
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 PART I.

2 SECTION 1. The legislature finds that the State has the
3 primary legal jurisdiction over crimes committed by the
4 permanent and temporary resident civil population within its
5 territorial boundaries, with the exception of crimes involving
6 property directly owned by the government of the United States.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Remove from the Hawaii Revised Statutes all existing
9 criminal and civil penalties that relate to the
10 growing, sale, distribution, and possession of
11 marijuana, also known as cannabis, except as provided
12 in paragraph (2);
- 13 (2) Prohibit the furnishing of marijuana to a minor under
14 the age of eighteen;
- 15 (3) Allow a person to grow, in residentially zoned areas,
16 no more than ten marijuana plants for personal use at
17 any one time;



1 (4) Allow a person to grow more than ten plants at any one
2 time in areas zoned for agriculture; and

3 (5) Prohibit the growing of marijuana on public property.

4 PART II.

5 SECTION 2. Chapter 709, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§709- _____ Marijuana and marijuana products prohibited;
9 minors. (1) It shall be unlawful to sell or furnish marijuana
10 in any shape or form to a minor under eighteen years of age.

11 (2) Signs using the statement, "The sale of marijuana
12 products to persons under eighteen is prohibited", shall be
13 posted on or near any vending machine in letters at least one-
14 half inch high and at or near the point of sale of any other
15 location where marijuana products are sold in letters at least
16 one-half inch high.

17 (3) It shall be unlawful for a minor under eighteen years
18 of age to purchase any marijuana product. This subsection shall
19 not apply if a person under the age of eighteen, with parental
20 authorization, is participating in a controlled purchase as part
21 of a law enforcement activity or a study authorized by the



1 department of health under the supervision of law enforcement to
2 determine the level of incidence of marijuana sales to minors.

3 (4) Any person who violates subsection (1) or (2), or
4 both, shall be fined \$500 for the first offense. Any subsequent
5 offenses shall subject the person to a fine not less than \$500
6 nor more than \$2,000. Any minor under eighteen years of age who
7 violates subsection (3) shall be fined \$10 for the first
8 offense, and for any subsequent offenses, shall be fined \$50, no
9 part of which shall be suspended, or the person shall be
10 required to perform not less than forty-eight hours nor more
11 than seventy-two hours of community service during hours when
12 the person is not employed and is not attending school."

13 SECTION 3. Chapter 712, Hawaii Revised Statutes, is
14 amended by adding a new part to be appropriately designated and
15 to read as follows:

16 "PART . MARIJUANA

17 §712-A . Marijuana cultivation. (1) A person may
18 cultivate up to ten marijuana plants at any one time; provided
19 that it shall be unlawful for any person to cultivate marijuana:

20 (a) On public property. Any person who violates this
21 paragraph shall subject to a fine of not more than



1 \$20,000 and to the immediate forfeiture of any
2 marijuana plants, products, or seeds in their
3 possession; and

4 (b) On private property without permission of the property
5 owner or legal tenant. Any person who violates this
6 paragraph shall be guilty of a misdemeanor.

7 (2) A county may adopt ordinances and rules governing
8 marijuana cultivation.

9 (3) Nothing in this part shall be construed to prohibit
10 the government of the United States from regulating the export
11 or import of marijuana from or to another state or territory of
12 the United States or to regulate marijuana use on federal
13 property or among active duty members of the armed forces of the
14 United States.

15 **§712-B Abuse of marijuana rights.** Any person who:

16 (a) Shares moneys gained from the sale of marijuana with a
17 criminal enterprise; gang; or cartel, which engages in
18 illegal activity for profit;

19 (b) Engages in violence or the use of a firearm in
20 relation to the cultivation of marijuana; or



1 (c) Uses a marijuana distribution business to hide other
2 activity that is illegal,
3 shall be guilty of abusing marijuana rights and subject to a
4 fine of not more than \$20,000 in addition to any penalty that
5 may accrue for the offense pursuant to any federal law."

6 PART III.

7 SECTION 4. Section 46-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§46-4 County zoning. (a) This section and any
10 ordinance, rule, or regulation adopted in accordance with this
11 section shall apply to lands not contained within the forest
12 reserve boundaries as established on January 31, 1957, or as
13 subsequently amended.

14 Zoning in all counties shall be accomplished within the
15 framework of a long-range, comprehensive general plan prepared
16 or being prepared to guide the overall future development of the
17 county. Zoning shall be one of the tools available to the
18 county to put the general plan into effect in an orderly manner.
19 Zoning in the counties of Hawaii, Maui, and Kauai means the
20 establishment of districts of such number, shape, and area, and
21 the adoption of regulations for each district to carry out the



1 purposes of this section. In establishing or regulating the
2 districts, full consideration shall be given to all available
3 data as to soil classification and physical use capabilities of
4 the land to allow and encourage the most beneficial use of the
5 land consonant with good zoning practices. The zoning power
6 granted herein shall be exercised by ordinance which may relate
7 to:

- 8 (1) The areas within which agriculture, forestry,
9 industry, trade, and business may be conducted;
- 10 (2) The areas in which residential uses may be regulated
11 or prohibited;
- 12 (3) The areas bordering natural watercourses, channels,
13 and streams, in which trades or industries, filling or
14 dumping, erection of structures, and the location of
15 buildings may be prohibited or restricted;
- 16 (4) The areas in which particular uses may be subjected to
17 special restrictions;
- 18 (5) The location of buildings and structures designed for
19 specific uses and designation of uses for which
20 buildings and structures may not be used or altered;



- 1 (6) The location, height, bulk, number of stories, and
- 2 size of buildings and other structures;
- 3 (7) The location of roads, schools, and recreation areas;
- 4 (8) Building setback lines and future street lines;
- 5 (9) The density and distribution of population;
- 6 (10) The percentage of a lot that may be occupied, size of
- 7 yards, courts, and other open spaces;
- 8 (11) Minimum and maximum lot sizes; and
- 9 (12) Other regulations the boards or city council find
- 10 necessary and proper to permit and encourage the
- 11 orderly development of land resources within their
- 12 jurisdictions.

13 The council of any county shall prescribe rules,
14 regulations, and administrative procedures and provide personnel
15 it finds necessary to enforce this section and any ordinance
16 enacted in accordance with this section. The ordinances may be
17 enforced by appropriate fines and penalties, civil or criminal,
18 or by court order at the suit of the county or the owner or
19 owners of real estate directly affected by the ordinances.

20 Any civil fine or penalty provided by ordinance under this
21 section may be imposed by the district court, or by the zoning



1 agency after an opportunity for a hearing pursuant to chapter
2 91. The proceeding shall not be a prerequisite for any
3 injunctive relief ordered by the circuit court.

4 Nothing in this section shall invalidate any zoning
5 ordinance or regulation adopted by any county or other agency of
6 government pursuant to the statutes in effect prior to July 1,
7 1957.

8 The powers granted herein shall be liberally construed in
9 favor of the county exercising them, and in such a manner as to
10 promote the orderly development of each county or city and
11 county in accordance with a long-range, comprehensive general
12 plan to ensure the greatest benefit for the State as a whole.
13 This section shall not be construed to limit or repeal any
14 powers of any county to achieve these ends through zoning and
15 building regulations, except insofar as forest and water reserve
16 zones are concerned and as provided in subsections (c) and (d).

17 Neither this section nor any ordinance enacted pursuant to
18 this section shall prohibit the continued lawful use of any
19 building or premises for any trade, industrial, residential,
20 agricultural, or other purpose for which the building or
21 premises is used at the time this section or the ordinance takes



1 effect; provided that a zoning ordinance may provide for
2 elimination of nonconforming uses as the uses are discontinued,
3 or for the amortization or phasing out of nonconforming uses or
4 signs over a reasonable period of time in commercial,
5 industrial, resort, and apartment zoned areas only. In no event
6 shall such amortization or phasing out of nonconforming uses
7 apply to any existing building or premises used for residential
8 (single-family or duplex) or agricultural uses. Nothing in this
9 section shall affect or impair the powers and duties of the
10 director of transportation as set forth in chapter 262.

11 (b) Any final order of a zoning agency established under
12 this section may be appealed to the circuit court of the circuit
13 in which the land in question is found. The appeal shall be in
14 accordance with the Hawaii rules of civil procedure.

15 (c) Each county may adopt reasonable standards to allow
16 the construction of two single-family dwelling units on any lot
17 where a residential dwelling unit is permitted.

18 (d) Neither this section nor any other law, county
19 ordinance, or rule shall prohibit group living in facilities
20 with eight or fewer residents for purposes or functions that are
21 licensed, certified, registered, or monitored by the State;



1 provided that a resident manager or a resident supervisor and
2 the resident manager's or resident supervisor's family shall not
3 be included in this resident count. These group living
4 facilities shall meet all applicable county requirements not
5 inconsistent with the intent of this subsection, including but
6 not limited to building height, setback, maximum lot coverage,
7 parking, and floor area requirements.

8 (e) Neither this section nor any other law, county
9 ordinance, or rule shall prohibit the use of land for employee
10 housing and community buildings in plantation community
11 subdivisions as defined in section 205-4.5(a)(12); in addition,
12 no zoning ordinance shall provide for the elimination,
13 amortization, or phasing out of plantation community
14 subdivisions as a nonconforming use.

15 (f) Neither this section nor any other law, county
16 ordinance, or rule shall prohibit the cultivation of marijuana
17 on private property; provided that:

18 (1) A person may cultivate no more than ten marijuana
19 plants at any one time;



1 (2) It shall be unlawful for any person to cultivate
 2 marijuana on private property without permission of
 3 the property owner or legal tenant; and

4 (3) Paragraph (1) shall not apply to any private property
 5 zoned for agriculture."

6 SECTION 5. Section 329-14, Hawaii Revised Statutes, is
 7 amended as follows:

8 1. By amending subsection (d) to read:

9 "(d) Any material, compound, mixture, or preparation that
 10 contains any quantity of the following hallucinogenic
 11 substances, their salts, isomers, and salts of isomers, unless
 12 specifically excepted, whenever the existence of these salts,
 13 isomers, and salts of isomers is possible within the specific
 14 chemical designation:

- 15 (1) Alpha-ethyltryptamine (AET);
- 16 (2) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 17 (3) 2,5-dimethoxyamphetamine (2,5-DMA);
- 18 (4) 3,4-methylenedioxy amphetamine;
- 19 (5) 3,4-methylenedioxymethamphetamine (MDMA);
- 20 (6) N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy-
- 21 MDA);



- 1 (7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);
- 2 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 3 (9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);
- 4 (10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);
- 5 (11) 3,4,5-trimethoxy amphetamine;
- 6 (12) Bufotenine;
- 7 (13) 4-methoxyamphetamine (PMA);
- 8 (14) Diethyltryptamine;
- 9 (15) Dimethyltryptamine;
- 10 (16) 4-methyl-2,5-dimethoxy-amphetamine;
- 11 (17) Gamma hydroxybutyrate (GHB) (some other names include
- 12 gamma hydroxybutyric acid; 4-hydroxybutyrate; 4-
- 13 hydroxybutanoic acid; sodium oxybate; sodium
- 14 oxybutyrate);
- 15 (18) Ibogaine;
- 16 (19) Lysergic acid diethylamide;
- 17 [~~(20)~~—~~Marijuana~~];
- 18 [~~(21)~~] (20) Parahexyl;
- 19 [~~(22)~~] (21) Mescaline;
- 20 [~~(23)~~] (22) Peyote;
- 21 [~~(24)~~] (23) N-ethyl-3-piperidyl benzilate;



- 1 [~~(25)~~] (24) N-methyl-3-piperidyl benzilate;
- 2 [~~(26)~~] (25) Psilocybin;
- 3 [~~(27)~~] (26) Psilocyn;
- 4 [~~(28)~~] (27) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);
- 5 [~~(29)~~] (28) Ethylamine analog of phencyclidine (PCE);
- 6 [~~(30)~~] (29) Pyrrolidine analog of phencyclidine (PCPy, PHP);
- 7 [~~(31)~~] (30) Thiophene analog of phencyclidine (TCPy; TCP);
- 8 [~~(32)~~] (31) Gamma-butyrolactone, including butyrolactone;
- 9 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone
- 10 dihydro; dihydro-2(3H)furanone; tetrahydro-2-furanone;
- 11 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-
- 12 hydroxybutyric acid lactone; 3-hydroxybutyric acid
- 13 lactone and 4-hydroxybutanoic acid lactone with
- 14 Chemical Abstract Service number 96-48-0 when any such
- 15 substance is intended for human ingestion;
- 16 [~~(33)~~] (32) 1,4 butanediol, including butanediol; butane-1,4-
- 17 diol; 1,4- butylenes glycol; butylene glycol; 1,4-
- 18 dihydroxybutane; 1,4- tetramethylene glycol;
- 19 tetramethylene glycol; tetramethylene 1,4- diol with
- 20 Chemical Abstract Service number 110-63-4 when any
- 21 such substance is intended for human ingestion;



- 1 [~~(34)~~] (33) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-
2 T-7), its optical isomers, salts, and salts of
3 isomers;
- 4 [~~(35)~~] (34) N-benzylpiperazine (BZP; 1-benzylpiperazine) its
5 optical isomers, salts, and salts of isomers;
- 6 [~~(36)~~] (35) 1-(3-trifluoromethylphenyl)piperazine (TFMPP),
7 its optical isomers, salts, and salts of isomers;
- 8 [~~(37)~~] (36) Alpha-methyltryptamine (AMT), its isomers, salts,
9 and salts of isomers;
- 10 [~~(38)~~] (37) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT),
11 its isomers, salts, and salts of isomers;
- 12 [~~(39)~~] (38) Salvia divinorum;
- 13 [~~(40)~~] (39) Salvinorin A;
- 14 [~~(41)~~] (40) Divinorin A;
- 15 [~~(42)~~] (41) 5-Methoxy-N,N-Dimethyltryptamine (5-MeO-DIPT)
16 (some trade or other names: 5-methoxy-3-[2-
17 (dimethylamino)ethyl]indole; 5-MeO-DMT);
- 18 [~~(43)~~] (42) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
- 19 [~~(44)~~] (43) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-
20 D);



- 1 ~~[(45)]~~ (44) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-
2 C);
- 3 ~~[(46)]~~ (45) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- 4 ~~[(47)]~~ (46) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine
5 (2C-T-2);
- 6 ~~[(48)]~~ (47) 2-[4-(Isopropylthio)-2,5-
7 dimethoxyphenyl]ethanamine (2C-T-4);
- 8 ~~[(49)]~~ (48) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- 9 ~~[(50)]~~ (49) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-
10 N);
- 11 ~~[(51)]~~ (50) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine
12 (2C-P);
- 13 ~~[(52)]~~ (51) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-
14 methoxybenzyl)ethanamine, its optical, positional, and
15 geometric isomers, salts, and salts of isomers (Other
16 names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5);
- 17 ~~[(53)]~~ (52) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-
18 methoxybenzyl)ethanamine, its optical, positional, and
19 geometric isomers, salts, and salts of isomers (Other
20 names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82); and



1 ~~[-(54)]~~ (53) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-
 2 methoxybenzyl)ethanamine, its optical, positional, and
 3 geometric isomers, salts, and salts of isomers (Other
 4 names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)."

5 2. By amending subsection (g) to read:

6 "(g) Any of the following cannabinoids, their salts,
 7 isomers, and salts of isomers, unless specifically excepted,
 8 whenever the existence of these salts, isomers, and salts of
 9 isomers is possible within the specific chemical designation:

10 ~~[(1) Tetrahydrocannabinols, meaning tetrahydrocannabinols~~
 11 ~~naturally contained in a plant of the genus Cannabis~~
 12 ~~(cannabis plant), as well as synthetic equivalents of~~
 13 ~~the substances contained in the plant, or in the~~
 14 ~~resinous extractives of Cannabis, sp. or synthetic~~
 15 ~~substances, derivatives, and their isomers with~~
 16 ~~similar chemical structure and pharmacological~~
 17 ~~activity to those substances contained in the plant,~~
 18 ~~such as the following: Delta 1-cis or trans~~
 19 ~~tetrahydrocannabinol, and their optical isomers, Delta~~
 20 ~~6-cis or trans tetrahydrocannabinol, and their optical~~
 21 ~~isomers, and Delta 3,4-cis or trans~~



1 ~~tetrahydrocannabinol, and its optical isomers (since~~
2 ~~nomenclature of these substances is not~~
3 ~~internationally standardized, compounds of these~~
4 ~~structures, regardless of numerical designation of~~
5 ~~atomic positions, are covered);]~~

6 [(2)] (1) Naphthoylindoles; meaning any compound containing
7 a 3-(1-naphthoyl) indole structure with substitution
8 at the nitrogen atom of the indole ring by a alkyl,
9 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
10 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)
11 ethyl group, whether or not further substituted in the
12 indole ring to any extent and whether or not
13 substituted in the naphthyl ring to any extent;

14 [(3)] (2) Naphthylmethylinindoles; meaning any compound
15 containing a 1H-indol-3-yl-(1-naphthyl) methane
16 structure with substitution at the nitrogen atom of
17 the indole ring by a alkyl, haloalkyl, alkenyl,
18 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
19 piperidinyl) methyl or 2-(4-morpholinyl) ethyl group
20 whether or not further substituted in the indole ring



- 1 to any extent and whether or not substituted in the
2 naphthyl ring to any extent;
- 3 [~~(4)~~] (3) Naphthoylpyrroles; meaning any compound containing
4 a 3-(1-naphthoyl) pyrrole structure with substitution
5 at the nitrogen atom of the pyrrole ring by a alkyl,
6 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
7 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)
8 ethyl group whether or not further substituted in the
9 pyrrole ring to any extent, whether or not substituted
10 in the naphthyl ring to any extent;
- 11 [~~(5)~~] (4) Naphthylmethylindenes; meaning any compound
12 containing a naphthylideneindene structure with
13 substitution at the 3-position of the indene ring by a
14 alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
15 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
16 2-(4-morpholinyl) ethyl group whether or not further
17 substituted in the indene ring to any extent, whether
18 or not substituted in the naphthyl ring to any extent;
- 19 [~~(6)~~] (5) Phenylacetylindoles; meaning any compound
20 containing a 3-phenylacetylindole structure with
21 substitution at the nitrogen atom of the indole ring



1 by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
2 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
3 2-(4-morpholinyl) ethyl group whether or not further
4 substituted in the indole ring to any extent, whether
5 or not substituted in the phenyl ring to any extent;
6 ~~[(7)]~~ (6) Cyclohexylphenols; meaning any compound containing
7 a 2-(3-hydroxycyclohexyl) phenol structure with
8 substitution at the 5-position of the phenolic ring by
9 a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
10 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
11 2-(4-morpholinyl) ethyl group whether or not
12 substituted in the cyclohexyl ring to any extent;
13 ~~[(8)]~~ (7) Benzoylindoles; meaning any compound containing a
14 3-(benzoyl) indole structure with substitution at the
15 nitrogen atom of the indole ring by a alkyl,
16 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
17 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)
18 ethyl group whether or not further substituted in the
19 indole ring to any extent and whether or not
20 substituted in the phenyl ring to any extent;



- 1 [~~(9)~~] (8) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)
2 pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
3 naphthalenylmethanone (another trade name is WIN
4 55,212-2);
- 5 [~~(10)~~] (9) (6a,10a)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
6 methyloctan-2-yl)-6a,7,10,10a-
7 tetrahydrobenzo[c]chromen-1-ol (other trade names are:
8 HU-210 and HU-211);
- 9 [~~(11)~~] (10) Tetramethylcyclopropanoylindoles; meaning any
10 compound containing a 3-
11 tetramethylcyclopropanoylindole structure with
12 substitution at the nitrogen atom of the indole ring
13 by an alkyl, haloalkyl, cyanoalkyl, alkenyl,
14 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
15 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-
16 methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
17 morpholinyl)methyl, or tetrahydropyranylmethyl group,
18 whether or not further substituted in the indole ring
19 to any extent and whether or not substituted in the
20 tetramethylcyclopropyl ring to any extent;



- 1 [~~(12)~~] (11) N-(1-adamantyl)-1-pentyl-1H-indazole-3-
2 carboxamide, its optical, positional, and geometric
3 isomers, salts, and salts of isomers (Other names:
4 APINACA, AKB48);
- 5 [~~(13)~~] (12) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate,
6 its optical, positional, and geometric isomers, salts,
7 and salts of isomers (Other names: PB-22; QUPIC);
- 8 [~~(14)~~] (13) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-
9 carboxylate, its optical, positional, and geometric
10 isomers, salts, and salts of isomers (Other names: 5-
11 fluoro-PB-22; 5F-PB-22);
- 12 [~~(15)~~] (14) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-
13 fluorobenzyl)-1H-indazole-3-carboxamide, its optical,
14 positional, and geometric isomers, salts, and salts of
15 isomers (Other names: AB-FUBINACA); and
- 16 [~~(16)~~] (15) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
17 pentyl-1H-indazole-3-carboxamide, its optical,
18 positional, and geometric isomers, salts, and salts of
19 isomers (Other names: ADB-PINACA)."



1 SECTION 6. Section 712-1240, Hawaii Revised Statutes, is
2 amended by amending the definition of "harmful drug" to read as
3 follows:

4 "Harmful drug" means any substance or immediate precursor
5 defined or specified as a "Schedule III substance" or a
6 "Schedule IV substance" by chapter 329 [~~or any marijuana~~
7 ~~concentrate except marijuana and a substance specified in~~
8 ~~section 329-18(c)(14)]."~~

9 SECTION 7. Section 712-1244, Hawaii Revised Statutes, is
10 amended by amending subsection (1) to read as follows:

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

13 (a) Possesses one hundred or more capsules or tablets or
14 dosage units containing one or more of the harmful
15 drugs [~~or one or more of the marijuana concentrates,~~
16 ~~or any combination thereof];~~

17 (b) Possesses one or more preparations, compounds,
18 mixtures, or substances, of an aggregate weight of one
19 ounce or more containing one or more of the harmful
20 drugs [~~or one or more of the marijuana concentrates,~~
21 ~~or any combination thereof];~~



- 1 (c) Distributes twenty-five or more capsules or tablets or
2 dosage units containing one or more of the harmful
3 drugs [~~or one or more of the marijuana concentrates,~~
4 ~~or any combination thereof~~];
- 5 (d) Distributes one or more preparations, compounds,
6 mixtures, or substances, of an aggregate weight of
7 one-eighth ounce or more, containing one or more of
8 the harmful drugs [~~or one or more of the marijuana~~
9 ~~concentrates, or any combination thereof~~]; or
- 10 (e) Distributes any harmful drug [~~or any marijuana~~
11 ~~concentrate~~] in any amount to a minor."

12 SECTION 8. Section 712-1245, Hawaii Revised Statutes, is
13 amended by amending subsection (1) to read as follows:

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

- 16 (a) Possesses fifty or more capsules or tablets or dosage
17 units containing one or more of the harmful drugs [~~or~~
18 ~~one or more of the marijuana concentrates, or any~~
19 ~~combination thereof~~];
- 20 (b) Possesses one or more preparations, compounds,
21 mixtures, or substances, of an aggregate weight of



1 one-eighth ounce or more, containing one or more of
 2 the harmful drugs [~~or one or more of the marijuana~~
 3 ~~concentrates, or any combination thereof~~]; or

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

6 SECTION 9. Section 712-1246, Hawaii Revised Statutes, is
 7 amended by amending subsection (1) to read as follows:

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

13 SECTION 10. Section 712-1247, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "**§712-1247 Promoting a detrimental drug in the first**
 16 **degree.** (1) A person commits the offense of promoting a

17 detrimental drug in the first degree if the person knowingly:

18 (a) Possesses four hundred or more capsules or tablets
 19 containing one or more of the Schedule V substances;

20 (b) Possesses one or more preparations, compounds,
 21 mixtures, or substances of an aggregate weight of one



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

3 (c) Distributes fifty or more capsules or tablets
4 containing one or more of the Schedule V substances;
5 or

6 (d) Distributes one or more preparations, compounds,
7 mixtures, or substances of an aggregate weight of one-
8 eighth ounce or more, containing one or more of the
9 Schedule V substances [;

10 ~~(e) Possesses one or more preparations, compounds,~~
11 ~~mixtures, or substances of an aggregate weight of one~~
12 ~~pound or more, containing any marijuana;~~

13 ~~(f) Distributes one or more preparations, compounds,~~
14 ~~mixtures, or substances of an aggregate weight of one~~
15 ~~ounce or more, containing any marijuana;~~

16 ~~(g) Possesses, cultivates, or has under the person's~~
17 ~~control twenty five or more marijuana plants; or~~

18 ~~(h) Sells or barter any marijuana or any Schedule V~~
19 ~~substance in any amount].~~

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



1 ~~[(3) Any marijuana seized as evidence of a violation of~~
2 ~~this section in excess of one pound may be destroyed after it~~
3 ~~has been photographed and the weight thereof recorded. The~~
4 ~~remainder of the marijuana shall remain in the custody of the~~
5 ~~police department until the termination of any criminal action~~
6 ~~brought as a result of the seizure of the marijuana.~~
7 ~~Photographs duly identified as accurately representing the~~
8 ~~marijuana shall be deemed competent evidence of the marijuana~~
9 ~~involved and shall be admissible in any proceeding, hearing, or~~
10 ~~trial to the same extent as the marijuana itself; provided that~~
11 ~~nothing in this subsection shall be construed to limit or to~~
12 ~~restrict the application of rule 901 of the Hawaii rules of~~
13 ~~evidence.] "~~

14 SECTION 11. Section 712-1248, Hawaii Revised Statutes, is
15 amended by amending subsection (1) to read as follows:

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

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

20 (b) Possesses one or more preparations, compounds,
21 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 one~~
5 ~~ounce or more, containing any marijuana; or~~
6 ~~(d)] (c) Distributes any marijuana or any Schedule V~~
7 ~~substance in any amount."~~

8 SECTION 12. Section 712-1249, Hawaii Revised Statutes, is
9 amended by amending subsection (1) to read as follows:

10 "(1) A person commits the offense of promoting a
11 detrimental drug in the third degree if the person knowingly
12 possesses ~~[any marijuana or]~~ any Schedule V substance in any
13 amount."

14 PART IV.

15 SECTION 13. Section 712-1249.4, Hawaii Revised Statutes,
16 is repealed.

17 ~~"[§712-1249.4] Commercial promotion of marijuana in the~~
18 ~~first degree. (1) A person commits the offense of commercial~~
19 ~~promotion of marijuana in the first degree if the person~~
20 ~~knowingly:~~



- 1 ~~(a) Possesses marijuana having an aggregate weight of~~
- 2 ~~twenty five pounds or more;~~
- 3 ~~(b) Distributes marijuana having an aggregate weight of~~
- 4 ~~five pounds or more;~~
- 5 ~~(c) Possesses, cultivates, or has under the person's~~
- 6 ~~control one hundred or more marijuana plants;~~
- 7 ~~(d) Cultivates on land owned by another person, including~~
- 8 ~~land owned by the government or other legal entity,~~
- 9 ~~twenty five or more marijuana plants, unless the~~
- 10 ~~person has the express permission from the owner of~~
- 11 ~~the land to cultivate the marijuana or the person has~~
- 12 ~~a legal or an equitable ownership interest in the land~~
- 13 ~~or the person has a legal right to occupy the land; or~~
- 14 ~~(e) Uses, or causes to be used, any firearm or other~~
- 15 ~~weapon, device, instrument, material, or substance,~~
- 16 ~~whether animate or inanimate, which in the manner used~~
- 17 ~~is capable of causing death, serious bodily injury,~~
- 18 ~~substantial bodily injury, or other bodily injury, as~~
- 19 ~~defined in chapter 707 in order to prevent the theft,~~
- 20 ~~removal, search and seizure, or destruction of~~
- 21 ~~marijuana.~~



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

3 ~~(3) Any marijuana seized as evidence in violation of this~~
4 ~~section in excess of an aggregate weight of twenty five pounds~~
5 ~~as stated in subsection (1)(a), or in excess of an aggregate~~
6 ~~weight of five pounds as stated in subsection (1)(b), or in~~
7 ~~excess of one hundred marijuana plants as stated in subsection~~
8 ~~(1)(c), or in excess of twenty five marijuana plants as stated~~
9 ~~in subsection (1)(d) may be destroyed after the excess amount~~
10 ~~has been photographed and the number of plants and the weight~~
11 ~~thereof has been recorded. The required minimum amount of the~~
12 ~~marijuana needed to constitute the elements of this offense~~
13 ~~shall remain in the custody of the police until the termination~~
14 ~~of any criminal action brought as a result of the seizure of the~~
15 ~~marijuana. Photographs duly identified as accurately~~
16 ~~representing the marijuana shall be deemed competent evidence of~~
17 ~~the marijuana involved and shall be admissible in any~~
18 ~~proceeding, hearing, or trial to the same extent as the~~
19 ~~marijuana itself, provided that nothing in this subsection shall~~
20 ~~be construed to limit or restrict the application of rule 901 of~~
21 ~~the Hawaii rules of evidence."]~~



1 SECTION 14. Section 712-1249.5, Hawaii Revised Statutes,
2 is repealed.

3 [~~§712-1249.5 Commercial promotion of marijuana in the~~
4 ~~second degree.~~ (1) ~~A person commits the offense of commercial~~
5 ~~promotion of marijuana in the second degree if the person~~
6 ~~knowingly:~~

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

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

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

13 (d) ~~Cultivates on land owned by another person, including~~
14 ~~land owned by the government or other legal entity,~~
15 ~~any marijuana plant, unless the person has the express~~
16 ~~permission from the owner of the land to cultivate the~~
17 ~~marijuana or the person has a legal or an equitable~~
18 ~~ownership interest in the land or the person has a~~
19 ~~legal right to occupy the land; or~~

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



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

3 ~~(3) Any marijuana seized as evidence in violation of this~~
4 ~~section in excess of an aggregate weight of two pounds as stated~~
5 ~~in subsection (1)(a), or in excess of an aggregate weight of one~~
6 ~~pound as stated in subsection (1)(b), or in excess of twenty-~~
7 ~~five marijuana plants as stated in subsection (1)(c) may be~~
8 ~~destroyed after the excess amount has been photographed and the~~
9 ~~number of plants and the weight thereof has been recorded. The~~
10 ~~required minimum amount of the marijuana needed to constitute~~
11 ~~the elements of this offense shall remain in the custody of the~~
12 ~~police until the termination of any criminal action brought as a~~
13 ~~result of the seizure of the marijuana. Photographs duly~~
14 ~~identified as accurately representing the marijuana shall be~~
15 ~~deemed competent evidence of the marijuana involved and shall be~~
16 ~~admissible in any proceeding, hearing, or trial to the same~~
17 ~~extent as the marijuana itself; provided that nothing in this~~
18 ~~subsection shall be construed to limit or to restrict the~~
19 ~~application of rule 901 of the Hawaii rules of evidence."]~~



1 PART VI.

2 SECTION 15. In codifying the new sections added by section
3 3 of this Act, the revisor of statutes shall substitute
4 appropriate section numbers for the letters used in designating
5 the new sections in this Act.

6 SECTION 16. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 17. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 18. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 19. This Act shall take effect upon its approval.

18

INTRODUCED BY:

J. M. Smith

By Request



H.B. NO. 889

Report Title:

Marijuana; Legalization; Prohibition; Minors; Zoning

Description:

Repeals criminal and civil penalties related to marijuana. Prohibits the furnishing of marijuana to a minor. Allows the cultivation of marijuana on private property. Prohibits counties from prohibiting the cultivation of marijuana on private property.

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

