
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 SECTION 1. The legislature finds that there is an ongoing
2 nationwide debate concerning the personal use and possession of
3 marijuana by adults. The legislature finds there is evidence to
4 support that the use of marijuana by minors is associated with
5 greater negative neuropsychological effects, such as loss of IQ
6 points and diminished executive functioning and processing
7 speed, relative to persons who begin use of marijuana in
8 adulthood. As such, the deterrent effect of criminal and other
9 sanctions is still necessary for minors. See Madeline H. Meier
10 et al., *Persistent cannabis users show neuropsychological*
11 *decline from childhood to midlife*, PNAS, Oct. 2, 2012.

12 Accordingly, the purpose of this Act is to reduce the
13 penalty for the possession of up to twenty grams of marijuana to
14 a civil fine of \$100 for adults alone, and to continue to apply
15 the criminal scheme under existing law to minors. To further
16 discourage the possession and use of marijuana by minors the
17 purpose of this Act is to require the suspension of the drivers



1 license for one year of a minor who is adjudicated for the
2 possession of any amount of marijuana.

3 To dissuade adults from providing minors with marijuana,
4 the purpose of this Act is to create a right of action and civil
5 liability against a person, eighteen years of age or older, that
6 sells, furnishes, or provides marijuana to a minor, or owns,
7 occupies, or controls the premises on which marijuana is used or
8 consumed by minors and knowingly allows such activity to take
9 place, for injuries caused by the minor while intoxicated by
10 marijuana. Additionally, the purpose of this Act is to clarify
11 that the misdemeanor offense of promoting intoxication compounds
12 includes a person who knowingly sells or offers for sale,
13 delivers, or gives marijuana to a minor.

14 Moreover, the purpose of this Act is to further amend the
15 penal code by reducing the amounts of marijuana for which a
16 person may be charged with promoting a detrimental drug in the
17 first and second degrees.

18 SECTION 2. Chapter 286, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "§286- Mandatory revocation of the license of a minor.

22 Any court of competent jurisdiction shall forthwith suspend the



1 license, provisional license, or instruction permit of any
2 person under the age of eighteen, if applicable, for a period of
3 one year upon the adjudication of the person under the age of
4 eighteen for the possession of any amount of marijuana pursuant
5 to promoting a detrimental drug in the first, second, or third
6 degree."

7 SECTION 3. Chapter 329, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§329- Possession of marijuana. (a) Intentional,
11 knowing, or reckless possession of twenty grams or less of
12 marijuana by a person eighteen years of age or older shall
13 constitute a civil violation subject to a fine of \$100.

14 (b) Civil fines and penalties for violations under this
15 section shall be deposited by the director of finance to the
16 credit of the state general fund."

17 SECTION 4. Chapter 663, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding a new section to part V to be appropriately
20 designated and to read:

21 "§663- Right of action. (a) Any person eighteen years
22 or older who:



1 SECTION 5. Section 712-1240, Hawaii Revised Statutes, is
2 amended by amending the definition of "detrimental drug" to read
3 as follows:

4 "Detrimental drug" means any substance or immediate
5 precursor defined or specified as a "Schedule V substance" by
6 chapter 329, or any marijuana[-]; provided that twenty grams or
7 less of marijuana shall not be deemed a detrimental drug for
8 purposes of section 712-1251 or 712-1255."

9 SECTION 6. Section 712-1247, Hawaii Revised Statutes, is
10 amended by amending subsection (1) to read as follows:

11 "(1) A person commits the offense of promoting a
12 detrimental drug in the first degree if the person knowingly:

13 (a) Possesses four hundred or more capsules or tablets
14 containing one or more of the Schedule V substances;
15 or

16 (b) Possesses one or more preparations, compounds,
17 mixtures, or substances of an aggregate weight of one
18 ounce or more, containing one or more of the Schedule
19 V substances; or

20 (c) Distributes fifty or more capsules or tablets
21 containing one or more of the Schedule V substances;
22 or



1 (d) Distributes one or more preparations, compounds,
2 mixtures, or substances of an aggregate weight of one-
3 eighth ounce or more, containing one or more of the
4 Schedule V substances; or

5 (e) Possesses one or more preparations, compounds,
6 mixtures, or substances [~~of an aggregate weight of one~~
7 ~~pound or more,~~] containing [~~any~~] more than four
8 hundred grams of marijuana; or

9 (f) Distributes one or more preparations, compounds,
10 mixtures, or substances of an aggregate weight of [~~one~~
11 ~~ounce or more,~~] more than twenty grams, containing any
12 marijuana; or

13 (g) Possesses, cultivates, or has under the person's
14 control twenty-five or more marijuana plants; or

15 (h) Sells or barter any marijuana or any Schedule V
16 substance in any amount."

17 SECTION 7. Section 712-1248, Hawaii Revised Statutes, is
18 amended by amending subsection (1) to read as follows:

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

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



- 1 (b) Possesses one or more preparations, compounds,
2 mixtures, or substances, of an aggregate weight of
3 one-eighth ounce or more, containing one or more of
4 the Schedule V substances; or
- 5 (c) Possesses one or more preparations, compounds,
6 mixtures, or substances [~~of an aggregate weight of~~
7 ~~one ounce or more,~~] containing [~~any~~] more than twenty
8 grams of marijuana; or
- 9 (d) Distributes any marijuana or any Schedule V substance
10 in any amount."

11 SECTION 8. Section 712-1249, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§712-1249 Promoting a detrimental drug in the third**

14 **degree.** (1) A person commits the offense of promoting a
15 detrimental drug in the third degree if the person knowingly
16 possesses [~~any marijuana or~~] any Schedule V substance in any
17 amount.

18 (2) A minor commits the offense of promoting a detrimental
19 drug in the third degree if the minor knowingly possesses any
20 marijuana or any Schedule V substance in any amount.

21 [~~(2)~~] (3) Promoting a detrimental drug in the third degree
22 is a petty misdemeanor."



1 SECTION 9. Section 712-1250, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§712-1250 Promoting intoxicating compounds. (1) A
4 person commits the offense of promoting intoxicating compounds
5 if the person knowingly:

6 (a) Breathes, inhales, or drinks any compound, liquid, or
7 chemical containing toluol, hexane, trichloroethylene,
8 acetone, toluene, ethyl acetate, methyl ethyl ketone,
9 trichloroethane, isopropanol, methyl isobutyl ketone,
10 methyl cellosolve acetate, cyclohexanone, or any other
11 substance for the purpose of inducing a condition of
12 intoxication, stupefaction, depression, giddiness,
13 paralysis or irrational behavior, or in any manner
14 changing, distorting or disturbing the auditory,
15 visual or mental processes.

16 (b) Sells or offers for sale, delivers or gives to any
17 person under eighteen years of age, unless upon
18 written order of such person's parent or guardian, any
19 compound liquid or chemical containing toluol, hexane,
20 trichloroethylene, acetone, toluene, ethyl acetate,
21 methyl ethyl ketone, trichloroethane, isopropanol,
22 methyl isobutyl ketone, methyl cellosolve acetate,



1 cyclohexanone, marijuana, or any other substance which
2 will induce an intoxicated condition, as defined
3 herein, when the seller, offeror or deliveror knows or
4 has reason to know that such compound is intended for
5 use to induce such condition.

6 (2) Promoting intoxicating compounds is a misdemeanor.

7 (3) This section shall not apply to any person who commits
8 any act described herein pursuant to the direction or
9 prescription of a practitioner, as defined in [~~the "Hawaii Food,~~
10 ~~Drug and Cosmetic Act" (section 328-16).~~] section 328-1."

11 SECTION 10. Section 712-1255, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§712-1255 Conditional discharge.** (1) Whenever any
14 person who has not previously been convicted of any offense
15 under this chapter or chapter 329, except for a civil violation
16 under section 329- , or under any statute of the United States
17 or of any state relating to a dangerous drug, harmful drug,
18 detrimental drug, or an intoxicating compound, pleads guilty to
19 or is found guilty of promoting a dangerous drug, harmful drug,
20 detrimental drug, or an intoxicating compound under section
21 712-1243, 712-1245, 712-1246, 712-1248, 712-1249, or 712-1250,
22 the court, without entering a judgment of guilt and with the



1 consent of the accused, may defer further proceedings and place
2 the accused on probation upon terms and conditions. Upon
3 violation of a term or condition, the court may enter an
4 adjudication of guilt and proceed as otherwise provided.

5 (2) Upon fulfillment of the terms and conditions, the
6 court shall discharge the person and dismiss the proceedings
7 against the person.

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

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

14 (5) After conviction, for any offense under this chapter
15 or chapter 329, except for a conviction of a civil violation
16 under section 329- , but prior to sentencing, the court shall
17 be advised by the prosecutor whether the conviction is
18 defendant's first or a subsequent offense. If it is not a first
19 offense, the prosecutor shall file an information setting forth
20 the prior convictions. The defendant shall have the opportunity
21 in open court to affirm or deny that the defendant is identical
22 with the person previously convicted. If the defendant denies



1 the identity, sentence shall be postponed for such time as to
2 permit the trial, before a jury if the defendant has a right to
3 trial by jury and demands a jury, on the sole issue of the
4 defendant's identity with the person previously convicted.

5 (6) For purposes of this section, a conviction for one or
6 more civil violations under section 329- shall not constitute
7 a prior offense making a conditional discharge described in this
8 section unavailable to the defendant."

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

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

14 SECTION 13. This Act shall take effect upon its approval.



Report Title:

Marijuana; Possession; Civil Penalties

Description:

Makes it a civil violation for adults to possess twenty grams or less of marijuana subject to a fine of \$100. Mandates the suspension of a minor's license, permit, or provisional license upon adjudication for promoting a detrimental substance in the first, second, or third degree for one year. Establishes a cause of action for those injured by a minor intoxicated by marijuana against an adult who provided the marijuana or owns, operates, or controls the premises on which marijuana is used or consumed by a minor and knowingly allows such activity to take place. Makes conforming amendments to the penal code to reflect the establishment of the civil violation for adults possessing twenty grams or less of marijuana. (SB472 HD1)

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