
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 SECTION 1. Chapter 329, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . PROHIBITED ACTS

5 RELATED TO POSSESSION OF MARIJUANA

6 **§329-A Possession of marijuana; civil offense.**

7 Notwithstanding any other provision of law, the possession of
8 less than one ounce of marijuana shall be a civil offense.

9 **§329-B Suits by the State.** The attorney general may bring
10 a civil action on behalf of the State, against any person who
11 possesses marijuana in violation of this part.

12 **§329-C Penalties for offenders who are at least eighteen**
13 **years of age.** Any person who is at least eighteen years of age
14 against whom a civil judgment is entered on a complaint alleging
15 that the person possessed less than one ounce of marijuana shall
16 be subject to:

17 (1) A civil fine of \$100 for each offense; and



1 (2) Forfeiture of the marijuana in accordance with section
2 329-55.

3 **§329-D Penalties for offenders who are less than eighteen**
4 **years of age.** Any person who is less than eighteen years of age
5 against whom a civil judgment is entered on a complaint alleging
6 that the person possessed less than one ounce of marijuana shall
7 be subject to:

8 (1) A civil fine of up to \$100 for each offense; provided
9 that within one year of the date the civil judgment is
10 entered, the person completes a drug awareness program
11 described in section 329-E;

12 (2) A civil fine of \$1,000 for each offense, if the person
13 fails to complete a drug awareness program described
14 in section 329-E within one year of the date the civil
15 judgment is entered against the person; and

16 (3) Forfeiture of the marijuana in accordance with section
17 329-55.

18 **§329-E Drug awareness program for youth.** (a) A person
19 who is less than eighteen years of age shall be required to
20 complete a drug awareness program within one year of the date
21 the civil judgment is entered against the person.



1 (b) The drug awareness program shall provide at least four
2 hours of classroom instruction or group discussion and ten hours
3 of community service.

4 (c) A parent or legal guardian of the person who is less
5 than eighteen years of age shall file with the court a
6 certificate that the offender has completed a drug awareness
7 program in accordance with this section. The certificate shall
8 be filed within one year of the date on which the civil judgment
9 was entered. If no certificate is filed within one year, the
10 clerk of the court shall notify the person against whom the
11 judgment was entered of a hearing to show cause why the civil
12 fine should not be increased to \$1,000. Factors to be
13 considered in weighing cause shall be limited to the financial
14 ability to pay the increased fine, the ability to participate in
15 a drug awareness program, and the availability of a drug
16 awareness program."

17 SECTION 2. Section 329-59, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The fund shall consist of all moneys derived from
20 fees collected pursuant to sections 329-31, 329-67, [~~and~~] 329-
21 123(b), 329-C, and 329-D and legislative appropriations. All
22 fees collected pursuant to sections 329-31, 329-67, [~~and~~] 329-



1 123(b), 329-C, and 329-D shall be deposited in the controlled
2 substance registration revolving fund."

3 SECTION 3. Section 352D-7, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) [~~Beginning July 1, 1991, the~~] The office of youth
6 services shall create, develop, and operate youth service
7 centers throughout the State including one or more in each
8 county. This may be done either directly or by contract with
9 private parties. Delinquency prevention shall be a primary
10 objective of these centers. The population eligible for
11 services at the centers [~~would~~] shall be all youths in need of
12 services. Centers [~~would also~~] shall develop individualized
13 intake capabilities, program plans, delivery of services, and a
14 comprehensive referral network. The objectives of the youth
15 service centers shall be to:

- 16 (1) Develop and implement programs in delinquency
17 prevention;
- 18 (2) Provide a wider range of informal dispositions,
19 particularly alternatives to the juvenile justice
20 system;
- 21 (3) Develop an improved system of intake, assessment, and
22 follow-up for youths; [~~and~~]



- 1 (4) Provide better coordination of juvenile justice and
- 2 nonjuvenile justice services in order to reduce
- 3 overlaps and gaps in services[-]; and
- 4 (5) Develop and implement a drug awareness program that
- 5 shall include but not be limited to the use and abuse
- 6 of marijuana and other controlled substances with
- 7 particular emphasis on early detection and prevention
- 8 of abuse of substances. The program shall meet the
- 9 requirements of section 329-E."

10 SECTION 4. Section 706-622.5, Hawaii Revised Statutes, is
11 amended by amending subsection (1) to read as follows:

12 "(1) Notwithstanding section 706-620(3), a person
13 convicted for the first time for any offense under section 329-
14 43.5 involving the possession or use of drug paraphernalia or
15 any felony offense under part IV of chapter 712 involving the
16 possession or use of any dangerous drug, detrimental drug,
17 harmful drug, intoxicating compound, one ounce or more of
18 marijuana, or marijuana concentrate, as defined in section 712-
19 1240, but not including any offense under part IV of chapter 712
20 involving the distribution or manufacture of any such drugs or
21 substances and not including any methamphetamine trafficking
22 offenses under sections 712-1240.7 and 712-1240.8, is eligible



1 to be sentenced to probation under subsection (2) if the person
2 meets the following criteria:

3 (a) The court has determined that the person is nonviolent
4 after reviewing the person's criminal history, the
5 factual circumstances of the offense for which the
6 person is being sentenced, and any other relevant
7 information;

8 (b) The person has been assessed by a certified substance
9 abuse counselor to be in need of substance abuse
10 treatment due to dependency or abuse under the
11 applicable Diagnostic and Statistical Manual and
12 Addiction Severity Index; and

13 (c) Except for those persons directed to substance abuse
14 treatment under the supervision of the drug court, the
15 person presents a proposal to receive substance abuse
16 treatment in accordance with the treatment plan
17 prepared by a certified substance abuse counselor
18 through a substance abuse treatment program that
19 includes an identified source of payment for the
20 treatment program."

21 SECTION 5. Section 712-1249, Hawaii Revised Statutes, is
22 amended by amending subsection (1) to read as follows:



1 "(1) A person commits the offense of promoting a
 2 detrimental drug in the third degree if the person knowingly
 3 possesses [~~any marijuana or~~] any Schedule V substance in any
 4 amount."

5 SECTION 6. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun, before its effective date.

8 SECTION 7. In codifying the new sections added by section
 9 1 of this Act, the revisor of statutes shall substitute
 10 appropriate section numbers for the letters used in designating
 11 the new sections in this Act.

12 SECTION 8. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

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

15

INTRODUCED BY: Calvin K. Day
 By Request

JAN 26 2009



Report Title:

Possession of Marijuana; Civil Penalties

Description:

Makes the possession of less than one ounce of marijuana a civil offense and imposes fines. Requires persons under eighteen years of age against whom a civil judgment is entered to complete a drug awareness program.

