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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- Possession of marijuana. (a) Intentional,  
5 knowing, or reckless possession of twenty grams or less of  
6 marijuana by a person eighteen years of age or older shall  
7 constitute a civil violation subject to a fine of \$100.

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

11 SECTION 2. Chapter 663, Hawaii Revised Statutes, is  
12 amended as follows:

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

15 "§663- Right of Action. (a) Any person eighteen years  
16 or older who:

17 (1) Sells, furnishes, or provides marijuana to a person  
18 under the age of eighteen years; or





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

6        SECTION 4. Section 712-1247, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

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

10       (a) Possesses four hundred or more capsules or tablets  
11       containing one or more of the Schedule V substances;  
12       or

13       (b) Possesses one or more preparations, compounds,  
14       mixtures, or substances of an aggregate weight of one  
15       ounce or more, containing one or more of the Schedule  
16       V substances; or

17       (c) Distributes fifty or more capsules or tablets  
18       containing one or more of the Schedule V substances;  
19       or

20       (d) Distributes one or more preparations, compounds,  
21       mixtures, or substances of an aggregate weight of one-



- 1 eighth ounce or more, containing one or more of the
- 2 Schedule V substances; or
- 3 (e) Possesses one or more preparations, compounds,
- 4 mixtures, or substances [~~of an aggregate weight of one~~
- 5 ~~pound or more,~~] containing [any] more than four
- 6 hundred twenty six grams of marijuana; or
- 7 (f) Distributes one or more preparations, compounds,
- 8 mixtures, or substances of an aggregate weight of [~~one~~
- 9 ~~ounce or more,~~] more than twenty grams, containing any
- 10 marijuana; or
- 11 (g) Possesses, cultivates, or has under the person's
- 12 control twenty-five or more marijuana plants; or
- 13 (h) Sells or barterers any marijuana or any Schedule V
- 14 substance in any amount."

15 SECTION 5. Section 712-1248, Hawaii Revised Statutes, is  
 16 amended by amending subsection (1) to read as follows:

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

- 19 (a) Possesses fifty or more capsules or tablets containing
- 20 one or more of the Schedule V substances; or
- 21 (b) Possesses one or more preparations, compounds,
- 22 mixtures, or substances, of an aggregate weight of



1 one-eighth ounce or more, containing one or more of  
2 the Schedule V substances; or

3 (c) Possesses one or more preparations, compounds,  
4 mixtures, or substances [~~, of an aggregate weight of~~  
5 ~~one ounce or more,~~] containing [~~any~~] more than two  
6 hundred of grams of marijuana; or

7 (d) Distributes any marijuana or any Schedule V substance  
8 in any amount."

9 SECTION 6. Section 712-1249, 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 third degree if the person knowingly  
13 possesses [~~any~~] more than twenty grams of marijuana or any  
14 Schedule V substance in any amount."

15 SECTION 7. Section 712-1249.6, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§712-1249.6 Promoting a controlled substance in, on, or**  
18 **near schools, school vehicles, public parks, or public housing**  
19 **projects or complexes.** (1) A person commits the offense of  
20 promoting a controlled substance in, on, or near schools, school  
21 vehicles, public parks, or public housing projects or complexes  
22 if the person knowingly:



1 (a) Distributes or possesses with intent to distribute a  
2 controlled substance in any amount in or on the real  
3 property comprising a school, public park, or public  
4 housing project or complex;

5 (b) Distributes or possesses with intent to distribute a  
6 controlled substance in any amount within seven  
7 hundred and fifty feet of the real property comprising  
8 a school, public park, or public housing project or  
9 complex;

10 (c) Distributes or possesses with intent to distribute a  
11 controlled substance in any amount while on any school  
12 vehicle, or within ten feet of a parked school vehicle  
13 during the time that the vehicle is in service for or  
14 waiting to transport school children; or

15 (d) Manufactures methamphetamine or any of its salts,  
16 isomers, and salts of isomers, within seven hundred  
17 and fifty feet of the real property comprising a  
18 school, public park, or public housing project or  
19 complex.

20 (2) A person who violates subsection (1) (a), (b), or (c)  
21 is guilty of a class C felony. A person who violates subsection  
22 (1) (d) is guilty of a class A felony.



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

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

8 (5) For purposes of this section, mere possession of  
9 marijuana in an amount of twenty grams or less shall not  
10 constitute possession with intent to distribute without other  
11 conduct indicating intent to distribute.

12 [~~+5~~] (6) For the purposes of this section, "school vehicle"  
13 means every school vehicle as defined in section 286-181 and any  
14 regulations adopted pursuant to that section.

15 [~~+6~~] (7) For purposes of this section, "school" means any  
16 public or private preschool, kindergarten, elementary,  
17 intermediate, middle secondary, or high school.

18 [~~+7~~] (8) For purposes of this section, "public housing  
19 project or complex" means a housing project directly controlled,  
20 owned, developed, or managed by the Hawaii public housing  
21 authority pursuant to the federal or state low-rent public  
22 housing program."



1 SECTION 8. 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).~~] in section 328-1."

11          SECTION 9. 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 10. 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 11. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 12. This Act shall take effect on July 1, 2050.



**Report Title:**

Marijuana; Possession; Civil Penalties

**Description:**

Makes is a civil violation to possess twenty grams or less of marijuana subject to a fine of \$100. Establishes a cause of action for those injured by a minor intoxicated by marijuana against an adult who provided the marijuana. Makes conforming amendments to the penal code. Effective July 1, 2050.

(PROPOSED SB472 HD1)

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

