

JAN 25 2017

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 the State has legal
2 primary jurisdiction over any and all crimes committed by
3 residents within its territorial boundaries with the exception
4 of property directly owned by the federal government. Any
5 activities related to the growing, processing, distribution,
6 sale, possession, or consumption of marijuana on federal lands
7 is subject to the applicable federal laws. However, if no
8 applicable federal law exists, marijuana-related activities may
9 be subject to state law.

10 It is the intent of the legislature that this Act shall not
11 be interpreted to undermine the federal government authority to
12 regulate the export and import of marijuana or marijuana
13 compounds from another state or United States territory, or to
14 regulate its use on federal property or among active duty
15 members of the United States Armed Forces.



1 The purpose of this Act is to remove the criminal penalties
2 related to marijuana and marijuana compounds and legalize
3 marijuana for personal use.

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

7 "§709- Sale of intoxicating compounds created from
8 marijuana or marijuana concentrates to a minor. (1) It shall
9 be unlawful for a person to knowingly sell or furnish
10 intoxicating compounds created from marijuana or marijuana
11 concentrates to a minor under the age of eighteen.

12 (2) A person selling or furnishing intoxicating compounds
13 created from marijuana or marijuana concentrates shall post
14 signs with the statement, "The sale of marijuana or marijuana
15 concentrate products to persons under the age of eighteen is
16 prohibited". Signs shall use letters at least one-half inch
17 high and be posted on or near any vending machine and any other
18 location where intoxicating compounds created from marijuana or
19 marijuana concentrates are sold.



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1 (3) It shall be unlawful for a minor who is under the age
2 of eighteen to purchase any intoxicating compounds created from
3 marijuana or marijuana concentrates, except if:

4 (a) The minor obtains and shows to the seller parental
5 authorization; or

6 (b) The minor is participating in a controlled purchase as
7 part of a law enforcement activity or a study
8 authorized by the department of health under the
9 supervision of a law enforcement agency to determine
10 the level of incidence of sales of intoxicating
11 compounds created from marijuana or marijuana
12 concentrates to minors.

13 (4) Any person who violates subsection (1) or (2), or both
14 shall be fined \$500 for the first offense and fined no less than
15 \$500, but not more than \$2,000 for each subsequent offense. Any
16 minor under the age of eighteen who violates subsection (3)
17 shall be fined \$10 for the first offense and fined \$50 for any
18 subsequent offense; provided that, in addition to the fine, the
19 minor shall perform no less than forty-eight hours, but no more
20 than seventy-two hours of community service during the period
21 when the minor is not attending school or work; provided further



1 that no part of the community service sentence shall be
2 suspended.

3 (5) For purposes of this section, "intoxicating
4 compounds", "marijuana", and "marijuana concentrate" shall have
5 the same meanings as in section 712-1240."

6 SECTION 3. Chapter 712, Hawaii Revised Statutes, is
7 amended by adding two new sections to part IV to be
8 appropriately designated and to read as follows:

9 "§712- Growing of marijuana plants. (1) The
10 cultivation of marijuana plants for personal use shall be
11 permitted, except where cultivation occurs on public lands, as
12 defined in section 171-2, and a person shall not be subject to
13 criminal prosecution for possession or distribution of marijuana
14 or marijuana concentrate for personal use under this part;
15 provided that:

16 (a) No more than ten marijuana plants are cultivated on
17 land zoned for residential purposes; and

18 (b) More than ten marijuana plants may be cultivated on
19 land zoned for agricultural use.

20 Each county may specify rules for the cultivation of marijuana
21 plants for personal use.



1 (2) Any person cultivating marijuana plants on public
2 lands shall be subject to a fine of \$20,000.

3 (3) Any person who cultivates marijuana plants on private
4 property without the permission of the property owner or legal
5 tenant may be guilty of criminal trespass in the first degree
6 under section 708-813.

7 §712- Marijuana use and distribution in conjunction with
8 certain illegal activities. (1) A person commits the offense
9 of marijuana use and distribution in conjunction with certain
10 illegal activities if the person knowingly:

- 11 (a) Shares moneys gained from the sale of marijuana or
12 marijuana concentrate with criminal enterprises,
13 gangs, or cartels that engage in illegal activities;
14 (b) Engages in the use of violence or firearms in relation
15 to the cultivation of marijuana plants; or
16 (c) Uses a marijuana distribution business as a cover to
17 hide other illegal activities in accordance with
18 federal law.

19 (2) A person guilty of the offense of marijuana use and
20 distribution in conjunction with certain illegal activities



1 shall be subject to a fine of \$20,000. Penalties shall not
2 preclude any other available federal penalty."

3 SECTION 4. Section 329-14, Hawaii Revised Statutes, is
4 amended as follows:

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

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

- 12 (1) Alpha-ethyltryptamine (AET);
13 (2) 2,5-dimethoxy-4-ethylamphetamine (DOET);
14 (3) 2,5-dimethoxyamphetamine (2,5-DMA);
15 (4) 3,4-methylenedioxy amphetamine;
16 (5) 3,4-methylenedioxymethamphetamine (MDMA);
17 (6) N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy-
18 MDA);
19 (7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);
20 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
21 (9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);



- 1 (10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);
- 2 (11) 3,4,5-trimethoxy amphetamine;
- 3 (12) Bufotenine;
- 4 (13) 4-methoxyamphetamine (PMA);
- 5 (14) Diethyltryptamine;
- 6 (15) Dimethyltryptamine;
- 7 (16) 4-methyl-2,5-dimethoxy-amphetamine;
- 8 (17) Gamma hydroxybutyrate (GHB) (some other names include
- 9 gamma hydroxybutyric acid; 4-hydroxybutyrate; 4-
- 10 hydroxybutanoic acid; sodium oxybate; sodium
- 11 oxybutyrate);
- 12 (18) Ibogaine;
- 13 (19) Lysergic acid diethylamide;
- 14 [~~20~~] ~~Marijuana;~~
- 15 ~~21~~] (20) Parahexyl;
- 16 [~~22~~] (21) Mescaline;
- 17 [~~23~~] (22) Peyote;
- 18 [~~24~~] (23) N-ethyl-3-piperidyl benzilate;
- 19 [~~25~~] (24) N-methyl-3-piperidyl benzilate;
- 20 [~~26~~] (25) Psilocybin;
- 21 [~~27~~] (26) Psilocyn;



- 1 [~~+28~~] (27) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);
- 2 [~~+29~~] (28) Ethylamine analog of phencyclidine (PCE);
- 3 [~~+30~~] (29) Pyrrolidine analog of phencyclidine (PCPy, PHP);
- 4 [~~+31~~] (30) Thiophene analog of phencyclidine (TPCP; TCP);
- 5 [~~+32~~] (31) Gamma-butyrolactone, including butyrolactone;
- 6 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone
- 7 dihydro; dihydro-2(3H)furanone; tetrahydro-2-furanone;
- 8 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-
- 9 hydroxybutyric acid lactone; 3-hydroxybutyric acid
- 10 lactone and 4-hydroxybutanoic acid lactone with
- 11 Chemical Abstract Service number 96-48-0 when any such
- 12 substance is intended for human ingestion;
- 13 [~~+33~~] (32) 1,4 butanediol, including butanediol; butane-
- 14 1,4-diol; 1,4- butylenes glycol; butylene glycol; 1,4-
- 15 dihydroxybutane; 1,4- tetramethylene glycol;
- 16 tetramethylene glycol; tetramethylene 1,4- diol with
- 17 Chemical Abstract Service number 110-63-4 when any
- 18 such substance is intended for human ingestion;
- 19 [~~+34~~] (33) 2,5-dimethoxy-4-(n)-propylthiophenethylamine
- 20 (2C-T-7), its optical isomers, salts, and salts of
- 21 isomers;



- 1 ~~[(35)]~~ (34) N-benzylpiperazine (BZP; 1-benzylpiperazine) its
2 optical isomers, salts, and salts of isomers;
- 3 ~~[(36)]~~ (35) 1-(3-trifluoromethylphenyl)piperazine (TFMPP),
4 its optical isomers, salts, and salts of isomers;
- 5 ~~[(37)]~~ (36) Alpha-methyltryptamine (AMT), its isomers,
6 salts, and salts of isomers;
- 7 ~~[(38)]~~ (37) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-
8 DIPT), its isomers, salts, and salts of isomers;
- 9 ~~[(39)]~~ (38) Salvia divinorum;
- 10 ~~[(40)]~~ (39) Salvinorin A;
- 11 ~~[(41)]~~ (40) Divinorin A;
- 12 ~~[(42)]~~ (41) 5-Methoxy-N,N-Dimethyltryptamine (5-MeO-DIPT)
13 (some trade or other names: 5-methoxy-3-[2-
14 (dimethylamino)ethyl]indole; 5-MeO-DMT);
- 15 ~~[(43)]~~ (42) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine
16 (2C-E);
- 17 ~~[(44)]~~ (43) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine
18 (2C-D);
- 19 ~~[(45)]~~ (44) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine
20 (2C-C);
- 21 ~~[(46)]~~ (45) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);



- 1 [~~47~~] (46) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine
2 (2C-T-2);
- 3 [~~48~~] (47) 2-[4-(Isopropylthio)-2,5-
4 dimethoxyphenyl]ethanamine (2C-T-4);
- 5 [~~49~~] (48) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- 6 [~~50~~] (49) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine
7 (2C-N);
- 8 [~~51~~] (50) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine
9 (2C-P);
- 10 [~~52~~] (51) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-
11 methoxybenzyl)ethanamine, its optical, positional, and
12 geometric isomers, salts, and salts of isomers (Other
13 names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5);
- 14 [~~53~~] (52) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-
15 methoxybenzyl)ethanamine, its optical, positional, and
16 geometric isomers, salts, and salts of isomers (Other
17 names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82); and
- 18 [~~54~~] (53) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-
19 methoxybenzyl)ethanamine, its optical, positional, and
20 geometric isomers, salts, and salts of isomers (Other
21 names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)."



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

2 "(g) Any of the following cannabinoids, their salts,
3 isomers, and salts of isomers, unless specifically excepted,
4 whenever the existence of these salts, isomers, and salts of
5 isomers is possible within the specific chemical designation:

6 ~~[(1) Tetrahydrocannabinols; meaning tetrahydrocannabinols~~
7 ~~naturally contained in a plant of the genus Cannabis~~
8 ~~(cannabis plant), as well as synthetic equivalents of~~
9 ~~the substances contained in the plant, or in the~~
10 ~~resinous extractives of Cannabis, sp. or synthetic~~
11 ~~substances, derivatives, and their isomers with~~
12 ~~similar chemical structure and pharmacological~~
13 ~~activity to those substances contained in the plant,~~
14 ~~such as the following: Delta 1 cis or trans~~
15 ~~tetrahydrocannabinol, and their optical isomers; Delta~~
16 ~~6 cis or trans tetrahydrocannabinol, and their optical~~
17 ~~isomers; and Delta 3,4 cis or trans-~~
18 ~~tetrahydrocannabinol, and its optical isomers (since~~
19 ~~nomenclature of these substances is not~~
20 ~~internationally standardized, compounds of these~~



1 ~~structures, regardless of numerical designation of~~
2 ~~atomic positions, are covered);~~

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

11 ~~[(3)]~~ (2) Naphthylmethylinindoles; meaning any compound
12 containing a 1H-indol-3-yl-(1-naphthyl) methane
13 structure with substitution at the nitrogen atom of
14 the indole ring by a alkyl, haloalkyl, alkenyl,
15 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
16 piperidiny)l methyl or 2-(4-morpholinyl) ethyl group
17 whether or not further substituted in the indole ring
18 to any extent and whether or not substituted in the
19 naphthyl ring to any extent;

20 ~~[(4)]~~ (3) Naphthoylpyrroles; meaning any compound
21 containing a 3-(1-naphthoyl) pyrrole structure with



1 substitution at the nitrogen atom of the pyrrole ring
2 by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
3 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
4 2-(4-morpholinyl) ethyl group whether or not further
5 substituted in the pyrrole ring to any extent, whether
6 or not substituted in the naphthyl ring to any extent;

7 [~~5~~] (4) Naphthylmethylindenes; meaning any compound
8 containing a naphthylideneindene structure with
9 substitution at the 3-position of the indene ring by a
10 alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
11 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
12 2-(4-morpholinyl) ethyl group whether or not further
13 substituted in the indene ring to any extent, whether
14 or not substituted in the naphthyl ring to any extent;

15 [~~6~~] (5) Phenylacetylindoles; meaning any compound
16 containing a 3-phenylacetylindole structure with
17 substitution at the nitrogen atom of the indole ring
18 by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
19 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
20 2-(4-morpholinyl) ethyl group whether or not further



1 substituted in the indole ring to any extent, whether
2 or not substituted in the phenyl ring to any extent;

3 ~~[(7)]~~ (6) Cyclohexylphenols; meaning any compound
4 containing a 2-(3-hydroxycyclohexyl) phenol structure
5 with substitution at the 5-position of the phenolic
6 ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
7 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
8 2-(4-morpholinyl) ethyl group whether or not
9 substituted in the cyclohexyl ring to any extent;

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

18 ~~[(9)]~~ (8) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)
19 pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
20 naphthalenylmethanone (another trade name is WIN
21 55,212-2);



- 1 [~~(10)~~] (9) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-
2 methyloctan-2-yl)-6a,7,10,10a-
3 tetrahydrobenzo[c]chromen-1-ol (other trade names are:
4 HU-210 and HU-211);
- 5 [~~(11)~~] (10) Tetramethylcyclopropanoylindoles; meaning any
6 compound containing a 3-
7 tetramethylcyclopropanoylindole structure with
8 substitution at the nitrogen atom of the indole ring
9 by an alkyl, haloalkyl, cyanoalkyl, alkenyl,
10 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
11 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-
12 methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
13 morpholinyl)methyl, or tetrahydropyranylmethyl group,
14 whether or not further substituted in the indole ring
15 to any extent and whether or not substituted in the
16 tetramethylcyclopropyl ring to any extent;
- 17 [~~(12)~~] (11) N-(1-adamantyl)-1-pentyl-1H-indazole-3-
18 carboxamide, its optical, positional, and geometric
19 isomers, salts, and salts of isomers (Other names:
20 APINACA, AKB48);



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



- 1 ~~[(18)]~~ (17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-
2 1H-indazole-3-carboxamide, and geometric isomers,
3 salts, and salts of isomers (Other names: AB-PINACA);
- 4 ~~[(19)]~~ (18) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-
5 1-yl)methanone, and geometric isomers, salts, and
6 salts of isomers (Other names: THJ-2201);
- 7 ~~[(20)]~~ (19) Methyl (1-(4-fluorobenzyl)-1 H-indazole-3-
8 carbonyl)-L-valinate, and geometric isomers, salts,
9 and salts of isomers (Other names: FUB-AMB);
- 10 ~~[(21)]~~ (20) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-
11 carboxamido)-3-methylbutanoate, and geometric isomers,
12 salts, and salts of isomers (Other names: 5-fluoro-
13 AMB, 5-fluoro-AMP);
- 14 ~~[(22)]~~ (21) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-
15 fluoropentyl)-1H-indazole-3-carboxamide, and geometric
16 isomers, salts, and salts of isomers (Other names:
17 AKB48 N-(5-fluoropentyl) analog, 5F-AKB48, APINACA 5-
18 fluoropentyl analog, 5F-APINACA);
- 19 ~~[(23)]~~ (22) N-adamantyl-1-fluoropentylindole-3-Carboxamide,
20 and geometric isomers, salts, and salts of isomers
21 (Other names: STS-135, 5F-APICA; 5-fluoro-APICA);



1 ~~[(24)]~~ (23) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-
2 caboxylate, and geometric isomers, salts, and salts of
3 isomers (Other names: NM2201); and

4 ~~[(25)]~~ (24) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
5 (cyclohexylmethyl)-1H-indazole-3-carboxamide, and
6 geometric isomers, salts, and salts of isomers (Other
7 names: MAB-CHMINACA and ADB-CHMINACA)."

8 SECTION 5. Section 706-660, Hawaii Revised Statutes, is
9 amended by amending subsection (2) to read as follows:

10 "(2) A person who has been convicted of a class B or class
11 C felony for any offense under part IV of chapter 712 may be
12 sentenced to an indeterminate term of imprisonment; provided
13 that this subsection shall not apply to sentences imposed under
14 sections 706-606.5, 706-660.1, 712-1240.5, 712-1240.8 as that
15 section was in effect prior to July 1, 2016, 712-1242, 712-1245,
16 ~~[712-1249.5,]~~ 712-1249.6, 712-1249.7, and 712-1257.

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

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



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

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

5 SECTION 6. Section 712-1240, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending the definition of "detrimental drug" to
8 read:

9 ""Detrimental drug" means any substance or immediate
10 precursor defined or specified as a "Schedule V substance" by
11 chapter 329[~~, or any marijuana~~]."

12 2. By amending the definition of "harmful drug" to read:

13 ""Harmful drug" means any substance or immediate precursor
14 defined or specified as a "Schedule III substance" or a
15 "Schedule IV substance" by chapter 329[~~, or any marijuana~~
16 ~~concentrate except marijuana and a substance specified in~~
17 ~~section 329-18(c)(14)~~]."

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

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



- 1 (a) Possesses one hundred 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 (b) Possesses one or more preparations, compounds,
6 mixtures, or substances, of an aggregate weight of one
7 ounce or more containing one or more of the harmful
8 drugs [~~or one or more of the marijuana concentrates,~~
9 ~~or any combination thereof~~];
- 10 (c) Distributes twenty-five or more capsules or tablets or
11 dosage units containing one or more of the harmful
12 drugs [~~or one or more of the marijuana concentrates,~~
13 ~~or any combination thereof~~];
- 14 (d) Distributes one or more preparations, compounds,
15 mixtures, or substances, of an aggregate weight of
16 one-eighth ounce or more, containing one or more of
17 the harmful drugs [~~or one or more of the marijuana~~
18 ~~concentrates, or any combination thereof~~]; or
- 19 (e) Distributes any harmful drug [~~or any marijuana~~
20 ~~concentrate~~] in any amount to a minor."



1 SECTION 8. Section 712-1245, 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 second degree if the person knowingly:

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

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

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

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

18 "(1) A person commits the offense of promoting a harmful
19 drug in the third degree if the person knowingly possesses
20 twenty-five or more capsules or tablets or dosage units



1 containing one or more of the harmful drugs [~~or one or more of~~
2 ~~the marijuana concentrates, or any combination thereof~~]."

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

5 **"§712-1247 Promoting a detrimental drug in the first**

6 **degree.** (1) A person commits the offense of promoting a
7 detrimental drug in the first degree if the person knowingly:

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

10 (b) Possesses one or more preparations, compounds,
11 mixtures, or substances of an aggregate weight of one
12 ounce or more, containing one or more of the Schedule
13 V substances;

14 (c) Distributes fifty or more capsules or tablets
15 containing one or more of the Schedule V substances;
16 or

17 (d) Distributes one or more preparations, compounds,
18 mixtures, or substances of an aggregate weight of one-
19 eighth ounce or more, containing one or more of the
20 Schedule V substances[+]



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

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

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

19 ~~Photographs duly identified as accurately representing the~~
20 ~~marijuana shall be deemed competent evidence of the marijuana~~
21 ~~involved and shall be admissible in any proceeding, hearing, or~~



1 ~~trial to the same extent as the marijuana itself; provided that~~
2 ~~nothing in this subsection shall be construed to limit or to~~
3 ~~restrict the application of rule 901 of the Hawaii rules of~~
4 ~~evidence.]"~~

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

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

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

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

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

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

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



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

5 SECTION 13. Section 806-83, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Criminal charges may be instituted by written
8 information for a felony when the charge is a class B felony
9 under:

- 10 (1) Section 134-7(b) (ownership or possession prohibited,
11 when; penalty);
- 12 (2) Section 134-23 (place to keep loaded firearms other
13 than pistols and revolvers; penalties);
- 14 (3) Section 134-25 (place to keep pistol or revolver;
15 penalty);
- 16 (4) Section 134-26 (carrying or possessing a loaded
17 firearm on a public highway; penalty);
- 18 (5) Section 329-43.5 (prohibited acts related to drug
19 paraphernalia);
- 20 (6) Section 708-810 (burglary in the first degree);
- 21 (7) Section 708-830.5 (theft in the first degree);



- 1 (8) Section 708-839.7 (identity theft in the second
- 2 degree);
- 3 (9) Section 708-851 (forgery in the first degree);
- 4 (10) Section 708-891.5 (computer fraud in the second
- 5 degree);
- 6 (11) Section 708-892.5 (computer damage in the second
- 7 degree);
- 8 (12) Section 712-1242 (promoting a dangerous drug in the
- 9 second degree); or
- 10 (13) Section 712-1245 (promoting a harmful drug in the
- 11 second degree) [~~;~~ ~~or~~
- 12 ~~(14) Section 712-1249.5 (commercial promotion of marijuana~~
- 13 ~~in the second degree)] ."~~

14 SECTION 14. Section 712-1249.4, Hawaii Revised Statutes,
 15 is repealed.

16 ~~["~~§712-1249.4~~ Commercial promotion of marijuana in the~~

17 ~~first degree. (1) A person commits the offense of commercial~~

18 ~~promotion of marijuana in the first degree if the person~~

19 ~~knowingly:~~

- 20 ~~(a) Possesses marijuana having an aggregate weight of~~
- 21 ~~twenty-five pounds or more;~~



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



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

20 SECTION 15. Section 712-1249.5, Hawaii Revised Statutes,
21 is repealed.



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

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

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

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

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

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

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



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

18 SECTION 16. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun before its effective date.



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1 SECTION 17. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 18. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

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

10

INTRODUCED BY: *Wm R. W.*
By Request

S.B. NO. 1219

Report Title:

Marijuana; Marijuana Concentrate; Legalization; Personal Use; Cultivation; Sales

Description:

Creates a criminal penalty with respect to the selling or furnishing of intoxicating compounds created from marijuana or marijuana concentrates to minors. Allows the growing of marijuana plants for personal use on lands zoned for residential use or agriculture. Prohibits marijuana use and distribution in conjunction with certain illegal activities. Removes marijuana and tetrahydrocannabinols from the Uniform Controlled Substances Act. Removes certain references to and criminal penalties under the penal code related to marijuana and marijuana concentrates.

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

