
A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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

1 SECTION 1. In recent years, the use of an herb known as
2 salvia divinorum or "Magic Mint" has become more common. This
3 psychoactive herb is very similar to marijuana, as both can be
4 smoked and both have been known to induce altered states of
5 mind, uncontrollable laughter, dysphoria (unpleasant or
6 uncomfortable mood), and impair one's coordination.

7 Although there have been no documented cases of fatal or
8 near fatal incidences involving this hallucinogenic drug,
9 several countries such as Australia, Belgium, Denmark, Estonia,
10 Finland, Italy, Japan, Spain, and Sweden have all imposed
11 regulatory controls on salvia divinorum or its primary
12 psychoactive constituent, salvinorin A.

13 Likewise in the United States, California, Delaware,
14 Florida, Illinois, Iowa, Kansas, Louisiana, Maine, Michigan,
15 Mississippi, Missouri, New Jersey, North Dakota, Ohio, Oklahoma,
16 Pennsylvania, South Carolina, Tennessee, and Virginia have all
17 passed laws to regulate salvia divinorum or salvinorin A, or
18 both. Regulations both in and out of the United States range



1 from classifying salvia divinorum or salvinorin A, or both as a
2 "Schedule I" controlled substance to regulating sales.

3 Due to the lack of documented cases of violence or fatality
4 attributed to the use of salvia divinorum or salvinorin A, it
5 has been difficult for the federal government to add salvia
6 divinorum and salvinorin A to its list of schedule I controlled
7 substances. Despite that, members of the United States Congress
8 hope to take a proactive approach towards this drug and have
9 made several efforts to add it to the schedule I list
10 legislatively.

11 Over the past few years, the State of Hawaii has made some
12 very bold and broad strides in fighting substance abuse.
13 Collaborative efforts between the legislature and the
14 administration evidence a demonstrated effort to reduce
15 substance abuse and promote a healthier lifestyle, and also
16 highlight the importance of proactive versus reactive actions in
17 the war against drugs.

18 While there are no documented adverse incidences involving
19 salvia divinorum or salvinorin A, there are potential side
20 effects that could eventually lead to an adverse incident. As
21 leaders of this State, it is our responsibility to ensure the



1 health, safety, and well-being of Hawaii's residents, our keiki
2 in particular.

3 The full effects of salvia divinorum and salvinorin A usage
4 is yet to be fully established. However, lack of violent or
5 fatal incidences should not prevent the legislature from taking
6 preventative actions against this drug.

7 The purpose of this Act, to be known as "The Salvia
8 Divinorum Sales Regulations Act of 2009", is to make it unlawful
9 to sell or furnish salvia divinorum, salvinorin A, or any of its
10 byproducts in any form to a minor under eighteen years of age
11 and to require vendors to include disclaimer language informing
12 consumers of the potential dangers associated with the use of
13 salvia divinorum and salvinorin A.

14 SECTION 2. Chapter 709, Hawaii Revised Statutes, is
15 amended by adding two new sections to be appropriately
16 designated and to read as follows:

17 "§709- Salvia divinorum; minors. (1) It shall be
18 unlawful to sell or furnish salvia divinorum or any of its
19 byproducts in any shape or form, to a minor under eighteen years
20 of age.

21 (2) Signs using the statement, "The sale of salvia
22 divinorum products to persons under eighteen is prohibited",



1 shall be posted on or near any vendor display in letters at
2 least one-half inch high and at or near the point of sale of any
3 other location where salvia divinorum or any of its byproducts
4 are sold in letters at least one-half inch high.

5 (3) It shall be unlawful for a minor under eighteen years
6 of age to purchase any salvia divinorum product or any of its
7 byproducts, as described in subsection (1). This prohibition
8 does not apply if a person under the age of eighteen, with
9 parental authorization, is participating in a controlled
10 purchase as part of a law enforcement activity or a study
11 authorized by the department of health under the supervision of
12 law enforcement to determine the level of incidence of salvia
13 divinorum sales to minors.

14 (4) Any person who violates subsection (1) or (2), shall
15 be fined \$500 for the first offense. Any subsequent offenses
16 shall subject the person to a fine not less than \$500 or more
17 than \$2,000. Any minor under eighteen years of age who violates
18 subsection (3) shall be fined \$10 for the first offense. Any
19 subsequent offense shall subject the violator to a fine of \$50,
20 no part of which shall be suspended, or the person shall be
21 required to perform not less than forty-eight hours or more than



1 seventy-two hours of community service during hours when the
2 person is not employed and is not attending school.

3 §709- **Salvinorin A; minors.** (1) It shall be unlawful
4 to sell or furnish salvinorin A, or any of its byproducts in any
5 shape or form, to a minor under eighteen years of age.

6 (2) Signs using the statement, "The sale of salvinorin A
7 products to persons under eighteen is prohibited", shall be
8 posted on or near any vendor display in letters at least one-
9 half inch high and at or near the point of sale of any other
10 location where salvinorin A products or any of its byproducts
11 are sold in letters at least one-half inch high.

12 (3) It shall be unlawful for a minor under eighteen years
13 of age to purchase any salvinorin A product or any of its
14 byproducts, as described in subsection (1). This prohibition
15 does not apply if a person under the age of eighteen, with
16 parental authorization, is participating in a controlled
17 purchase as part of a law enforcement activity or a study
18 authorized by the department of health under the supervision of
19 law enforcement to determine the level of incidence of
20 salvinorin A or any of its byproducts sales to minors.

21 (4) Any person who violates subsection (1) or (2) shall be
22 fined \$500 for the first offense. Any subsequent offenses shall



1 subject the person to a fine not less than \$500 or more than
2 \$2,000. Any minor under eighteen years of age who violates
3 subsection (3) shall be fined \$10 for the first offense. Any
4 subsequent offense shall subject the violator to a fine of \$50,
5 no part of which shall be suspended, or the person shall be
6 required to perform not less than forty-eight hours or more than
7 seventy-two hours of community service during hours when the
8 person is not employed and is not attending school."

9 SECTION 3. Chapter 486, part V, Hawaii Revised Statutes,
10 is amended by adding a new section to be appropriately
11 designated and to read as follows:

12 "§486- Salvia divinorum and salvinorin A packages;
13 information required; variations; exemptions. Except as
14 otherwise provided in this chapter, any package containing
15 salvia divinorum or salvinorin A, or any of their byproducts
16 kept for the purpose of sale, or offered or exposed for sale,
17 shall bear on the outside of the package definite, plain, and
18 conspicuous declarations of:

19 (1) The net quantity of the contents in terms of measure;
20 and



1 (2) A list of potential dangers associated with usage of
 2 salvia divinorum, salvinorin A, or any of their
 3 byproducts;

4 The chairperson, in consultation with the Drug Enforcement
 5 Administration shall release an annual list of potential dangers
 6 associated with the use of salvia divinorum, salvinorin A, and
 7 any of their byproducts to be included on any package for sale
 8 that contains salvia divinorum, salvinorin A, or any of their
 9 byproducts."

10 SECTION 4. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun, before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: Barbara Manamoto
~~_____~~ : Neil Karaman
John M. ...
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Report Title:

Salvia Divinorum; Sales

Description:

Prohibits the sale of salvia divinorum and any of its byproducts, including salvinorin A, to minors under the age of 18. Requires those who sell salvia divinorum or salvinorin A to include warning labels informing consumers of possible side effects of salvia divinorum and salvinorin A.

