

JAN 19 2024

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that xylazine is a
2 tranquilizer that has increasingly been found in the United
3 States illegal drug supply and linked to overdose deaths and
4 therefore presents an urgent threat to public health and safety.
5 The proliferation of xylazine as an additive to illicit drugs
6 such as fentanyl and other narcotics threatens to exacerbate the
7 opioid public health emergency.

8 The legislature further finds that there is currently no
9 drug approved by the Food and Drug Administration to reverse the
10 effects of xylazine in humans, which include depressed breathing
11 and heart rate, unconsciousness, and necrosis, sometimes leading
12 to amputation or other permanent physical health consequences.
13 Prior to 2023, only two states - Florida and Massachusetts -
14 directly or indirectly scheduled xylazine. In 2023, at least
15 nine states, including Delaware, Illinois, Louisiana, Michigan,
16 New Jersey, New York, Oklahoma, Rhode Island, and West Virginia,
17 considered legislation to schedule xylazine as a controlled



1 substance. Of those states, Delaware, Rhode Island, and West
2 Virginia enacted laws scheduling xylazine, while the governors
3 of Ohio and Pennsylvania took executive action to schedule
4 xylazine in their respective states. Prompt action to control
5 and test for illicit xylazine in the State is critical in
6 preventing further health consequences to the public.

7 The purpose of this Act is to:

- 8 (1) Decriminalize certain acts, including but not limited
9 to use, possession, or delivery, involving xylazine
10 test strips by excluding xylazine test strips from the
11 definition of "drug paraphernalia" in the Uniform
12 Controlled Substances Act; and
- 13 (2) Require the administrator of the narcotics enforcement
14 division of the department of law enforcement to make
15 an emergency scheduling by placing xylazine into
16 schedule III on a temporary basis.

17 SECTION 2. Section 329-1, Hawaii Revised Statutes, is
18 amended as follows:

- 19 1. By adding a new definition to be appropriately inserted
20 and to read:



1 "Xylazine test strip" means a small strip of paper that
2 can detect the presence of xylazine in:

3 (1) Different kinds of drugs, including cocaine,
4 methamphetamine, and heroin; and

5 (2) Different drug forms, such as pills, powder, and
6 injectable drugs."

7 2. By amending the definition of "drug paraphernalia" to
8 read:

9 ""Drug paraphernalia" means all equipment, products, and
10 materials of any kind that are used, primarily intended for use,
11 or primarily designed for use, in planting, propagating,
12 cultivating, growing, harvesting, manufacturing, compounding,
13 converting, producing, processing, preparing, testing,
14 analyzing, packaging, repackaging, storing, containing,
15 concealing, injecting, ingesting, inhaling, or otherwise
16 introducing into the human body a controlled substance in
17 violation of this chapter.

18 (1) Drug paraphernalia includes but is not limited to:

19 [+] (A) Kits used, primarily intended for use, or
20 primarily designed for use in planting,
21 propagating, cultivating, growing, or harvesting



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1 of any species of plant that is a controlled
2 substance or from which a prohibited controlled
3 substance can be derived;

4 ~~[(2)]~~ (B) Kits used, primarily intended for use, or
5 primarily designed for use in manufacturing,
6 compounding, converting, producing, processing,
7 or preparing prohibited controlled substances;

8 ~~[(3)]~~ (C) Isomerization devices used, primarily
9 intended for use, or primarily designed for use
10 in increasing the potency of any species of plant
11 that is a prohibited controlled substance;

12 ~~[(4)]~~ (D) Testing equipment used, primarily intended
13 for use, or primarily designed for use in
14 identifying, or in analyzing the strength,
15 effectiveness, or purity of prohibited controlled
16 substances;

17 ~~[(5)]~~ (E) Scales and balances used, primarily intended
18 for use, or primarily designed for use in
19 weighing or measuring prohibited controlled
20 substances;



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1 ~~[(6)]~~ (F) Diluents and adulterants; such as quinine
2 hydrochloride, mannitol, mannite, dextrose, and
3 lactose, used, primarily intended for use, or
4 primarily designed for use in cutting prohibited
5 controlled substances;

6 ~~[(7)]~~ (G) Separation gins and sifters used, primarily
7 intended for use, or primarily designed for use
8 in removing twigs and seeds from, or in otherwise
9 cleaning or refining, prohibited marijuana;

10 ~~[(8)]~~ (H) Blenders, bowls, containers, spoons, and
11 mixing devices used, primarily intended for use,
12 or primarily designed for use in compounding
13 prohibited controlled substances;

14 ~~[(9)]~~ (I) Capsules, balloons, envelopes, and other
15 containers used, primarily intended for use, or
16 primarily designed for use in packaging small
17 quantities of prohibited controlled substances;

18 ~~[(10)]~~ (J) Containers and other objects used, primarily
19 intended for use, or primarily designed for use
20 in storing or concealing prohibited controlled
21 substances;



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1 ~~[(11)]~~ (K) Hypodermic syringes, needles, and other
2 objects used, primarily intended for use, or
3 primarily designed for use in parenterally
4 injecting prohibited controlled substances into
5 the human body;

6 ~~[(12)]~~ (L) Objects used, primarily intended for use, or
7 primarily designed for use in ingesting,
8 inhaling, or otherwise introducing prohibited
9 marijuana, cocaine, hashish, hashish oil, or
10 methamphetamine into the human body, such as:

11 ~~[(A)]~~ (i) Metal, wooden, acrylic, glass, stone,
12 plastic, or ceramic pipes with or without
13 screens, permanent screens, hashish heads,
14 or punctured metal bowls;

15 ~~[(B)]~~ (ii) Water pipes;

16 ~~[(C)]~~ (iii) Carburetion tubes and devices;

17 ~~[(D)]~~ (iv) Smoking and carburetion masks;

18 ~~[(E)]~~ (v) Roach clips: meaning objects used to
19 hold burning materials, such as marijuana
20 cigarettes, that have become too small or
21 too short to be held in the hand;



- 1 ~~[(F)]~~ (vi) Miniature cocaine spoons, and cocaine
 2 vials;
- 3 ~~[(G)]~~ (vii) Chamber pipes;
- 4 ~~[(H)]~~ (viii) Carburetor pipes;
- 5 ~~[(I)]~~ (ix) Electric pipes;
- 6 ~~[(J)]~~ (x) Air-driven pipes;
- 7 ~~[(K)]~~ (xi) Chillums;
- 8 ~~[(L)]~~ (xii) Bongs; and
- 9 ~~[(M)]~~ (xiii) Ice pipes or chillers.
- 10 (2) In determining whether an object is drug
 11 paraphernalia, a court or other authority should
 12 consider, in addition to all other logically relevant
 13 factors, the following:
- 14 ~~[(1)]~~ (A) Statements by an owner or anyone in control
 15 of the object concerning its use;
- 16 ~~[(2)]~~ (B) Prior convictions, if any, of an owner, or
 17 of anyone in control of the object, under any
 18 state or federal law relating to any controlled
 19 substance;
- 20 ~~[(3)]~~ (C) The proximity of the object, in time and
 21 space, to a direct violation of this chapter;



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- 1 [~~(4)~~] (D) The proximity of the object to controlled
- 2 substances;
- 3 [~~(5)~~] (E) The existence of any residue of controlled
- 4 substances on the object;
- 5 [~~(6)~~] (F) Direct or circumstantial evidence of the
- 6 intent of an owner, or anyone in control of the
- 7 object, to deliver it to a person or persons whom
- 8 the owner or person in control knows, or should
- 9 reasonably know, intend to use the object to
- 10 facilitate a violation of this chapter; provided
- 11 that the innocence of an owner, or of anyone in
- 12 control of the object, as to a direct violation
- 13 of this chapter shall not prevent a finding that
- 14 the object is intended for use, or designed for
- 15 use, as drug paraphernalia;
- 16 [~~(7)~~] (G) Instructions, oral or written, provided with
- 17 the object concerning its use;
- 18 [~~(8)~~] (H) Descriptive materials accompanying the
- 19 object that explain or depict its use;
- 20 [~~(9)~~] (I) National and local advertising concerning
- 21 its use;



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1 ~~[(10)]~~ (J) The manner in which the object is displayed
2 for sale;

3 ~~[(11)]~~ (K) Whether the owner, or anyone in control of
4 the object, is a legitimate supplier of like or
5 related items to the community, such as a
6 licensed distributor or dealer of tobacco
7 products;

8 ~~[(12)]~~ (L) Direct or circumstantial evidence of the
9 ratio of sales of the object or objects to the
10 total sales of the business enterprise;

11 ~~[(13)]~~ (M) The existence and scope of legitimate uses
12 for the object in the community; and

13 ~~[(14)]~~ (N) Expert testimony concerning its use.

14 (3) "Drug paraphernalia" does not include fentanyl test
15 strips~~[-]~~ and xylazine test strips."

16 SECTION 3. Pursuant to section 329-11(e), Hawaii Revised
17 Statutes, the administrator of the narcotics enforcement
18 division of the department of law enforcement shall make an
19 emergency scheduling by placing xylazine into schedule III on a
20 temporary basis, post public notice thereof, and assess the
21 degree of danger or probable danger of the substance.



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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

Karl Rhoads



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Report Title:

Emergency Scheduling; Xylazine; Controlled Substance; Schedule III; Test Strip

Description:

Excludes xylazine testing strips from the definition of "drug paraphernalia". Requires the administrator of the narcotics enforcement administration to make an emergency scheduling by placing xylazine into schedule III on an emergency basis.

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

