
A BILL FOR AN ACT

RELATING TO MARIJUANA POSSESSION.

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

1 SECTION 1. The legislature finds that scarce resources are
2 currently expended by county and state law enforcement entities
3 and judicial and detention facilities for enforcing marijuana
4 possession laws. Amending the State's marijuana laws to make
5 possession of less than one ounce a violation would permit law
6 enforcement agencies to focus their resources on more serious
7 drug issues, such as combating the ongoing ice epidemic. The
8 legislature has previously classified simple possession of
9 marijuana as a petty misdemeanor due to the relatively harmless
10 nature of this substance compared to other commonly used illegal
11 substances. While no psychoactive substance is completely
12 without risk, many scientists concur with drug enforcement
13 administrative law judge, Judge Francis Young, who, in 1988,
14 found that "marijuana is one of the safest therapeutically
15 active substances known to man."

16 Current Hawaii law provides for a sentence of not more than
17 thirty days for possession of less than an ounce of marijuana.
18 Even a petty misdemeanor, however, is a crime. The criminal



1 record thus incurred may impact arrestees' futures by rendering
2 them ineligible for federal college loans, certain types of
3 employment, and military service. Twelve other states have
4 recognized the advantages of downgrading possession of small
5 amounts of marijuana to a violation instead of a crime. These
6 states--Alaska, California, Colorado, Maine, Minnesota,
7 Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio,
8 and Oregon--have not experienced disproportionate spikes in
9 marijuana use since the enactment of these laws. According to a
10 1999 report by the National Academy of Sciences, Institute of
11 Medicine, entitled "Marijuana and Medicine: Assessing the
12 Science Base", "[i]n sum, there is little evidence that
13 decriminalization of marijuana use necessarily leads to a
14 substantial increase in marijuana use."

15 Given that the vast majority of possession charges under
16 the criminal code are dealt with by fines in any event, treating
17 possession of less than an ounce of marijuana as a violation,
18 punishable by a fine, provides some deterrence and demonstrates
19 our State's disapproval of the use of the drug while imposing a
20 penalty that is proportional to the offense.

21 The purpose of this Act is to make possession by adults of
22 less than one ounce of marijuana for personal use a violation.



1 This Act does not amend laws regarding driving under the
2 influence of an intoxicant or other criminal infractions
3 committed under the influence, possession by minors, or
4 infractions pertaining to sales or manufacturing.

5 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§712- Possession of marijuana. Possession of less
9 than one ounce of marijuana by an adult is a violation and shall
10 be subject to a fine of not more than \$500."

11 SECTION 3. Section 712-1240, Hawaii Revised Statutes, is
12 amended by amending the definition of "detrimental drug" to read
13 as follows:

14 ""Detrimental drug" means any substance or immediate
15 precursor defined or specified as a "Schedule V substance" by
16 chapter 329, or any marijuana[-]; provided that, for purposes of
17 section 712- , marijuana shall not be deemed a detrimental
18 drug."

19 SECTION 4. Section 712-1249, Hawaii Revised Statutes, is
20 amended by amending subsection (1) to read as follows:

21 "(1) [A] Except for possession of less than one ounce of
22 marijuana by an adult, a person commits the offense of promoting



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1 a detrimental drug in the third degree if the person knowingly
2 possesses any marijuana or any Schedule V substance in any
3 amount."

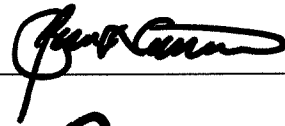
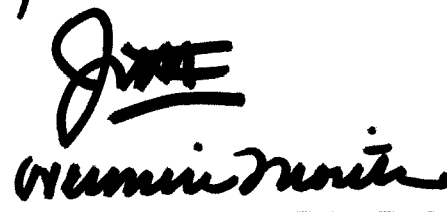
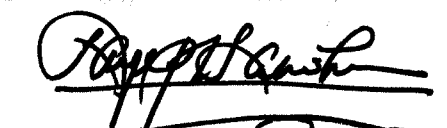

4 SECTION 5. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun, before its effective date.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect upon its approval.

10

INTRODUCED BY:

JAN 22 2009



Report Title:

Marijuana Possession; Violation

Description:

Reclassifies possession of less than one ounce of marijuana from a petty misdemeanor to a violation.

