

1 "Cannabis" means all parts of the plant (genus) Cannabis
2 whether growing or not; the seeds thereof, the resin extracted
3 from any part of the plant; and every compound, manufacture,
4 salt, derivative, mixture, or preparation of the plant, its
5 seeds, or resin. It does not include the mature stalks of the
6 plant, fiber produced from the stalks, oil, or cake made from
7 the seeds of the plant, any other compound, manufacture, salt,
8 derivative, mixture, or preparation of the mature stalks (except
9 the resin extracted therefrom), fiber, oil, or cake, or the
10 sterilized seed of the plant which is incapable of germination."

11 2. By repealing the definition of "marijuana".

12 ~~["Marijuana" means all parts of the plant (genus) Cannabis~~
13 ~~whether growing or not; the seeds thereof, the resin extracted~~
14 ~~from any part of the plant; and every compound, manufacture,~~
15 ~~salt, derivative, mixture, or preparation of the plant, its~~
16 ~~seeds, or resin. It does not include the mature stalks of the~~
17 ~~plant, fiber produced from the stalks, oil, or cake made from~~
18 ~~the seeds of the plant, any other compound, manufacture, salt,~~
19 ~~derivative, mixture, or preparation of the mature stalks (except~~
20 ~~the resin extracted therefrom), fiber, oil, or cake, or the~~



1 ~~sterilized seed of the plant which is incapable of~~
2 ~~germination."]~~

3 PART III

4 SECTION 3. All references to "marijuana," in chapter 712,
5 and sections 141-36, 302A-1002, 328-15, 329-1, 329-125.6, 353-
6 66, 706-622.5, 706-625, and 710-1022, Hawaii Revised Statutes,
7 shall be amended to "cannabis".

8 SECTION 4. By operation of law, the Hawaii administrative
9 rules relating to marijuana or cannabis shall be construed as
10 having been amended in conformance with part IV of this Act;
11 provided that if and when an agency or department amends the
12 Hawaii administrative rules, it shall conform the wording to
13 part IV of this Act at the time of the amendment.

14 PART IV

15 SECTION 5. Section 712-1244, Hawaii Revised Statutes, is
16 amended by amending subsection (1) to read as follows:

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

19 (a) Possesses one hundred or more capsules or tablets or
20 dosage units containing one or more of the harmful



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

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



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

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

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

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

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

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



1 SECTION 8. Section 712-1247, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§712-1247 Promoting a detrimental drug in the first**
4 **degree.** (1) A person commits the offense of promoting a

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

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

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

12 (c) Distributes fifty or more capsules or tablets
13 containing one or more of the Schedule V substances;

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

18 [~~(e) Possesses one or more preparations, compounds,~~
19 ~~mixtures, or substances of an aggregate weight of one~~
20 ~~pound or more, containing any marijuana;~~



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

8 (2) Promoting a detrimental drug in the first degree is a

9 class C felony.

10 ~~[(3) Any marijuana seized as evidence of a violation of~~

11 ~~this section in excess of one pound may be destroyed after it~~

12 ~~has been photographed and the weight thereof recorded. The~~

13 ~~remainder of the marijuana shall remain in the custody of the~~

14 ~~police department until the termination of any criminal action~~

15 ~~brought as a result of the seizure of the marijuana.~~

16 ~~Photographs duly identified as accurately representing the~~

17 ~~marijuana shall be deemed competent evidence of the marijuana~~

18 ~~involved and shall be admissible in any proceeding, hearing, or~~

19 ~~trial to the same extent as the marijuana itself; provided that~~

20 ~~nothing in this subsection shall be construed to limit or to~~



1 ~~restrict the application of rule 901 of the Hawaii rules of~~
2 ~~evidence.] "~~

3 SECTION 9. Section 712-1248, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

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

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

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 Schedule V substances;

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

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

18 SECTION 10. Section 712-1249, Hawaii Revised Statutes, is
19 amended by amending subsection (1) to read as follows:

20 "(1) A person commits the offense of promoting a
21 detrimental drug in the third degree if the person knowingly



1 possesses any [~~marijuana or any~~] Schedule V substance in any
2 amount."

3 SECTION 11. Section 712-1249.4, Hawaii Revised Statutes,
4 is repealed.

5 ["~~§712-1249.4 Commercial promotion of marijuana in the~~
6 ~~first degree.~~ (1) A person commits the offense of commercial
7 promotion of marijuana in the first degree if the person
8 knowingly:

9 (a) Possesses marijuana having an aggregate weight of
10 twenty five pounds or more;

11 (b) Distributes marijuana having an aggregate weight of
12 five pounds or more;

13 (c) Possesses, cultivates, or has under the person's
14 control one hundred or more marijuana plants;

15 (d) Cultivates on land owned by another person, including
16 land owned by the government or other legal entity,
17 twenty five or more marijuana plants, unless the
18 person has the express permission from the owner of
19 the land to cultivate the marijuana or the person has
20 a legal or an equitable ownership interest in the land
21 or the person has a legal right to occupy the land; or



1 ~~(e) Uses, or causes to be used, any firearm or other~~
2 ~~weapon, device, instrument, material, or substance,~~
3 ~~whether animate or inanimate, which in the manner used~~
4 ~~is capable of causing death, serious bodily injury,~~
5 ~~substantial bodily injury, or other bodily injury, as~~
6 ~~defined in chapter 707 in order to prevent the theft,~~
7 ~~removal, search and seizure, or destruction of~~
8 ~~marijuana.~~

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

11 ~~(3) Any marijuana seized as evidence in violation of this~~
12 ~~section in excess of an aggregate weight of twenty five pounds~~
13 ~~as stated in subsection (1)(a), or in excess of an aggregate~~
14 ~~weight of five pounds as stated in subsection (1)(b), or in~~
15 ~~excess of one hundred marijuana plants as stated in subsection~~
16 ~~(1)(c), or in excess of twenty five marijuana plants as stated~~
17 ~~in subsection (1)(d) may be destroyed after the excess amount~~
18 ~~has been photographed and the number of plants and the weight~~
19 ~~thereof has been recorded. The required minimum amount of the~~
20 ~~marijuana needed to constitute the elements of this offense~~
21 ~~shall remain in the custody of the police until the termination~~



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

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

11 ~~["§712-1249.5 Commercial promotion of marijuana in the~~
12 ~~second degree. (1) A person commits the offense of commercial~~
13 ~~promotion of marijuana in the second degree if the person~~
14 ~~knowingly:~~

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

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

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



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

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

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

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



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

8 PART V

9 SECTION 13. Chapter 712, Hawaii Revised Statutes, is
10 amended by adding two new sections to be appropriately
11 designated and to read as follows:

12 **"§712- Dismissal of pending cannabis charges. (a)**
13 Notwithstanding any other law to the contrary, a person charged
14 prior to the effective date of this Act with any cannabis
15 offense arising from a set of facts and circumstances that
16 resulted in no criminal charge other than the cannabis offense
17 may apply to the court where the charge is pending for an order
18 dismissing the charge.

19 (b) The court shall grant an order dismissing the charge
20 under subsection (a) upon a finding that the applicant is
21 eligible for the order.



1 (c) The court may establish a reasonable fee for an
2 application under this section.

3 (d) As used in this section, "cannabis offense" means any
4 criminal offense prohibiting the cultivation, possession, sales,
5 transportation, or use of cannabis, regardless of whether
6 previously referenced as marijuana.

7 **§712- Expungement of records of criminal violations**
8 **pertaining solely to cannabis.** (a) Notwithstanding any other
9 law to the contrary, a person convicted prior to the effective
10 date of this Act of any cannabis offense arising from a set of
11 facts and circumstances that resulted in no criminal charge
12 other than the cannabis offense may apply to the court of
13 conviction for an expungement order pertaining to the conviction
14 for the cannabis offense.

15 (b) The court shall grant an expungement order under
16 subsection (a) upon a finding that the applicant is eligible for
17 the expungement.

18 (c) The court may establish a reasonable fee for an
19 application under this section.

20 (d) As used in this section, "cannabis offense" means any
21 criminal offense prohibiting the cultivation, possession, sales,



1 transportation, or use of cannabis, regardless of whether
2 previously referenced as marijuana."

3 PART VI

4 SECTION 14. Chapter 281, Hawaii Revised Statutes, is
5 amended by adding a new part to be appropriately designated and
6 to read as follows:

7 "PART . CANNABIS VIOLATIONS

8 §281-A Promoting cannabis in the first degree. (a) A
9 person violates this section by promoting cannabis in the first
10 degree if the person knowingly:

11 (1) Possesses one hundred or more capsules or tablets or
12 dosage units containing one or more of the cannabis
13 concentrates or any combination thereof;

14 (2) Possesses one or more preparations, compounds,
15 mixtures, or substances, of an aggregate weight of one
16 ounce or more containing one or more of the cannabis
17 concentrates, or any combination thereof;

18 (3) Distributes twenty-five or more capsules or tablets or
19 dosage units containing one or more of the cannabis
20 concentrates, or any combination thereof;



1 (4) Distributes one or more preparations, compounds,
2 mixtures, or substances, of an aggregate weight of
3 one-eighth ounce or more, containing one or more of
4 the cannabis concentrates, or any combination thereof;
5 or

6 (5) Distributes any cannabis concentrate in any amount to
7 a minor.

8 (b) Promoting cannabis in the first degree is punishable
9 as provided under section 281-I.

10 **§281-B Promoting cannabis in the second degree.** (a) A
11 person violates this section by promoting cannabis in the second
12 degree if the person knowingly:

13 (1) Possesses fifty or more capsules or tablets or dosage
14 units containing one or more of the cannabis
15 concentrates, or any combination thereof;

16 (2) Possesses one or more preparations, compounds,
17 mixtures, or substances, of an aggregate weight of
18 one-eighth ounce or more, containing one or more of
19 the cannabis concentrates, or any combination thereof;
20 or

21 (3) Distributes any cannabis concentrate in any amount.



1 (b) Promoting cannabis in the second degree is punishable
2 as provided under section 281-I.

3 **§281-C Promoting cannabis in the third degree.** (a) A
4 person violates this section by promoting cannabis in the third
5 degree if the person knowingly possesses twenty-five or more
6 capsules or tablets or dosage units containing one or more of
7 the cannabis concentrates, or any combination thereof.

8 (b) Promoting a harmful drug in the third degree is
9 punishable as provided under section 281-I.

10 **§281-D Promoting cannabis detrimentally in the first**
11 **degree.** (a) A person violates this section by promoting
12 cannabis detrimentally in the first degree if the person
13 knowingly:

14 (1) Possesses one or more preparations, compounds,
15 mixtures, or substances of an aggregate weight of one
16 pound or more, containing any cannabis;

17 (2) Distributes one or more preparations, compounds,
18 mixtures, or substances of an aggregate weight of one
19 ounce or more, containing any cannabis;

20 (3) Possesses, cultivates, or has under the person's
21 control twenty-five or more cannabis plants; or



1 (4) Sells or barter any cannabis in any amount.

2 (b) Promoting cannabis detrimentally in the first degree
3 is a punishable as provided under section 281-I.

4 **§281-E Promoting cannabis detrimentally in the second**
5 **degree.** (a) A person violates this section by promoting
6 cannabis detrimentally in the second degree if the person
7 knowingly:

8 (1) Possesses one or more preparations, compounds,
9 mixtures, or substances, of an aggregate weight of one
10 ounce or more, containing any cannabis; or

11 (2) Distributes any cannabis in any amount.

12 (b) Promoting cannabis detrimentally in the second degree
13 is punishable as provided under section 281-I.

14 **§281-F Promoting cannabis detrimentally in the third**
15 **degree.** (a) A person violates this section by promoting
16 cannabis detrimentally in the third degree if the person
17 knowingly possesses any cannabis in any amount.

18 (b) Promoting cannabis detrimentally in the third degree
19 is punishable as provided under section 281-I.

20 **§281-G Commercial promotion of cannabis in the first**
21 **degree.** (a) A person violates this section by committing



1 commercial promotion of cannabis in the first degree if the
2 person knowingly:

3 (1) Possesses cannabis having an aggregate weight of
4 twenty-five pounds or more;

5 (2) Distributes cannabis having an aggregate weight of
6 five pounds or more;

7 (3) Possesses, cultivates, or has under the person's
8 control one hundred or more cannabis plants;

9 (4) Cultivates on land owned by another person, including
10 land owned by the government or other legal entity,
11 twenty-five or more cannabis plants, unless the person
12 has the express permission from the owner of the land
13 to cultivate the cannabis or the person has a legal or
14 an equitable ownership interest in the land or the
15 person has a legal right to occupy the land; or

16 (5) Uses, or causes to be used, any firearm or other
17 weapon, device, instrument, material, or substance,
18 whether animate or inanimate, which in the manner used
19 is capable of causing death, serious bodily injury,
20 substantial bodily injury, or other bodily injury, as
21 defined in chapter 707 in order to prevent the theft,



1 removal, search and seizure, or destruction of
2 cannabis.

3 (b) Commercial promotion of cannabis in the first degree
4 is punishable as specified in section 281-I.

5 **§281-H Commercial promotion of cannabis in the second**

6 **degree.** (a) A person violates this section by committing
7 commercial promotion of cannabis in the second degree if the
8 person knowingly:

9 (1) Possesses cannabis having an aggregate weight of two
10 pounds or more;

11 (2) Distributes cannabis having an aggregate weight of one
12 pound or more;

13 (3) Possesses, cultivates, or has under the person's
14 control fifty or more cannabis plants;

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



1 (5) Sells or barter any cannabis or any Schedule V
2 substance in any amount to a minor.

3 (b) Commercial promotion of cannabis in the second degree
4 is punishable as specified in section 281-I.

5 **§281-I Penalties for violations of certain statutes**

6 **relating to cannabis.** (a) Penalties for violations of the
7 following statutes shall consist solely of monetary fines, as
8 specified. The fine for a violation of:

9 (1) Section 281-A, promoting cannabis in the first degree,
10 shall be \$;

11 (2) Section 281-B, promoting cannabis in the second
12 degree, shall be \$;

13 (3) Section 281-C, promoting cannabis in the third degree,
14 shall be \$;

15 (4) Section 281-D, promoting cannabis detrimentally in the
16 first degree, shall be \$;

17 (5) Section 281-E, promoting cannabis detrimentally in the
18 second degree, shall be \$;

19 (6) Section 281-F, promoting cannabis detrimentally in the
20 third degree, shall be \$;



1 (7) Section 281-G, commercial promotion of cannabis in the
2 first degree, shall be \$; and

3 (8) Section 281-H, commercial promotion of cannabis in the
4 second degree, shall be \$.

5 **§281-J** Any cannabis seized as evidence in violation of
6 this part in excess of a specified aggregate weight constituting
7 a violation may be destroyed after the excess amount has been
8 photographed and the number of plants and the weight thereof has
9 been recorded. The required minimum amount of the cannabis
10 needed to constitute the elements of this violation shall remain
11 in the custody of the police until the termination of any action
12 brought as a result of the seizure of the cannabis. Photographs
13 duly identified as accurately representing the cannabis shall be
14 deemed competent evidence of the cannabis involved and shall be
15 admissible in any proceeding, hearing, or trial to the same
16 extent as the cannabis itself; provided that nothing in this
17 subsection shall be construed to limit or to restrict the
18 application of rule 901 of the Hawaii rules of evidence."

19 SECTION 15. Title 16, Hawaii Revised Statutes, is amended
20 as follows:

21 1. By amending its title to read:



1 "TITLE 16. INTOXICATING LIQUOR AND CANNABIS"

2 2. By amending the title of chapter 281 to read:

3 "CHAPTER 281

4 INTOXICATING LIQUOR AND CANNABIS"

5 PART VII

6 SECTION 16. (a) There shall be established a cannabis
7 evaluation working group that shall be administratively attached
8 to the department of the attorney general. The cannabis
9 evaluation working group shall examine other state laws and
10 outcomes pertaining to cannabis and ways in which cannabis use
11 other than for medical purposes may provide benefits or raise
12 questions in the State, including but not limited to the
13 establishment of a system of growing, production, and retail
14 facilities that are licensed, regulated, and subject to taxation
15 by the State, including purposes for which cannabis tax revenue
16 may be used.

17 (b) The cannabis evaluation working group shall comprise
18 the following members or their designees:

19 (1) The chairs of the following committees of the senate:

20 (A) Judiciary; and

21 (B) Ways and means.



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 18. In codifying the new sections added by part
4 III of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 19. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 20. This Act shall take effect upon its approval;
10 provided that parts V, VI, and VII shall be repealed on July 1,
11 2021.

12

INTRODUCED BY:

[Signature]

Richard [Signature] *Jack [Signature]*

John M. [Signature] *[Signature]*

David Carnas *[Signature]*

[Signature] *[Signature]*

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[Signature]



H.B. NO. 1383

Hakshone

Ed. h. h.

JAN 24 2019



H.B. NO. 1383

Report Title:

Cannabis; Marijuana; Decriminalization; Dismissal of Charges; Expungement; Evaluation Working Group

Description:

Decriminalizes certain offenses relating to marijuana and establishes a schedule of monetary fines for violations. Changes statutory references from "marijuana" to "cannabis." Provides for the dismissal of charges and expungement of criminal records based solely on cannabis offenses. Establishes the cannabis evaluation working group. Requires a report to the Legislature.

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

