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## 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 any  
9 amount of marijuana as a petty misdemeanor due to the relatively  
10 harmless nature of this substance compared to other illegal  
11 substances. While no psychoactive substance is completely  
12 without risk, many scientists concur with Judge Francis Young,  
13 an administrative law judge of the United States Department of  
14 Justice, Drug Enforcement Administration, who found, in 1988,  
15 that "marijuana is one of the safest therapeutically active  
16 substances known to man."

17           Current Hawaii law provides for a sentence of not more than  
18 thirty days of imprisonment for possession of less than an ounce



1 of marijuana. Even a petty misdemeanor, however, is a crime. A  
2 criminal record based upon marijuana possession may impact an  
3 arrestee's future by rendering the person ineligible for federal  
4 college loans, certain types of employment, and military  
5 service. Twelve other states have recognized the advantages of  
6 downgrading possession of small amounts of marijuana to a  
7 violation instead of a crime. These states--Alaska, California,  
8 Colorado, Maine, Minnesota, Mississippi, Nebraska, Nevada, New  
9 York, North Carolina, Ohio, and Oregon--have not experienced  
10 disproportionate spikes in marijuana use since the enactment of  
11 these laws. A 1999 report by the National Academy of Sciences,  
12 Institute of Medicine, entitled "Marijuana and Medicine:  
13 Assessing the Science Base" noted: "In sum, there is little  
14 evidence that decriminalization of marijuana use necessarily  
15 leads to a substantial increase in marijuana use."

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



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

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

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

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

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

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

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



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1           "(1) [A] Except for possession of less than one ounce of  
 2 marijuana by an adult, a person commits the offense of promoting  
 3 a detrimental drug in the third degree if the person knowingly  
 4 possesses any marijuana or any Schedule V substance in any  
 5 amount."

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

9           SECTION 6. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

*[Signature]*

*Paul Rhoads*

*[Signature]*

JAN 21 2011



**Report Title:**

Marijuana Possession; Violation

**Description:**

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

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

