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# 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 section to be appropriately designated  
3 and to read as follows:

4 **"§329-A Possession of marijuana.** (a) Intentional or  
5 knowing possession of one ounce or less of marijuana shall  
6 constitute a civil violation subject to a fine not to exceed  
7 \$300 for the first violation, and \$500 for every violation  
8 thereafter.

9 (b) Civil fines and penalties for violations under this  
10 section shall be deposited into the early intervention special  
11 fund and administered pursuant to section 321-355."

12 SECTION 2. Section 302A-1002, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"~~[§302A-1002]~~ Reporting of crime-related incidents.**

15 The board shall adopt rules pursuant to chapter 91 to:

16 (1) Require a report to appropriate authorities from a  
17 teacher, official, or other employee of the department



1 who knows or has reason to believe that an act has  
2 been committed or will be committed, which:

3 (A) Occurred or will occur on school property during  
4 school hours or during activities supervised by  
5 the school; and

6 (B) Involves crimes relating to arson, assault,  
7 burglary, disorderly conduct, dangerous weapons,  
8 dangerous drugs, harmful drugs, extortion,  
9 firearms, gambling, harassment, intoxicating  
10 drugs, [~~marijuana or~~] marijuana concentrate, or  
11 more than one ounce of marijuana, murder,  
12 attempted murder, sexual offenses, rendering a  
13 false alarm, criminal property damage, robbery,  
14 terroristic threatening, theft, or trespass;

15 (2) Establish procedures for disposing of any incident  
16 reported; and

17 (3) Impose, in addition to any other powers or authority  
18 the department may have to discipline school  
19 officials, appropriate disciplinary action for failure  
20 to report these incidents, including probation,  
21 suspension, demotion, and discharge of school  
22 officials."



1 SECTION 3. Section 321-355, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The fund shall consist of grants, fines, and  
4 penalties for violations of section 329-A, and income earned by  
5 the special fund. Notwithstanding section 29-24, all program  
6 income consisting of federal reimbursement funds received by the  
7 State for early intervention funded by legislative  
8 appropriations under this part shall be deposited into the  
9 special fund; provided that no state appropriations shall be  
10 deposited into the special fund."

11 SECTION 4. Section 329-125, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) A qualifying patient or the primary caregiver may  
14 assert the medical use of marijuana as an affirmative defense to  
15 any prosecution, criminal or civil, involving marijuana under  
16 this [+]part[+], section 329-A, or chapter 712; provided that  
17 the qualifying patient or the primary caregiver strictly  
18 complied with the requirements of this part."

19 SECTION 5. Section 353-66, Hawaii Revised Statutes, is  
20 amended by amending subsection (f) to read as follows:

21 "(f) The Hawaii paroling authority may require a paroled  
22 prisoner to undergo and complete a substance abuse treatment



1 program when the paroled prisoner has committed a violation of  
2 the terms and conditions of parole involving possession or use,  
3 not including to distribute or manufacture as defined in section  
4 712-1240, of any dangerous drug, detrimental drug, harmful drug,  
5 intoxicating compound, more than one ounce of marijuana, or  
6 marijuana concentrate, as defined in section 712-1240, unlawful  
7 methamphetamine trafficking as provided in [~~section 712-1240.6,~~]  
8 sections 712-1240.7 and 712-1240.8, or involving possession or  
9 use of drug paraphernalia under section 329-43.5. If the  
10 paroled prisoner fails to complete the substance abuse treatment  
11 program or the Hawaii paroling authority determines that the  
12 paroled prisoner cannot benefit from any substance abuse  
13 treatment program, the paroled prisoner shall be subject to  
14 revocation of parole and return to incarceration. As a  
15 condition of parole, the Hawaii paroling authority may require  
16 the paroled prisoner to:

- 17 (1) Be assessed by a certified substance abuse counselor  
18 for substance abuse dependency or abuse under the  
19 applicable Diagnostic and Statistical Manual and  
20 Addiction Severity Index;
- 21 (2) Present a proposal to receive substance abuse  
22 treatment in accordance with the treatment plan



1 prepared by a certified substance abuse counselor  
2 through a substance abuse treatment program that  
3 includes an identified source of payment for the  
4 treatment program;

5 (3) Contribute to the cost of the substance abuse  
6 treatment program; and

7 (4) Comply with any other terms and conditions for parole.

8 As used in this subsection, "substance abuse treatment  
9 program" means drug or substance abuse treatment services  
10 provided outside a correctional facility by a public, private,  
11 or nonprofit entity that specializes in treating persons who are  
12 diagnosed with having substance abuse or dependency and  
13 preferably employs licensed professionals or certified substance  
14 abuse counselors.

15 Nothing in this subsection shall be construed to give rise  
16 to a cause of action against the State, a state employee, or a  
17 treatment provider."

18 SECTION 6. Section 706-625, Hawaii Revised Statutes, is  
19 amended by amending subsection (7) to read as follows:

20 "(7) The court may require a defendant to undergo and  
21 complete a substance abuse treatment program when the defendant  
22 has committed a violation of the terms and conditions of



1 probation involving possession or use, not including to  
2 distribute or manufacture as defined in section 712-1240, of any  
3 dangerous drug, detrimental drug, harmful drug, intoxicating  
4 compound, more than one ounce of marijuana, or marijuana  
5 concentrate, as defined in section 712-1240, unlawful  
6 methamphetamine trafficking as provided in [~~section 712-1240.6,~~]  
7 sections 712-1240.7 and 712-1240.8, or involving possession or  
8 use of drug paraphernalia under section 329-43.5. If the  
9 defendant fails to complete the substance abuse treatment  
10 program or the court determines that the defendant cannot  
11 benefit from any other suitable substance abuse treatment  
12 program, the defendant shall be subject to revocation of  
13 probation and incarceration. The court may require the  
14 defendant to:

15 (a) Be assessed by a certified substance abuse counselor  
16 for substance abuse dependency or abuse under the  
17 applicable Diagnostic and Statistical Manual and  
18 Addiction Severity Index;

19 (b) Present a proposal to receive substance abuse  
20 treatment in accordance with the treatment plan  
21 prepared by a certified substance abuse counselor  
22 through a substance abuse treatment program that



1 includes an identified source of payment for the  
2 treatment program;

3 (c) Contribute to the cost of the substance abuse  
4 treatment program; and

5 (d) Comply with any other terms and conditions of  
6 probation.

7 As used in this subsection, "substance abuse treatment  
8 program" means drug or substance abuse treatment services  
9 provided outside a correctional facility by a public, private,  
10 or nonprofit entity that specializes in treating persons who are  
11 diagnosed with substance abuse or dependency and preferably  
12 employs licensed professionals or certified substance abuse  
13 counselors.

14 Nothing in this subsection shall be construed to give rise  
15 to a cause of action against the State, a state employee, or a  
16 treatment provider."

17 SECTION 7. Section 712-1240, Hawaii Revised Statutes, is  
18 amended by amending the definition of "detrimental drug" to read  
19 as follows:

20 "Detrimental drug" means any substance or immediate  
21 precursor defined or specified as a "Schedule V substance" by  
22 chapter 329, or any marijuana[+], provided that one ounce or



1 less of marijuana shall not be deemed a detrimental drug under  
2 section 353-66, 706-625, 712-1251, or 712-1255."

3 SECTION 8. Section 712-1248, Hawaii Revised Statutes, is  
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of promoting a  
6 detrimental drug in the second degree if the person knowingly:

7 (a) Possesses fifty or more capsules or tablets containing  
8 one or more of the Schedule V substances; or

9 (b) Possesses one or more preparations, compounds,  
10 mixtures, or substances, of an aggregate weight of  
11 one-eighth ounce or more, containing one or more of  
12 the Schedule V substances; or

13 (c) Possesses one or more preparations, compounds,  
14 mixtures, or substances, of an aggregate weight of one  
15 ounce or more, containing [~~any~~] more than one ounce of  
16 marijuana; or

17 (d) Distributes any marijuana or any Schedule V substance  
18 in any amount."

19 SECTION 9. Section 712-1249, Hawaii Revised Statutes, is  
20 amended by amending subsection (1) to read as follows:

21 "(1) A person commits the offense of promoting a  
22 detrimental drug in the third degree if the person knowingly





1 possesses [~~any~~] more than one ounce of marijuana or any Schedule  
2 V substance in any amount."

3 SECTION 10. Section 712-1249.6, Hawaii Revised Statutes,  
4 is amended to read as follows:

5 **"§712-1249.6 Promoting a controlled substance in, on, or**  
6 **near schools, school vehicles, or public parks.** (1) A person  
7 commits the offense of promoting a controlled substance in, on,  
8 or near schools, school vehicles, or public parks if the person  
9 knowingly:

- 10 (a) Distributes or possesses with intent to distribute a  
11 controlled substance in any amount in or on the real  
12 property comprising a school or public park;
- 13 (b) Distributes or possesses with intent to distribute a  
14 controlled substance in any amount within seven  
15 hundred and fifty feet of the real property comprising  
16 a school or public park;
- 17 (c) Distributes or possesses with intent to distribute a  
18 controlled substance in any amount while on any school  
19 vehicle, or within ten feet of a parked school vehicle  
20 during the time that the vehicle is in service for or  
21 waiting to transport school children; or



1 (d) Manufactures methamphetamine or any of its salts,  
2 isomers, and salts of isomers, within seven hundred  
3 and fifty feet of the real property comprising a  
4 school or public park.

5 (2) A person who violates subsection (1)(a), (b), or (c)  
6 is guilty of a class C felony. A person who violates subsection  
7 (1)(d) is guilty of a class A felony.

8 (3) Any person with prior conviction or convictions under  
9 subsection (1)(a), (b), or (c) is punishable by a term of  
10 imprisonment of not less than two years and not more than ten  
11 years.

12 (4) Any individual convicted under subsection (3) of this  
13 section shall not be eligible for parole until the individual  
14 has served the minimum sentence required by such subsection.

15 (5) For purposes of this section, mere possession of  
16 marijuana in an amount of one ounce or less shall not constitute  
17 a possession with intent to distribute without other conduct  
18 indicating intent to distribute.

19 [~~5~~] (6) For the purposes of this section, "school  
20 vehicle" means every school vehicle as defined in section  
21 286-181 and any regulations adopted pursuant to that section.



1        [~~6~~] (7) For purposes of this section, "school" means any  
2 public or private preschool, kindergarten, elementary,  
3 intermediate, middle secondary, or high school."

4        SECTION 11. Section 712-1255, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        "**§712-1255 Conditional discharge.** (1) Whenever any  
7 person who has not previously been convicted of any offense  
8 under this chapter or chapter 329, except for a civil violation  
9 under section 329-A, or under any statute of the United States  
10 or of any state relating to a dangerous drug, harmful drug,  
11 detrimental drug, or an intoxicating compound, pleads guilty to  
12 or is found guilty of promoting a dangerous drug, harmful drug,  
13 detrimental drug, or an intoxicating compound under section  
14 712-1243, 712-1245, 712-1246, 712-1248, 712-1249, or 712-1250,  
15 the court, without entering a judgment of guilt and with the  
16 consent of the accused, may defer further proceedings and place  
17 the accused on probation upon terms and conditions. Upon  
18 violation of a term or condition, the court may enter an  
19 adjudication of guilt and proceed as otherwise provided.

20        (2) Upon fulfillment of the terms and conditions, the  
21 court shall discharge the person and dismiss the proceedings  
22 against the person.



1 (3) Discharge and dismissal under this section shall be  
2 without adjudication of guilt and is not a conviction for  
3 purposes of this section or for purposes of disqualifications or  
4 disabilities imposed by law upon conviction of a crime.

5 (4) There may be only one discharge and dismissal under  
6 this section with respect to any person.

7 (5) After conviction, for any offense under this chapter  
8 or chapter 329, except for a conviction of a civil violation  
9 under section 329-A, but prior to sentencing, the court shall be  
10 advised by the prosecutor whether the conviction is defendant's  
11 first or a subsequent offense. If it is not a first offense,  
12 the prosecutor shall file an information setting forth the prior  
13 convictions. The defendant shall have the opportunity in open  
14 court to affirm or deny that the defendant is identical with the  
15 person previously convicted. If the defendant denies the  
16 identity, sentence shall be postponed for such time as to permit  
17 the trial, before a jury if the defendant has a right to trial  
18 by jury and demands a jury, on the sole issue of the defendant's  
19 identity with the person previously convicted.

20 (6) For purposes of this section, a conviction for one or  
21 more civil violations under section 329-A shall not constitute a



1 prior offense making a conditional discharge described in this  
2 section unavailable to the defendant."

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

6 SECTION 13. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 14. This Act shall take effect on July 1, 2050.

9



**Report Title:**

Marijuana; Civil Penalties for Possession of One Ounce or Less

**Description:**

Establishes a civil violation for possession of one ounce or less of marijuana that is subject to a fine of not more than \$300 for the first violation, and \$500 for every violation thereafter. Effective July 1, 2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

