
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 SECTION 1. Section 706-660, Hawaii Revised Statutes, is
2 amended by amending subsection (2) to read as follows:

3 "(2) A person who has been convicted of a class B or class
4 C felony for any offense under part IV of chapter 712 may be
5 sentenced to an indeterminate term of imprisonment; provided
6 that this subsection shall not apply to sentences imposed under
7 sections 706-606.5, 706-660.1, 712-1240.5, 712-1240.8, 712-1242,
8 712-1245, [~~712-1249.5,~~] 712-1249.6, 712-1249.7, and 712-1257.

9 When ordering a sentence under this subsection, the court
10 shall impose a term of imprisonment which shall be as follows:

11 (a) For a class B felony--ten years or less, but not less
12 than five years; and

13 (b) For a class C felony--five years or less, but not less
14 than one year.

15 The minimum length of imprisonment shall be determined by the
16 Hawaii paroling authority in accordance with section 706-669."



1 SECTION 2. Section 712-1244, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) A person commits the offense of promoting a harmful
4 drug in the first degree if the person knowingly:

5 (a) Possesses one hundred or more capsules or tablets or
6 dosage units containing one or more of the harmful
7 drugs [~~or one or more of the marijuana concentrates,~~
8 ~~or any combination thereof~~];

9 (b) Possesses one or more preparations, compounds,
10 mixtures, or substances, of an aggregate weight of one
11 ounce or more containing one or more of the harmful
12 drugs [~~or one or more of the marijuana concentrates,~~
13 ~~or any combination thereof~~];

14 (c) Distributes twenty-five or more capsules or tablets or
15 dosage units containing one or more of the harmful
16 drugs [~~or one or more of the marijuana concentrates,~~
17 ~~or any combination thereof~~];

18 (d) Distributes one or more preparations, compounds,
19 mixtures, or substances, of an aggregate weight of
20 one-eighth ounce or more, containing one or more of



1 the harmful drugs [~~or one or more of the marijuana~~
2 ~~concentrates, or any combination thereof~~]; or
3 (e) Distributes any harmful drug or any marijuana
4 concentrate in any amount to a minor."

5 SECTION 3. Section 712-1245, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) A person commits the offense of promoting a harmful
8 drug in the second degree if the person knowingly:

9 (a) Possesses fifty or more capsules or tablets or dosage
10 units containing one or more of the harmful drugs [~~or~~
11 ~~one or more of the marijuana concentrates, or any~~
12 ~~combination thereof~~];

13 (b) Possesses one or more preparations, compounds,
14 mixtures, or substances, of an aggregate weight of
15 one-eighth ounce or more, containing one or more of
16 the harmful drugs [~~or one or more of the marijuana~~
17 ~~concentrates, or any combination thereof~~]; or

18 (c) Distributes any harmful drug [~~or any marijuana~~
19 ~~concentrate in any amount~~]."

20 SECTION 4. Section 712-1246, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:



1 "(1) A person commits the offense of promoting a harmful
2 drug in the third degree if the person knowingly possesses
3 twenty-five or more capsules or tablets or dosage units
4 containing one or more of the harmful drugs [~~or one or more of~~
5 ~~the marijuana concentrates, or any combination thereof~~]."

6 SECTION 5. Section 712-1247, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§712-1247 Promoting a detrimental drug in the first**
9 **degree.** (1) A person commits the offense of promoting a
10 detrimental drug in the first degree if the person knowingly:
11 (a) Possesses four hundred or more capsules or tablets
12 containing one or more of the Schedule V substances;
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;
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[~~;~~
- 3 ~~(e) Possesses one or more preparations, compounds,~~
4 ~~mixtures, or substances of an aggregate weight of one~~
5 ~~pound or more, containing any marijuana;~~
- 6 ~~(f) Distributes one or more preparations, compounds,~~
7 ~~mixtures, or substances of an aggregate weight of one~~
8 ~~ounce or more, containing any marijuana;~~
- 9 ~~(g) Possesses, cultivates, or has under the person's~~
10 ~~control twenty-five or more marijuana plants; or~~
- 11 ~~(h) Sells or barter any marijuana or any Schedule V~~
12 ~~substance in any amount].~~

13 (2) Promoting a detrimental drug in the first degree is a
14 class C felony.

15 (3) Any marijuana seized as evidence of a violation of
16 this section in excess of one pound may be destroyed after it
17 has been photographed and the weight thereof recorded. The
18 remainder of the marijuana shall remain in the custody of the
19 police department until the termination of any criminal action
20 brought as a result of the seizure of the marijuana.
21 Photographs duly identified as accurately representing the



1 marijuana shall be deemed competent evidence of the marijuana
2 involved and shall be admissible in any proceeding, hearing, or
3 trial to the same extent as the marijuana itself; provided that
4 nothing in this subsection shall be construed to limit or to
5 restrict the application of rule 901 of the Hawaii rules of
6 evidence."

7 SECTION 6. Section 712-1248, Hawaii Revised Statutes, is
8 amended by amending subsection (1) to read as follows:

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

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

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

17 [~~(c)~~] ~~Possesses one or more preparations, compounds,~~
18 ~~mixtures, or substances, of an aggregate weight of one~~
19 ~~ounce or more, containing any marijuana; or~~

20 ~~(d)]~~ (c) Distributes any [~~marijuana or any~~] Schedule V
21 substance in any amount."



1 SECTION 7. Section 712-1249, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) A person commits the offense of promoting a
4 detrimental drug in the third degree if the person knowingly
5 possesses [~~any marijuana or~~] any Schedule V substance in any
6 amount."

7 SECTION 8. Section 806-83, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Criminal charges may be instituted by written
10 information for a felony when the charge is a class B felony
11 under section 134-7(b) (ownership or possession prohibited,
12 when; penalty); [+section+] 134-23 (place to keep loaded
13 firearms other than pistols and revolvers; penalties); section
14 134-25 (place to keep pistol or revolver; penalty); section 134-
15 26 (carrying or possessing a loaded firearm on a public highway;
16 penalty); section 329-43.5 (prohibited acts related to drug
17 paraphernalia); section 708-810 (burglary in the first degree);
18 section 708-830.5 (theft in the first degree); section 708-839.7
19 (identity theft in the second degree); section 708-851 (forgery
20 in the first degree); section 708-891 (computer fraud in the
21 first degree); section 708-892 (computer damage in the first



1 degree); section 712-1240.8 (methamphetamine trafficking in the
2 second degree); section 712-1242 (promoting a dangerous drug in
3 the second degree); or section 712-1245 (promoting a harmful
4 drug in the second degree) [~~; or section 712-1249.5 (commercial
5 promotion of marijuana in the second degree)~~]."

6 SECTION 9. Section 712-1249.4, Hawaii Revised Statutes, is
7 repealed.

8 [~~§712-1249.4~~] ~~Commercial promotion of marijuana in the~~
9 ~~first degree.~~ (1) ~~A person commits the offense of commercial~~
10 ~~promotion of marijuana in the first degree if the person~~
11 ~~knowingly:~~

- 12 (a) ~~Possesses marijuana having an aggregate weight of~~
13 ~~twenty-five pounds or more;~~
- 14 (b) ~~Distributes marijuana having an aggregate weight of~~
15 ~~five pounds or more;~~
- 16 (c) ~~Possesses, cultivates, or has under the person's~~
17 ~~control one hundred or more marijuana plants;~~
- 18 (d) ~~Cultivates on land owned by another person, including~~
19 ~~land owned by the government or other legal entity,~~
20 ~~twenty five or more marijuana plants, unless the~~
21 ~~person has the express permission from the owner of~~



1 ~~the land to cultivate the marijuana or the person has~~
2 ~~a legal or an equitable ownership interest in the land~~
3 ~~or the person has a legal right to occupy the land; or~~
4 ~~(e) Uses, or causes to be used, any firearm or other~~
5 ~~weapon, device, instrument, material, or substance,~~
6 ~~whether animate or inanimate, which in the manner used~~
7 ~~is capable of causing death, serious bodily injury,~~
8 ~~substantial bodily injury, or other bodily injury, as~~
9 ~~defined in chapter 707 in order to prevent the theft,~~
10 ~~removal, search and seizure, or destruction of~~
11 ~~marijuana.~~

12 ~~(2) Commercial promotion of marijuana in the first degree~~
13 ~~is a class A felony.~~

14 ~~(3) Any marijuana seized as evidence in violation of this~~
15 ~~section in excess of an aggregate weight of twenty five pounds~~
16 ~~as stated in subsection (1) (a), or in excess of an aggregate~~
17 ~~weight of five pounds as stated in subsection (1) (b), or in~~
18 ~~excess of one hundred marijuana plants as stated in subsection~~
19 ~~(1) (c), or in excess of twenty five marijuana plants as stated~~
20 ~~in subsection (1) (d) may be destroyed after the excess amount~~
21 ~~has been photographed and the number of plants and the weight~~



1 ~~thereof has been recorded. The required minimum amount of the~~
2 ~~marijuana needed to constitute the elements of this offense~~
3 ~~shall remain in the custody of the police until the termination~~
4 ~~of any criminal action brought as a result of the seizure of the~~
5 ~~marijuana. Photographs duly identified as accurately~~
6 ~~representing the marijuana shall be deemed competent evidence of~~
7 ~~the marijuana involved and shall be admissible in any~~
8 ~~proceeding, hearing, or trial to the same extent as the~~
9 ~~marijuana itself; provided that nothing in this subsection shall~~
10 ~~be construed to limit or restrict the application of rule 901 of~~
11 ~~the Hawaii rules of evidence."]~~

12 SECTION 10. Section 712-1249.5, Hawaii Revised Statutes,
13 is repealed.

14 [~~§712-1249.5 Commercial promotion of marijuana in the~~
15 ~~second degree. (1) A person commits the offense of commercial~~
16 ~~promotion of marijuana in the second degree if the person~~
17 ~~knowingly:~~

18 (a) ~~Possesses marijuana having an aggregate weight of two~~
19 ~~pounds or more;~~

20 (b) ~~Distributes marijuana having an aggregate weight of~~
21 ~~one pound or more;~~



1 ~~(c) Possesses, cultivates, or has under the person's~~
2 ~~control fifty or more marijuana plants;~~

3 ~~(d) Cultivates on land owned by another person, including~~
4 ~~land owned by the government or other legal entity,~~
5 ~~any marijuana plant, unless the person has the express~~
6 ~~permission from the owner of the land to cultivate the~~
7 ~~marijuana or the person has a legal or an equitable~~
8 ~~ownership interest in the land or the person has a~~
9 ~~legal right to occupy the land; or~~

10 ~~(e) Sells or barter any marijuana or any Schedule V~~
11 ~~substance in any amount to a minor.~~

12 ~~(2) Commercial promotion of marijuana in the second degree~~
13 ~~is a class B felony.~~

14 ~~(3) Any marijuana seized as evidence in violation of this~~
15 ~~section in excess of an aggregate weight of two pounds as stated~~
16 ~~in subsection (1)(a), or in excess of an aggregate weight of one~~
17 ~~pound as stated in subsection (1)(b), or in excess of twenty-~~
18 ~~five marijuana plants as stated in subsection (1)(c) may be~~
19 ~~destroyed after the excess amount has been photographed and the~~
20 ~~number of plants and the weight thereof has been recorded. The~~
21 ~~required minimum amount of the marijuana needed to constitute~~



H.B. NO. 1371

1 ~~the elements of this offense shall remain in the custody of the~~
 2 ~~police until the termination of any criminal action brought as a~~
 3 ~~result of the seizure of the marijuana. Photographs duly~~
 4 ~~identified as accurately representing the marijuana shall be~~
 5 ~~deemed competent evidence of the marijuana involved and shall be~~
 6 ~~admissible in any proceeding, hearing, or trial to the same~~
 7 ~~extent as the marijuana itself; provided that nothing in this~~
 8 ~~subsection shall be construed to limit or to restrict the~~
 9 ~~application of rule 901 of the Hawaii rules of evidence."]~~

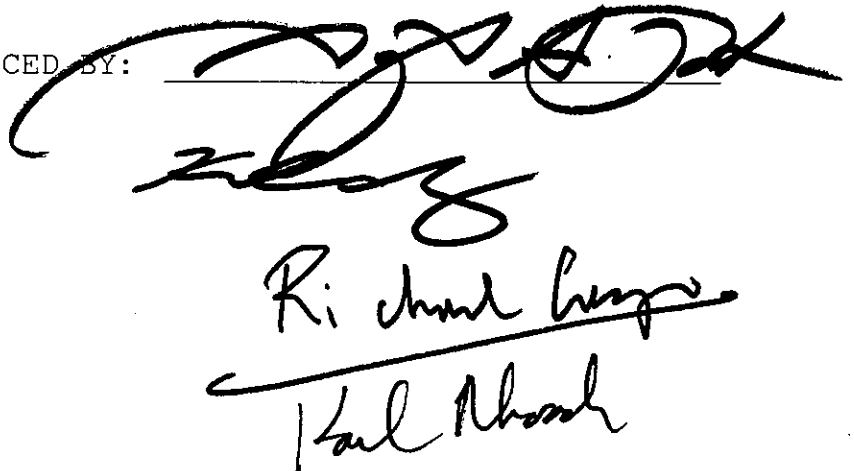
10 SECTION 11. This Act does not affect rights and duties
 11 that matured, penalties that were incurred, and proceedings that
 12 were begun before its effective date.

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

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

16

INTRODUCED BY:



Richard Iwano
 Paul Abouk



H.B. NO. 1371

Report Title:

Marijuana; Legalization

Description:

Repeals criminal penalties related to marijuana.

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

