
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 SECTION 1. Section 329-43.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§329-43.5 Prohibited acts related to drug paraphernalia.**

4 (a) Except as provided in [~~subsection~~] subsections (e) [7] and
5 (f), it [~~is~~] shall be unlawful for any person to use, or to
6 possess with intent to use, drug paraphernalia to plant,
7 propagate, cultivate, grow, harvest, manufacture, compound,
8 convert, produce, process, prepare, test, analyze, pack, repack,
9 store, contain, conceal, inject, ingest, inhale, or otherwise
10 introduce into the human body a controlled substance in
11 violation of this chapter. A violation of this subsection shall
12 constitute a violation subject to a fine of no more than \$500.

13 (b) Except as provided in subsection (e), it [~~is~~] shall be
14 unlawful for any person to deliver, possess with intent to
15 deliver, or manufacture with intent to deliver drug
16 paraphernalia, knowing or under circumstances where one
17 reasonably should know, that it will be used to plant,



1 propagate, cultivate, grow, harvest, manufacture, compound,
2 convert, produce, process, prepare, test, analyze, pack, repack,
3 store, contain, conceal, inject, ingest, inhale, or otherwise
4 introduce into the human body a controlled substance in
5 violation of this chapter. A violation of this subsection shall
6 constitute a violation subject to a fine of no more than \$500.

7 (c) Any person eighteen years of age or [~~over~~] older who
8 violates subsection (b) by delivering drug paraphernalia to a
9 person or persons under eighteen years of age who are at least
10 three years younger than that adult person [~~is~~] shall be guilty
11 of a class B felony and upon conviction may be imprisoned
12 pursuant to section 706-660 and, if appropriate as provided in
13 section 706-641, fined pursuant to section 706-640.

14 (d) It [~~is~~] shall be unlawful for any person to place in
15 any newspaper, magazine, handbill, or other publication any
16 advertisement, knowing or under circumstances where one
17 reasonably should know, that the purpose of the advertisement,
18 in whole or in part, is to promote the sale of objects designed
19 or intended for use as drug paraphernalia. Any person who
20 violates this section [~~is~~] shall be guilty of a class C felony
21 and upon conviction may be imprisoned pursuant to section 706-



1 660 and, if appropriate as provided in section 706-641, fined
2 pursuant to section 706-640.

3 (e) Subsections (a) and (b) shall not apply to a person
4 who is authorized to:

5 (1) Acquire, possess, cultivate, use, distribute, or
6 transport cannabis pursuant to the definition of
7 "medical use" under section 329-121, while the person
8 is facilitating the medical use of cannabis by a
9 qualifying patient; or

10 (2) Dispense, manufacture, or produce cannabis or
11 manufactured cannabis products pursuant to and in
12 compliance with chapter 329D, while the person is
13 facilitating the medical use of cannabis by a
14 qualifying patient pursuant to part IX of chapter 329.

15 (f) Subsection (a) shall not apply to the possession of
16 drug paraphernalia to:

17 (1) Store, contain, or conceal; or

18 (2) Inject, ingest, inhale, or otherwise introduce into
19 the human body,

20 marijuana."



1 SECTION 2. Section 712-1244, 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 first degree if the person knowingly:

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

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

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

18 (d) Distributes, except as provided in section 712-1249,
19 one or more preparations, compounds, mixtures, or
20 substances, of an aggregate weight of one-eighth ounce
21 or more, containing one or more of the harmful drugs



1 or one or more of the marijuana concentrates, or any
2 combination thereof; or

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

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

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

9 (a) Possesses fifty or more capsules or tablets or dosage
10 units containing one or more of the harmful drugs or
11 one or more of the marijuana concentrates, or any
12 combination thereof;

13 (b) Possesses, except as provided in section 712-1248 or
14 712-1249, 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 (c) Distributes, except as provided in section 712-1249,
20 any harmful drug or any marijuana concentrate in any
21 amount."



1 SECTION 4. Section 712-1246.5, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) [A] Except as provided in section 712-1249, a person
4 commits the offense of promoting a harmful drug in the fourth
5 degree if the person knowingly possesses any harmful drug in any
6 amount."

7 SECTION 5. Section 712-1247, Hawaii Revised Statutes, is
8 amended by amending subsection (1) to read as follows:

9 "(1) A person commits the offense of promoting a
10 detrimental drug in the first degree if the person knowingly:

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

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

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

19 (d) Distributes one or more preparations, compounds,
20 mixtures, or substances of an aggregate weight of one-



- 1 eighth ounce or more, containing one or more of the
2 Schedule V substances;
- 3 (e) Possesses one or more preparations, compounds,
4 mixtures, or substances of an aggregate weight of one
5 pound or more, containing any marijuana;
- 6 (f) Distributes, except as provided in section 712-1249,
7 one or more preparations, compounds, mixtures, or
8 substances of an aggregate weight of one ounce or
9 more, containing any marijuana;
- 10 (g) Possesses, cultivates, or has under the person's
11 control twenty-five or more marijuana plants; or
- 12 (h) Sells or barter any marijuana or any Schedule V
13 substance in any amount."

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

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

- 18 (a) Possesses fifty or more capsules or tablets containing
19 one or more of the Schedule V substances;
- 20 (b) Possesses one or more preparations, compounds,
21 mixtures, or substances, of an aggregate weight of



- 1 one-eighth ounce or more, containing one or more of
 2 the Schedule V substances;
- 3 (c) Possesses [~~one or more preparations, compounds,~~
 4 ~~mixtures, or substances, of an aggregate weight of one~~
 5 ~~ounce or more, containing any marijuana,~~ two ounces
 6 or more of marijuana other than marijuana concentrate
 7 and marijuana-infused products; ten grams or more of
 8 marijuana concentrate; or marijuana-infused products
 9 containing one gram or more of tetrahydrocannabinol,
 10 in the aggregate; or
- 11 (d) Distributes, except as provided in section 712-1249,
 12 any marijuana or any Schedule V substance in any
 13 amount."

14 SECTION 7. Section 712-1249, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 **"§712-1249 Promoting a detrimental drug in the third**
 17 **degree.** (1) A person commits the offense of promoting a
 18 detrimental drug in the third degree if the person knowingly
 19 [~~possesses any~~]:

20 (a) Possesses:

1 (i) Any marijuana or any Schedule V substance in any
2 amount[-];

3 (ii) Any marijuana concentrate in any amount; or

4 (iii) Marijuana-infused products containing any amount
5 of tetrahydrocannabinol;

6 (b) Transfers a personal use quantity of marijuana to a
7 person who is twenty-one years of age or older without
8 remuneration; or

9 (c) Smokes marijuana in a public place.

10 (2) Promoting a detrimental drug in the third degree [~~is~~]
11 shall be a petty misdemeanor; provided that [possession of three
12 grams or less];

13 (a) Possession or transfer without remuneration of a
14 personal use quantity of marijuana [~~is~~] shall be a
15 violation, punishable by a fine of [~~\$130.~~] \$25. A
16 person found responsible for a violation under this
17 section may request, and shall be granted, a penalty
18 of two hours of community service in lieu of a fine;
19 or

20 (b) Smoking marijuana in a public place shall be a
21 violation, punishable by a fine of up to \$130. A



1 person found responsible for a violation under this
2 section may request, and shall be granted, a penalty
3 of up to ten hours of community service in lieu of a
4 fine.

5 (3) For purposes of this section, a transfer of marijuana
6 shall be considered for remuneration if:

7 (a) The marijuana is given away contemporaneously with
8 another transaction between the same parties;

9 (b) A gift of marijuana is offered or advertised in
10 conjunction with an offer for sale of goods, services,
11 or admission to an event; or

12 (c) A gift of marijuana is contingent upon a separate
13 transaction for goods, services, or the price of
14 admission to an event.

15 (4) As used in this section, "personal use quantity of
16 marijuana" means:

17 (a) One ounce or less of marijuana other than marijuana
18 concentrate and marijuana-infused products;

19 (b) Five grams or less of marijuana concentrate; or



1 (c) Marijuana-infused products containing five hundred
2 milligrams or less of tetrahydrocannabinol, in the
3 aggregate."

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



Report Title:

Marijuana; Paraphernalia; Possession; Transfer; Smoking;
Decriminalization

Description:

Exempts drug paraphernalia for marijuana from certain penalties under the Uniform Controlled Substances Act. Lowers the penalties for the possession and transfer without remuneration of certain amounts of marijuana, marijuana concentrate, and marijuana-infused products. Makes smoking marijuana in a public place a violation under the offense of promoting a detrimental drug in the third degree. (HD1)

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