ~~[Veteran's Administration]~~ Department of Veterans Affairs), of any State, or any political subdivision or agency thereof; and
- (2) Any individual practitioners who are required to obtain an individual registration in order to carry out their duties as an official of an agency of the United States (including the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, ~~[Veteran's Administration]~~ Department of Veterans Affairs), of any State, or any political subdivision or agency thereof.

(b) In order to claim exemption from payment of a registration or re-registration application fee, the registrant shall have completed the certification on the appropriate controlled substance application form wherein the registrant's superior (if the registrant is an individual) or officer (if the registrant is an agency) certifies to the status and address of the registrant and to the authority of the registrant to acquire, possess, or handle controlled substances.

(c) Any person who is exempt from the registration fee may apply to re-register not earlier than sixty days prior to the expiration date of the registration. A fee of \$~~[25]~~50.00 shall be paid for re-registration after the expiration date on the certificate of registration. Exemption from payment of a controlled substance registration or re-registration fee does not relieve the registrant of any other requirements or duties prescribed by law.

- (d) In order to enable law enforcement agency

laboratories to obtain and transfer controlled substances for use as standards in chemical analyses, laboratories must obtain annually a registration to conduct chemical analyses. Such laboratories shall be exempted from payment of any fee for registration." [Eff APR 15 2000] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

3. Section 23-200-7, Hawaii Administrative Rules, is amended to read as follows:

"§23-200-7 Time and method of registration.

[(a)](a) Registration and re-registration fees shall be paid at the time when the application for registration or re-registration is submitted for filing. Payment shall be made in the form of a personal, certified, cashier's check or ~~[money order]~~ money order made payable to the narcotics enforcement division, department of public safety. Payment made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. No prorated or full refund will be issued once the certificate is processed. In the event that the application is not accepted for filing or is denied, the payment shall be refunded to the applicant.

(b) Any person who is required to be registered and who is not so registered may apply for registration at any time. No person required to be registered shall engage in any activity for which registration is required, until the application for registration is granted and a certificate of registration is issued by the administrator to such person.

(c) All controlled substance applications shall be processed by the department within 60 days after receipt of the completed application, to include all requested documentation. In the absence of a national disaster, state emergency, or union strike which would prevent the department from reviewing the application, any application pending more than 60 days after receipt of the completed application shall be deemed granted.

(d) State registration shall expire as noted on the certificate of registration. Any person who is registered may apply to be re-registered not earlier than sixty days prior to the expiration date on the certificate of registration. An additional fee of \$~~[25.00]~~ 50.00 shall be paid for re-registration after the expiration date on the certificate of registration.

~~[(e)]~~ (e) Failure to register with the department will prohibit the registrant from engaging in any activity utilizing controlled substances.

(f) The administrator may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within thirty days after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the administrator in ~~[granting]~~ granting or ~~[denying]~~ denying the application."

[Eff APR 15 2000] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

4. Section 23-200-8, Hawaii Administrative Rules, is amended to read as follows:

"~~§23-200-8~~ §23-200-8 Modification, transfer and termination of certificate of registration. ~~[(a)]~~ (a) Registrants may apply to modify their registration to handle additional controlled substances by filing an application in the same manner as an application for new registration. In the event of a change of a name, location or business address, the registrant shall submit a letter to the department of public safety, narcotics enforcement division. The letter shall contain the new name, location or business address and the effective date of the change. Such notification shall be within thirty days of such fact. No fee shall be required to be paid for the modification.

~~[(b)]~~ (b) Failure to report a change of name, location or business address within thirty days will invalidate the registration and require re-registration and the imposition of the \$~~[25]~~ 50.00 late fee.

(c) No registration or any authority conferred thereby shall be assigned or otherwise transferred.

(d) A certificate of registration issued to any ~~[persons]~~ person shall terminate if and when such person dies, ceases legal existence, discontinues business or professional practices. Such person or the person's representative shall notify the administrator in writing within thirty days of such fact."

[Eff APR 15 2000 ~~[1]~~] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

5. Section 23-201-4, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-4 Annual fees for ~~initial~~ initial and renewal permits. ~~(a)~~ (a) For each initial and renewal permit, to manufacture for distribution the applicant shall pay a fee of \$~~100.~~ 195.00.

~~(b)~~ (b) For each initial and renewal permit, to conduct business as a wholesale distributor, importer~~+~~, or exporter, the applicant shall pay a fee of \$~~75.~~ 145.00.

~~(c)~~ (c) For each initial and renewal permit, to conduct business as a retail distributor the applicant shall pay a fee of \$~~75.~~ 145.00.

(d) For each duplicate permit, the permittee shall submit a written request and shall pay a fee of \$~~10.~~ 20.00."
[Eff APR 15 2000 [F]] (Auth: HRS §§329-31, 353C-2)
(Imp: HRS §329-67)

6. Section 23-201-5, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-5 Persons required to obtain a permit but exempt from fee. ~~(a)~~ (a) The director shall exempt from payment~~-a~~ of the fee for registration or re-registration ~~of~~ any official or ~~agency of~~ agency of the U.S. Army, Navy, Marine Corps, Air Force, ~~+~~ Coast Guard, ~~Veteran's Administration~~ Department of Veterans Affairs or Public Health Service ~~who are~~ authorized to procure or purchase regulated chemicals for official use.

~~(b)~~ (b) Any official, employee, or other civil officer or agency of the United States, State or any political subdivision or agency thereof, who is authorized to purchase regulated ~~chemical~~ chemicals, to obtain such substances from official stocks, to dispense, to conduct research, instructional activities, or chemical analyses with such substances, or any combination thereof, in the course of their official duties or employment.

~~(c)~~ (c) Any person who is exempt from the permit registration fee ~~and~~ may apply to re-register not earlier than sixty days prior to the expiration date of the permit. A fee of \$~~25.~~ 50.00 shall be paid for processing of a permit after the expiration date on the permit.

(d) In order to enable law enforcement agency laboratories to obtain and transfer controlled substances for use as standards in chemical analyses, laboratories must obtain annually a registration to conduct chemical analyses. Such laboratories shall be exempted from payment [-] of any fee for registration." [Eff APR 15 2000 [H]] (Auth: HRS §§329-31, 353C-2) (Imp: HRS §329-32)

7. Section 23-201-7, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-7 Time and method of registration.

~~[(a)]~~ (a) Registration and re-registration fees shall be paid at the time when the application for registration or re-registration is submitted for filing. Payment shall be made in the form of a personal, certified or cashier's check or money order made payable to the ~~[narcotics]~~ narcotics enforcement division, department of public safety. Payment made ~~[in]~~ in the form of stamps, foreign currency, or third party endorsed checks will not [^] be accepted. No prorated or full refund will be issued once the certificate is processed. In the event that the application is not accepted for filing or is denied, the payment shall be refunded to the applicant.

~~[(b)]~~ (b) Any person who is required to obtain a permit and who has not obtained a permit from the department may apply for a permit at any time. No person required to obtain a permit shall engage in any transactions for which the permit is required, until the application for permit is granted and a permit is issued by the department to such person. All regulated chemical permit applications shall be processed by the department within sixty days after receipt of the completed application, including all requested documentation. In the absence of a national disaster, state emergency or union strike which would prevent the department from reviewing the permit application, any application pending more than sixty days after receipt of the completed application shall be deemed granted.

~~[(c)]~~ (c) Each permit shall expire annually as noted on the permit. Any permittee may apply for renewal not earlier than sixty days prior to the expiration date of their permit. An additional fee of \$~~[25]~~ 50.00 shall be paid for renewal after the expiration date on the permit.

~~[(d)]~~ (d) Failure to obtain a permit from the

department will prohibit the ~~[applicant from]~~ applicant from engaging in any activity utilizing regulated chemicals designated in section 329-61, Hawaii Revised Statutes.

~~[(e)]~~ (e) The administrator may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide ~~[such]~~ such documents or statements within thirty days after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the administrator in granting or denying the permit application.

~~[(f)]~~ (f) The failure[^] to renew the permit on a timely basis, or failure to pay the applicable fees, including by making ~~[or]~~ payment with a check that is dishonored upon first ~~[deeesit]~~ deposit, shall cause the permit to be automatically forfeited."

[Eff APR 15 2000 [1]] (Auth: HRS §§329-31, 353C-2)
(Imp: HRS §329-67)

8. Section 23-201-8, Hawaii Administrative Rules, is amended to read as follows:

"§23-201-8 Modification, transfer, and termination of permits. ~~[(a)]~~ (a) Any person may apply to modify his permit registration to authorize the handling of additional regulated chemicals by filing a new permit application. In the event of a change of a name or address, the permittee shall submit a letter to the department of public safety, narcotics enforcement division. The letter shall contain the new name or address and the effective date. Such notification shall be within thirty days of such fact. No fee shall be required to be paid for the modification.

~~[(b)]~~ (b) Failure to report a change of address will invalidate the permit and require re-registration and the imposition of the \$~~[25]~~50.00 late fee.

~~[(c)]~~ (c) No permit issued to a person shall be assigned or otherwise transferred to any other person.

(d) A permit issued to a person will terminate if and when the person dies, ceases legal existence, or discontinues business. The person or the person's representative, shall within thirty days, return the permit to the department." [Eff APR 15 2000] (Auth:

HRS §§329-31, 353C-2) (Imp: HRS §329-67)

9. Material, except source notes, to be repealed is bracketed and stricken. New statutory material is underscored.

10. Additions to update source notes to reflect these amendments are not underscored.

11. These amendments to chapters 23-200 and 23-201, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

Director of Public Safety

APPROVED AS TO FORM:

Deputy Attorney General