

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

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

1. By adding a new definition to be appropriately inserted and to read: ““Fentanyl test strip” means a small strip of paper that can detect the presence of fentanyl in:

- (1) Different kinds of drugs, including cocaine, methamphetamine, and heroin; and
- (2) Different drug forms, such as pills, powder, and injectable drugs.”

2. By amending the definition of “drug paraphernalia” to read: “Drug paraphernalia” means all equipment, products, and materials of any kind [which] that are used, primarily intended for use, or primarily designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. [H] Drug paraphernalia includes but is not limited to:

- (1) Kits used, primarily intended for use, or primarily designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant [which] that is a controlled substance or from which a prohibited controlled substance can be derived;
- (2) Kits used, primarily intended for use, or primarily designed for use in manufacturing, compounding, converting, producing, processing, or preparing prohibited controlled substances;
- (3) Isomerization devices used, primarily intended for use, or primarily designed for use in increasing the potency of any species of plant [which] that is a prohibited controlled substance;
- (4) Testing equipment used, primarily intended for use, or primarily designed for use in identifying, or in analyzing the strength, effectiveness, or purity of prohibited controlled substances;
- (5) Scales and balances used, primarily intended for use, or primarily designed for use in weighing or measuring prohibited controlled substances;
- (6) Diluents and adulterants; such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, primarily intended for use, or primarily designed for use in cutting prohibited controlled substances;
- (7) Separation gins and sifters used, primarily intended for use, or primarily designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, prohibited marijuana;
- (8) Blenders, bowls, containers, spoons, and mixing devices used, primarily intended for use, or primarily designed for use in compounding prohibited controlled substances;
- (9) Capsules, balloons, envelopes, and other containers used, primarily intended for use, or primarily designed for use in packaging small quantities of prohibited controlled substances;

- (10) Containers and other objects used, primarily intended for use, or primarily designed for use in storing or concealing prohibited controlled substances;
- (11) Hypodermic syringes, needles, and other objects used, primarily intended for use, or primarily designed for use in parenterally injecting prohibited controlled substances into the human body;
- (12) Objects used, primarily intended for use, or primarily designed for use in ingesting, inhaling, or otherwise introducing prohibited marijuana, cocaine, hashish, hashish oil, or methamphetamine into the human body, such as:
 - (A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (B) Water pipes;
 - (C) Carburetion tubes and devices;
 - (D) Smoking and carburetion masks;
 - (E) Roach clips: meaning objects used to hold burning materials, such as marijuana cigarettes, that have become too small or too short to be held in the hand;
 - (F) Miniature cocaine spoons, and cocaine vials;
 - (G) Chamber pipes;
 - (H) Carburetor pipes;
 - (I) Electric pipes;
 - (J) Air-driven pipes;
 - (K) Chillums;
 - (L) Bongs; and
 - (M) Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or [by] anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this chapter;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or [of] anyone in control of the object, to deliver it to a person or persons whom the owner or person in control knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; provided that the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object [which] that explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;

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- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community; and
- (14) Expert testimony concerning its use.
“Drug paraphernalia” does not include fentanyl test strips.”

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

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

(Approved June 22, 2023.)