

JAN 17 2020

A BILL FOR AN ACT

RELATING TO MARIJUANA DECRIMINALIZATION.

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

1 SECTION 1. The legal history of cannabis or marijuana in
2 the United States primarily addresses the regulation of
3 marijuana for medical use, and secondarily the use of marijuana
4 for personal or recreational purposes. By the mid-1930s
5 cannabis was regulated as a drug in every state, including
6 thirty-five states that adopted the Uniform State Narcotic Drug
7 Act which was subsequently replaced in 1970 with the federal
8 Uniform Controlled Substances Act, which classifies marijuana
9 and tetrahydrocannabinol as schedule I controlled substances.

10 Notwithstanding the prospect of federal prosecution,
11 several states, including Hawai'i, have enacted medical marijuana
12 laws. Chapter 329, part IX, Hawai'i Revised Statutes, was
13 enacted to create a medical use of marijuana exemption from
14 criminal sanctions. Other jurisdictions, such as Alaska,
15 Arizona, Arkansas, California, Colorado, Connecticut, District
16 of Columbia, Delaware, Florida, Illinois, Maine, Maryland,
17 Massachusetts, Michigan, Minnesota, Montana, Nevada, New



1 Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio,
2 Oklahoma, Oregon, Pennsylvania, Rhode Island, Vermont, West
3 Virginia, and Washington, also allow the use of marijuana for
4 medicinal purposes. Furthermore, chapter 329D, Hawai'i Revised
5 Statutes, was enacted to establish medical marijuana
6 dispensaries that were authorized to operate beginning in July
7 2016. As Hawai'i expands its medical marijuana program through
8 the use of highly regulated and monitored dispensaries, more
9 patients are anticipated to consider medical marijuana as a
10 viable treatment, knowing that the medicine will be regulated
11 and tested.

12 In addition to medicinal marijuana laws, some states have
13 legalized or decriminalized marijuana. Most places that have
14 decriminalized cannabis have civil fines, confiscation, drug
15 education, or drug treatment in place of incarceration or
16 criminal charges for possession of small amounts of cannabis, or
17 have made various cannabis offenses the lowest priority for law
18 enforcement. The states of Alaska, California, Colorado,
19 Connecticut, Delaware, District of Columbia, Maine, Maryland,
20 Massachusetts, Michigan Minnesota, Mississippi, Missouri,
21 Nebraska, Nevada, New York, North Carolina, Ohio, Oregon, Rhode



1 Island, Vermont, and Washington have decriminalized marijuana in
2 small amounts. In each of these states, marijuana users no
3 longer face arrest or jail time for the possession or use of
4 marijuana in an amount permitted by statute.

5 The legislature further finds that the legalization of
6 marijuana for personal or recreational use is a natural,
7 logical, and reasonable outgrowth of the current science of
8 marijuana and attitude toward marijuana. In 2012, voters in
9 Colorado voted to amend the state's constitution (Amendment 64)
10 to legalize and regulate the production, possession, and
11 distribution of marijuana for persons age twenty-one and older.
12 Also in 2012, voters in Washington approved a proposition to
13 legalize and regulate the production, possession, and
14 distribution of cannabis for persons age twenty-one and older.
15 Colorado became the first state to remove the prohibition on
16 commercial production of marijuana for general use. Colorado
17 realized state tax revenue of approximately \$18,900,000 during
18 the first half of 2014, and this revenue is expected to increase
19 as sales of retail marijuana increase. Following Colorado and
20 Washington's lead, Alaska, California, Massachusetts, Oregon,
21 and Vermont passed legislation to also legalize and regulate the



1 production, possession, and distribution of cannabis for persons
2 age twenty-one and older.

3 The legislature further finds that marijuana cultivation
4 and sales hold potential for economic development, increased tax
5 revenues, and reduction in crime.

6 The purpose of this Act is to repeal criminal prohibitions
7 and penalties pertaining to marijuana.

8 SECTION 2. Section 329-14, Hawaii Revised Statutes, is
9 amended as follows:

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

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

- 17 (1) Alpha-ethyltryptamine (AET);
- 18 (2) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 19 (3) 2,5-dimethoxyamphetamine (2,5-DMA);
- 20 (4) 3,4-methylenedioxy amphetamine;
- 21 (5) 3,4-methylenedioxymethamphetamine (MDMA);



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



- 1 [~~(23)~~] (22) Peyote;
- 2 [~~(24)~~] (23) N-ethyl-3-piperidyl benzilate;
- 3 [~~(25)~~] (24) N-methyl-3-piperidyl benzilate;
- 4 [~~(26)~~] (25) Psilocybin;
- 5 [~~(27)~~] (26) Psilocyn;
- 6 [~~(28)~~] (27) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);
- 7 [~~(29)~~] (28) Ethylamine analog of phencyclidine (PCE);
- 8 [~~(30)~~] (29) Pyrrolidine analog of phencyclidine (PCPy, PHP);
- 9 [~~(31)~~] (30) Thiophene analog of phencyclidine (TPCP; TCP);
- 10 [~~(32)~~] (31) Gamma-butyrolactone, including butyrolactone;
- 11 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone
- 12 dihydro; dihydro-2(3H)furanone; tetrahydro-2-furanone;
- 13 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-
- 14 hydroxybutyric acid lactone; 3-hydroxybutyric acid
- 15 lactone and 4-hydroxybutanoic acid lactone with
- 16 Chemical Abstract Service number 96-48-0 when any such
- 17 substance is intended for human ingestion;
- 18 [~~(33)~~] (32) 1,4 butanediol, including butanediol; butane-
- 19 1,4-diol; 1,4- butylenes glycol; butylene glycol; 1,4-
- 20 dihydroxybutane; 1,4- tetramethylene glycol;
- 21 tetramethylene glycol; tetramethylene 1,4- diol with



- 1 Chemical Abstract Service number 110-63-4 when any
2 such substance is intended for human ingestion;
- 3 ~~[(34)]~~ (33) 2,5-dimethoxy-4-(n)-propylthiophenethylamine
4 (2C-T-7), its optical isomers, salts, and salts of
5 isomers;
- 6 ~~[(35)]~~ (34) N-benzylpiperazine (BZP; 1-benzylpiperazine) its
7 optical isomers, salts, and salts of isomers;
- 8 ~~[(36)]~~ (35) 1-(3-trifluoromethylphenyl)piperazine (TFMPP),
9 its optical isomers, salts, and salts of isomers;
- 10 ~~[(37)]~~ (36) Alpha-methyltryptamine (AMT), its isomers,
11 salts, and salts of isomers;
- 12 ~~[(38)]~~ (37) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-
13 DIPT), its isomers, salts, and salts of isomers;
- 14 ~~[(39)]~~ (38) Salvia divinorum;
- 15 ~~[(40)]~~ (39) Salvinorin A;
- 16 ~~[(41)]~~ (40) Divinorin A;
- 17 ~~[(42)]~~ (41) 5-Methoxy-N,N-Dimethyltryptamine (5-MeO-DIPT)
18 (some trade or other names: 5-methoxy-3-[2-
19 (dimethylamino)ethyl]indole; 5-MeO-DMT);
- 20 ~~[(43)]~~ (42) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine
21 (2C-E);



1 geometric isomers, salts, and salts of isomers (Other
2 names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82); and
3 [-(54)] (53) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-
4 methoxybenzyl)ethanamine, its optical, positional, and
5 geometric isomers, salts, and salts of isomers (Other
6 names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)."

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

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

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



1 ~~6-cis or trans tetrahydrocannabinol, and their optical~~
2 ~~isomers, and Delta 3,4 cis or trans~~
3 ~~tetrahydrocannabinol, and its optical isomers (since~~
4 ~~nomenclature of these substances is not~~
5 ~~internationally standardized, compounds of these~~
6 ~~structures, regardless of numerical designation of~~
7 ~~atomic positions, are covered);~~

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

17 [+3)] (2) Naphthylmethylinindoles; meaning any compound
18 containing a 1H-indol-3-yl-(1-naphthyl) methane
19 structure with substitution at the nitrogen atom of
20 the indole ring by a alkyl, haloalkyl, alkenyl,
21 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-



1 piperidinyl) methyl or 2-(4-morpholinyl) ethyl group
2 whether or not further substituted in the indole ring
3 to any extent and whether or not substituted in the
4 naphthyl ring to any extent;

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

13 [~~5~~] (4) Naphthylmethylenes; meaning any compound
14 containing a naphthylideneindene structure with
15 substitution at the 3-position of the indene ring by a
16 alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
17 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
18 2-(4-morpholinyl) ethyl group whether or not further
19 substituted in the indene ring to any extent, whether
20 or not substituted in the naphthyl ring to any extent;



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



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

4 ~~[(+9)]~~ (8) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)
5 pyrrolo[1,2,3-de]-1, 4-benzoxazin-6-yl]-1-
6 naphthalenylmethanone (another trade name is WIN
7 55,212-2);

8 ~~[(+10)]~~ (9) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-
9 methyloctan-2-yl)-6a,7,10,10a-
10 tetrahydrobenzo[c]chromen-1-ol (Other trade names are:
11 HU-210/HU-211);

12 ~~[(+11)]~~ (10) Tetramethylcyclopropanoylindoles; meaning any
13 compound containing a 3-
14 tetramethylcyclopropanoylindole structure with
15 substitution at the nitrogen atom of the indole ring
16 by an alkyl, haloalkyl, cyanoalkyl, alkenyl,
17 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
18 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-
19 methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
20 morpholinyl)methyl, or tetrahydropyranylmethyl group,
21 whether or not further substituted in the indole ring



- 1 to any extent and whether or not substituted in the
2 tetramethylcyclopropyl ring to any extent;
- 3 ~~[(12)]~~ (11) N-(1-adamantyl)-1-pentyl-1H-indazole-3-
4 carboxamide, its optical, positional, and geometric
5 isomers, salts, and salts of isomers (Other names:
6 APINACA, AKB48);
- 7 ~~[(13)]~~ (12) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate,
8 its optical, positional, and geometric isomers, salts,
9 and salts of isomers (Other names: PB-22; QUPIC);
- 10 ~~[(14)]~~ (13) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-
11 carboxylate, its optical, positional, and geometric
12 isomers, salts, and salts of isomers (Other names:
13 5-fluoro-PB-22; 5F-PB-22);
- 14 ~~[(15)]~~ (14) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-
15 fluorobenzyl)-1H-indazole-3-carboxamide, its optical,
16 positional, and geometric isomers, salts, and salts of
17 isomers (Other names: AB-FUBINACA);
- 18 ~~[(16)]~~ (15) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
19 pentyl-1H-indazole-3-carboxamide, its optical,
20 positional, and geometric isomers, salts, and salts of
21 isomers (Other names: ADB-PINACA);



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



1 AKB48 N-(5-fluoropentyl) analog, 5F-AKB48, APINACA
2 5-fluoropentyl analog, 5F-APINACA);
3 ~~[(23)]~~ (22) N-adamantyl-1-fluoropentylindole-3-Carboxamide,
4 and geometric isomers, salts, and salts of isomers
5 (Other names: STS-135, 5F-APICA; 5-fluoro-APICA);
6 ~~[(24)]~~ (23) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-
7 carboxylate, and geometric isomers, salts, and salts
8 of isomers (Other names: NM2201);
9 ~~[(25)]~~ (24) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
10 (cyclohexylmethyl)-1H-indazole-3-carboxamide, and
11 geometric isomers, salts, and salts of isomers (Other
12 names: MAB-CHMINACA and ADB-CHMINACA);
13 ~~[(26)]~~ (25) Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-
14 carboxamido]-3,3-dimethylbutanoate (Other names:
15 5F-ADB, 5-flouoro-ADB, and 5F-MDMB-PINACA), its
16 optical, positional, and geometric isomers, salts, and
17 salts of isomers; and
18 ~~[(27)]~~ (26) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-
19 yl)indazole-3-carboxamide (CUMYL-4CN-BINACA), its
20 optical, positional, and geometric isomers, salts, and
21 salts of isomers; also known as SGT-78, 4-CN-CUMYL-



1 BINACA; CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano
2 CUMYL-BUTINACA."

3 SECTION 3. Section 706-660, Hawaii Revised Statutes, is
4 amended by amending subsection (2) to read as follows:

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

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

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

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

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

20 SECTION 4. Section 712-1244, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:



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

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

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

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

16 (d) Distributes 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 harmful drugs [~~or one or more of the marijuana~~
20 ~~concentrates, or any combination thereof~~]; or

1 (e) Distributes any harmful drug or any marijuana
2 concentrate in any amount to a minor."

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

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

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

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 harmful drugs [~~or one or more of the marijuana~~
15 ~~concentrates, or any combination thereof~~]; or

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

18 SECTION 6. Section 712-1246, 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 third degree if the person knowingly possesses



1 twenty-five or more capsules or tablets or dosage units
2 containing one or more of the harmful drugs [~~or one or more of~~
3 ~~the marijuana concentrates, or any combination thereof.~~]"

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

6 "§712-1247 Promoting a detrimental drug in the first
7 degree. (1) A person commits the offense of promoting a
8 detrimental drug in the first degree if the person knowingly:

9 (a) Possesses four hundred or more capsules or tablets
10 containing 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 one
13 ounce or more, containing one or more of the Schedule
14 V substances;

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

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)]~~ (e) Sells or barter[s] any [~~marijuana or any~~] Schedule
- 10 V 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 8. 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)] Distributes any [~~marijuana or any~~] Schedule V
19 substance in any amount."~~

20 SECTION 9. 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 10. Section 712A-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§712A-4 Covered offenses.** Offenses for which property is
8 subject to forfeiture under this chapter are:

- 9 (a) All offenses that specifically authorize forfeiture;
- 10 (b) Murder, kidnapping, labor trafficking, gambling,
11 criminal property damage, robbery, bribery, extortion,
12 theft, unauthorized entry into motor vehicle,
13 burglary, money laundering, trademark counterfeiting,
14 insurance fraud, promoting a dangerous, harmful, or
15 detrimental drug, [~~commercial promotion of marijuana,~~]
16 methamphetamine trafficking, manufacturing of a
17 controlled substance with a child present, promoting
18 child abuse, promoting prostitution, sex trafficking,
19 solicitation of a minor for prostitution, habitual
20 solicitation of prostitution, or electronic enticement



1 of a child that is chargeable as a felony offense
2 under state law;

3 (c) The manufacture, sale, or distribution of a controlled
4 substance in violation of chapter 329, promoting
5 detrimental drugs or intoxicating compounds, promoting
6 pornography, promoting pornography for minors, or
7 solicitation of prostitution near schools or public
8 parks, which is chargeable as a felony or misdemeanor
9 offense, but not as a petty misdemeanor, under state
10 law; and

11 (d) The attempt, conspiracy, solicitation, coercion, or
12 intimidation of another to commit any offense for
13 which property is subject to forfeiture."

14 SECTION 11. 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;~~



- 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 12. 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 13. 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.



S.B. NO. 2361

1 SECTION 14. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4

INTRODUCED BY: J. Felani Egha

Anna Mercado K.



S.B. NO. 2361

Report Title:

Marijuana; Decriminalization

Description:

Repeals criminal prohibitions and penalties pertaining to marijuana.

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

