

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 PART I.

2 SECTION 1. The legislature finds that the State has the  
3 primary legal jurisdiction over crimes committed by the  
4 permanent and temporary resident civil population within its  
5 territorial boundaries, with the exception of crimes involving  
6 property directly owned by the government of the United States.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Remove from the Hawaii Revised Statutes all existing  
9 criminal and civil penalties that relate to the  
10 growing, sale, distribution, and possession of  
11 marijuana, also known as cannabis, except as provided  
12 in paragraph (2);
- 13 (2) Prohibit the furnishing of marijuana to a minor under  
14 the age of eighteen;
- 15 (3) Allow a person to grow, in residentially zoned areas,  
16 no more than ten marijuana plants for personal use at  
17 any one time;



- (4) Allow a person to grow more than ten plants at any one time in areas zoned for agriculture; and
- (5) Prohibit the growing of marijuana on public property.

PART II.

SECTION 2. Chapter 709, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§709- Marijuana and marijuana products prohibited; minors. (1) It shall be unlawful to sell or furnish marijuana in any shape or form to a minor under eighteen years of age.

(2) Signs using the statement, "The sale of marijuana products to persons under eighteen is prohibited", shall be posted on or near any vending machine in letters at least one-half inch high and at or near the point of sale of any other location where marijuana products are sold in letters at least one-half inch high.

(3) It shall be unlawful for a minor under eighteen years of age to purchase any marijuana product. This subsection shall not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the



1 department of health under the supervision of law enforcement to  
2 determine the level of incidence of marijuana sales to minors.

3 (4) Any person who violates subsection (1) or (2), or  
4 both, shall be fined \$500 for the first offense. Any subsequent  
5 offenses shall subject the person to a fine not less than \$500  
6 nor more than \$2,000. Any minor under eighteen years of age who  
7 violates subsection (3) shall be fined \$10 for the first  
8 offense, and for any subsequent offenses, shall be fined \$50, no  
9 part of which shall be suspended, or the person shall be  
10 required to perform not less than forty-eight hours nor more  
11 than seventy-two hours of community service during hours when  
12 the person is not employed and is not attending school."

13 SECTION 3. Chapter 712, Hawaii Revised Statutes, is  
14 amended by adding a new part to be appropriately designated and  
15 to read as follows:

16 **"PART . MARIJUANA**

17 **§712-A Marijuana cultivation.** (1) A person may  
18 cultivate up to ten marijuana plants at any one time; provided  
19 that it shall be unlawful for any person to cultivate marijuana:

20 (a) On public property. Any person who violates this  
21 paragraph shall subject to a fine of not more than



1           \$20,000 and to the immediate forfeiture of any  
2           marijuana plants, products, or seeds in their  
3           possession; and

4           (b) On private property without permission of the property  
5           owner or legal tenant. Any person who violates this  
6           paragraph shall be guilty of a misdemeanor.

7           (2) A county may adopt ordinances and rules governing  
8           marijuana cultivation.

9           (3) Nothing in this part shall be construed to prohibit  
10          the government of the United States from regulating the export  
11          or import of marijuana from or to another state or territory of  
12          the United States or to regulate marijuana use on federal  
13          property or among active duty members of the armed forces of the  
14          United States.

15          **§712-B      Abuse of marijuana rights.** Any person who:

16          (a) Shares moneys gained from the sale of marijuana with a  
17          criminal enterprise; gang; or cartel, which engages in  
18          illegal activity for profit;

19          (b) Engages in violence or the use of a firearm in  
20          relation to the cultivation of marijuana; or



1 (c) Uses a marijuana distribution business to hide other  
2 activity that is illegal,  
3 shall be guilty of abusing marijuana rights and subject to a  
4 fine of not more than \$20,000 in addition to any penalty that  
5 may accrue for the offense pursuant to any federal law."

6 PART III.

7 SECTION 4. Section 46-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§46-4 County zoning.** (a) This section and any  
10 ordinance, rule, or regulation adopted in accordance with this  
11 section shall apply to lands not contained within the forest  
12 reserve boundaries as established on January 31, 1957, or as  
13 subsequently amended.

14 Zoning in all counties shall be accomplished within the  
15 framework of a long-range, comprehensive general plan prepared  
16 or being prepared to guide the overall future development of the  
17 county. Zoning shall be one of the tools available to the  
18 county to put the general plan into effect in an orderly manner.  
19 Zoning in the counties of Hawaii, Maui, and Kauai means the  
20 establishment of districts of such number, shape, and area, and  
21 the adoption of regulations for each district to carry out the



1 purposes of this section. In establishing or regulating the  
2 districts, full consideration shall be given to all available  
3 data as to soil classification and physical use capabilities of  
4 the land to allow and encourage the most beneficial use of the  
5 land consonant with good zoning practices. The zoning power  
6 granted herein shall be exercised by ordinance which may relate  
7 to:

- 8 (1) The areas within which agriculture, forestry,  
9 industry, trade, and business may be conducted;
- 10 (2) The areas in which residential uses may be regulated  
11 or prohibited;
- 12 (3) The areas bordering natural watercourses, channels,  
13 and streams, in which trades or industries, filling or  
14 dumping, erection of structures, and the location of  
15 buildings may be prohibited or restricted;
- 16 (4) The areas in which particular uses may be subjected to  
17 special restrictions;
- 18 (5) The location of buildings and structures designed for  
19 specific uses and designation of uses for which  
20 buildings and structures may not be used or altered;



(6) The location, height, bulk, number of stories, and size of buildings and other structures;

(7) The location of roads, schools, and recreation areas;

(8) Building setback lines and future street lines;

(9) The density and distribution of population;

(10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;

(11) Minimum and maximum lot sizes; and

(12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

The council of any county shall prescribe rules, regulations, and administrative procedures and provide personnel it finds necessary to enforce this section and any ordinance enacted in accordance with this section. The ordinances may be enforced by appropriate fines and penalties, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Any civil fine or penalty provided by ordinance under this section may be imposed by the district court, or by the zoning



1 agency after an opportunity for a hearing pursuant to chapter  
2 91. The proceeding shall not be a prerequisite for any  
3 injunctive relief ordered by the circuit court.

4 Nothing in this section shall invalidate any zoning  
5 ordinance or regulation adopted by any county or other agency of  
6 government pursuant to the statutes in effect prior to July 1,  
7 1957.

8 The powers granted herein shall be liberally construed in  
9 favor of the county exercising them, and in such a manner as to  
10 promote the orderly development of each county or city and  
11 county in accordance with a long-range, comprehensive general  
12 plan to ensure the greatest benefit for the State as a whole.  
13 This section shall not be construed to limit or repeal any  
14 powers of any county to achieve these ends through zoning and  
15 building regulations, except insofar as forest and water reserve  
16 zones are concerned and as provided in subsections (c) and (d).

17 Neither this section nor any ordinance enacted pursuant to  
18 this section shall prohibit the continued lawful use of any  
19 building or premises for any trade, industrial, residential,  
20 agricultural, or other purpose for which the building or  
21 premises is used at the time this section or the ordinance takes





1 effect; provided that a zoning ordinance may provide for  
2 elimination of nonconforming uses as the uses are discontinued,  
3 or for the amortization or phasing out of nonconforming uses or  
4 signs over a reasonable period of time in commercial,  
5 industrial, resort, and apartment zoned areas only. In no event  
6 shall such amortization or phasing out of nonconforming uses  
7 apply to any existing building or premises used for residential  
8 (single-family or duplex) or agricultural uses. Nothing in this  
9 section shall affect or impair the powers and duties of the  
10 director of transportation as set forth in chapter 262.

11 (b) Any final order of a zoning agency established under  
12 this section may be appealed to the circuit court of the circuit  
13 in which the land in question is found. The appeal shall be in  
14 accordance with the Hawaii rules of civil procedure.

15 (c) Each county may adopt reasonable standards to allow  
16 the construction of two single-family dwelling units on any lot  
17 where a residential dwelling unit is permitted.

18 (d) Neither this section nor any other law, county  
19 ordinance, or rule shall prohibit group living in facilities  
20 with eight or fewer residents for purposes or functions that are  
21 licensed, certified, registered, or monitored by the State;



1 provided that a resident manager or a resident supervisor and  
2 the resident manager's or resident supervisor's family shall not  
3 be included in this resident count. These group living  
4 facilities shall meet all applicable county requirements not  
5 inconsistent with the intent of this subsection, including but  
6 not limited to building height, setback, maximum lot coverage,  
7 parking, and floor area requirements.

8 (e) Neither this section nor any other law, county  
9 ordinance, or rule shall prohibit the use of land for employee  
10 housing and community buildings in plantation community  
11 subdivisions as defined in section 205-4.5(a)(12); in addition,  
12 no zoning ordinance shall provide for the elimination,  
13 amortization, or phasing out of plantation community  
14 subdivisions as a nonconforming use.

15 (f) Neither this section nor any other law, county  
16 ordinance, or rule shall prohibit the cultivation of marijuana  
17 on private property; provided that:

18 (1) A person may cultivate no more than ten marijuana  
19 plants at any one time;



(2) It shall be unlawful for any person to cultivate marijuana on private property without permission of the property owner or legal tenant; and

(3) Paragraph (1) shall not apply to any private property zoned for agriculture."

SECTION 5. Section 329-14, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

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

(1) Alpha-ethyltryptamine (AET);

(2) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(3) 2,5-dimethoxyamphetamine (2,5-DMA);

(4) 3,4-methylenedioxy amphetamine;

(5) 3,4-methylenedioxymethamphetamine (MDMA);

(6) N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy-MDA);



- 1 (7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);
- 2 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 3 (9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);
- 4 (10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);
- 5 (11) 3,4,5-trimethoxy amphetamine;
- 6 (12) Bufotenine;
- 7 (13) 4-methoxyamphetamine (PMA);
- 8 (14) Diethyltryptamine;
- 9 (15) Dimethyltryptamine;
- 10 (16) 4-methyl-2,5-dimethoxy-amphetamine;
- 11 (17) Gamma hydroxybutyrate (GHB) (some other names include
- 12 gamma hydroxybutyric acid; 4-hydroxybutyrate; 4-
- 13 hydroxybutanoic acid; sodium oxybate; sodium
- 14 oxybutyrate);
- 15 (18) Ibogaine;
- 16 (19) Lysergic acid diethylamide;
- 17 [~~(20)~~—Marijuana,]
- 18 [~~(21)~~] (20) Parahexyl;
- 19 [~~(22)~~] (21) Mescaline;
- 20 [~~(23)~~] (22) Peyote;
- 21 [~~(24)~~] (23) N-ethyl-3-piperidyl benzilate;



- 1        [~~(25)~~] (24) N-methyl-3-piperidyl benzilate;  
2        [~~(26)~~] (25) Psilocybin;  
3        [~~(27)~~] (26) Psilocyn;  
4        [~~(28)~~] (27) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);  
5        [~~(29)~~] (28) Ethylamine analog of phencyclidine (PCE);  
6        [~~(30)~~] (29) Pyrrolidine analog of phencyclidine (PCPy, PHP);  
7        [~~(31)~~] (30) Thiophene analog of phencyclidine (TPCP; TCP);  
8        [~~(32)~~] (31) Gamma-butyrolactone, including butyrolactone;  
9           butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone  
10           dihydro; dihydro-2(3H)furanone; tetrahydro-2-furanone;  
11           1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-  
12           hydroxybutyric acid lactone; 3-hydroxybutyric acid  
13           lactone and 4-hydroxybutanoic acid lactone with  
14           Chemical Abstract Service number 96-48-0 when any such  
15           substance is intended for human ingestion;  
16        [~~(33)~~] (32) 1,4 butanediol, including butanediol; butane-1,4-  
17           diol; 1,4- butylenes glycol; butylene glycol; 1,4-  
18           dihydroxybutane; 1,4- tetramethylene glycol;  
19           tetramethylene glycol; tetramethylene 1,4- diol with  
20           Chemical Abstract Service number 110-63-4 when any  
21           such substance is intended for human ingestion;



- 1        [~~(34)~~] (33) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-  
2                    T-7), its optical isomers, salts, and salts of  
3                    isomers;  
4        [~~(35)~~] (34) N-benzylpiperazine (BZP; 1-benzylpiperazine) its  
5                    optical isomers, salts, and salts of isomers;  
6        [~~(36)~~] (35) 1-(3-trifluoromethylphenyl)piperazine (TFMPP),  
7                    its optical isomers, salts, and salts of isomers;  
8        [~~(37)~~] (36) Alpha-methyltryptamine (AMT), its isomers, salts,  
9                    and salts of isomers;  
10       [~~(38)~~] (37) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT),  
11                   its isomers, salts, and salts of isomers;  
12       [~~(39)~~] (38) Salvia divinorum;  
13       [~~(40)~~] (39) Salvinorin A;  
14       [~~(41)~~] (40) Divinorin A;  
15       [~~(42)~~] (41) 5-Methoxy-N,N-Dimethyltryptamine (5-MeO-DIPT)  
16                   (some trade or other names: 5-methoxy-3-[2-  
17                   (dimethylamino)ethyl]indole; 5-MeO-DMT);  
18       [~~(43)~~] (42) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);  
19       [~~(44)~~] (43) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-  
20                   D);



- 1        [~~(45)~~] (44) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-  
2                    C);
- 3        [~~(46)~~] (45) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- 4        [~~(47)~~] (46) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine  
5                    (2C-T-2);
- 6        [~~(48)~~] (47) 2-[4-(Isopropylthio)-2,5-  
7                    dimethoxyphenyl]ethanamine (2C-T-4);
- 8        [~~(49)~~] (48) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- 9        [~~(50)~~] (49) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-  
10                    N);
- 11       [~~(51)~~] (50) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine  
12                    (2C-P);
- 13       [~~(52)~~] (51) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-  
14                    methoxybenzyl)ethanamine, its optical, positional, and  
15                    geometric isomers, salts, and salts of isomers (Other  
16                    names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5);
- 17       [~~(53)~~] (52) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-  
18                    methoxybenzyl)ethanamine, its optical, positional, and  
19                    geometric isomers, salts, and salts of isomers (Other  
20                    names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82); and



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

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

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

10          ~~[(1) Tetrahydrocannabinols; meaning tetrahydrocannabinols~~  
11           ~~naturally contained in a plant of the genus Cannabis~~  
12           ~~(cannabis plant), as well as synthetic equivalents of~~  
13           ~~the substances contained in the plant, or in the~~  
14           ~~resinous extractives of Cannabis, sp. or synthetic~~  
15           ~~substances, derivatives, and their isomers with~~  
16           ~~similar chemical structure and pharmacological~~  
17           ~~activity to those substances contained in the plant,~~  
18           ~~such as the following: Delta 1 cis or trans~~  
19           ~~tetrahydrocannabinol, and their optical isomers; Delta~~  
20           ~~6 cis or trans tetrahydrocannabinol, and their optical~~  
21           ~~isomers; and Delta 3,4 cis or trans~~





1       ~~tetrahydrocannabinol, and its optical isomers (since~~  
2       ~~nomenclature of these substances is not~~  
3       ~~internationally standardized, compounds of these~~  
4       ~~structures, regardless of numerical designation of~~  
5       ~~atomic positions, are covered);]~~

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

14      [~~(3)~~] (2) Naphthylmethylinindoles; meaning any compound  
15      containing a 1H-indol-3-yl-(1-naphthyl) methane  
16      structure with substitution at the nitrogen atom of  
17      the indole ring by a alkyl, haloalkyl, alkenyl,  
18      cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
19      piperidinyl) methyl or 2-(4-morpholinyl) ethyl group  
20      whether or not further substituted in the indole ring



1 to any extent and whether or not substituted in the  
2 naphthyl ring to any extent;

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

11 ~~[(5)]~~ (4) Naphthylmethylindenes; meaning any compound  
12 containing a naphthylideneindene structure with  
13 substitution at the 3-position of the indene ring by a  
14 alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
15 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or  
16 2-(4-morpholinyl) ethyl group whether or not further  
17 substituted in the indene ring to any extent, whether  
18 or not substituted in the naphthyl ring to any extent;

19 ~~[(6)]~~ (5) Phenylacetylindoles; meaning any compound  
20 containing a 3-phenylacetylindole structure with  
21 substitution at the nitrogen atom of the indole ring



1 by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
2 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or  
3 2-(4-morpholinyl) ethyl group whether or not further  
4 substituted in the indole ring to any extent, whether  
5 or not substituted in the phenyl ring to any extent;

6 ~~[(7)]~~ (6) Cyclohexylphenols; meaning any compound containing  
7 a 2-(3-hydroxycyclohexyl) phenol structure with  
8 substitution at the 5-position of the phenolic ring by  
9 a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
10 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or  
11 2-(4-morpholinyl) ethyl group whether or not  
12 substituted in the cyclohexyl ring to any extent;

13 ~~[(8)]~~ (7) Benzoylindoles; meaning any compound containing a  
14 3-(benzoyl) indole structure with substitution at the  
15 nitrogen atom of the indole ring by a alkyl,  
16 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
17 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)  
18 ethyl group whether or not further substituted in the  
19 indole ring to any extent and whether or not  
20 substituted in the phenyl ring to any extent;



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

5       ~~[(10)]~~ (9) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-  
6       methyloctan-2-yl)-6a,7,10,10a-  
7       tetrahydrobenzo[c]chromen-1-ol (other trade names are:  
8       HU-210 and HU-211);

9       ~~[(11)]~~ (10) Tetramethylcyclopropanoylindoles; meaning any  
10       compound containing a 3-  
11       tetramethylcyclopropanoylindole structure with  
12       substitution at the nitrogen atom of the indole ring  
13       by an alkyl, haloalkyl, cyanoalkyl, alkenyl,  
14       cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
15       piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-  
16       methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-  
17       morpholinyl)methyl, or tetrahydropyranylmethyl group,  
18       whether or not further substituted in the indole ring  
19       to any extent and whether or not substituted in the  
20       tetramethylcyclopropyl ring to any extent;



1        [~~(12)~~] (11) N-(1-adamantyl)-1-pentyl-1H-indazole-3-

2                carboxamide, its optical, positional, and geometric  
3                isomers, salts, and salts of isomers (Other names:  
4                APINACA, AKB48);

5        [~~(13)~~] (12) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate,

6                its optical, positional, and geometric isomers, salts,  
7                and salts of isomers (Other names: PB-22; QUPIC);

8        [~~(14)~~] (13) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-

9                carboxylate, its optical, positional, and geometric  
10               isomers, salts, and salts of isomers (Other names: 5-  
11               fluoro-PB-22; 5F-PB-22);

12        [~~(15)~~] (14) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-

13               fluorobenzyl)-1H-indazole-3-carboxamide, its optical,  
14               positional, and geometric isomers, salts, and salts of  
15               isomers (Other names: AB-FUBINACA); and

16        [~~(16)~~] (15) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-

17               pentyl-1H-indazole-3-carboxamide, its optical,  
18               positional, and geometric isomers, salts, and salts of  
19               isomers (Other names: ADB-PINACA)."



1       SECTION 6. Section 712-1240, Hawaii Revised Statutes, is  
2 amended by amending the definition of "harmful drug" to read as  
3 follows:

4       "Harmful drug" means any substance or immediate precursor  
5 defined or specified as a "Schedule III substance" or a  
6 "Schedule IV substance" by chapter 329 [~~or any marijuana~~  
7 ~~concentrate except marijuana and a substance specified in~~  
8 ~~section 329-18(c)(14)] ."~~

9       SECTION 7. Section 712-1244, Hawaii Revised Statutes, is  
10 amended by amending subsection (1) to read as follows:

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

13       (a) Possesses one hundred or more capsules or tablets or  
14 dosage units containing one or more of the harmful  
15 drugs [~~or one or more of the marijuana concentrates,~~  
16 ~~or any combination thereof]~~;

17       (b) Possesses one or more preparations, compounds,  
18 mixtures, or substances, of an aggregate weight of one  
19 ounce or more containing one or more of the harmful  
20 drugs [~~or one or more of the marijuana concentrates,~~  
21 ~~or any combination thereof]~~;



1 (c) Distributes twenty-five or more capsules or tablets or  
2 dosage units containing one or more of the harmful  
3 drugs [~~or one or more of the marijuana concentrates,~~  
4 ~~or any combination thereof~~];

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

10 (e) Distributes any harmful drug [~~or any marijuana~~  
11 ~~concentrate~~] in any amount to a minor."

12 SECTION 8. Section 712-1245, Hawaii Revised Statutes, is  
13 amended by amending subsection (1) to read as follows:

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

16 (a) Possesses fifty or more capsules or tablets or dosage  
17 units containing one or more of the harmful drugs [~~or~~  
18 ~~one or more of the marijuana concentrates, or any~~  
19 ~~combination thereof~~];

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

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

6           SECTION 9. Section 712-1246, Hawaii Revised Statutes, is  
7   amended by amending subsection (1) to read as follows:

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

13          SECTION 10. Section 712-1247, Hawaii Revised Statutes, is  
14   amended to read as follows:

15          "**§712-1247 Promoting a detrimental drug in the first**  
16   **degree.** (1) A person commits the offense of promoting a  
17   detrimental drug in the first degree if the person knowingly:

18           (a) Possesses four hundred or more capsules or tablets  
19           containing 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 one





- 1           ounce or more, containing one or more of the Schedule  
2           V substances;
- 3           (c) Distributes fifty or more capsules or tablets  
4           containing one or more of the Schedule V substances;  
5           or
- 6           (d) Distributes one or more preparations, compounds,  
7           mixtures, or substances of an aggregate weight of one-  
8           eighth ounce or more, containing one or more of the  
9           Schedule V substances[+  
10          ~~(e) Possesses one or more preparations, compounds,~~  
11          ~~mixtures, or substances of an aggregate weight of one~~  
12          ~~pound or more, containing any marijuana,~~
- 13          ~~(f) Distributes one or more preparations, compounds,~~  
14          ~~mixtures, or substances of an aggregate weight of one~~  
15          ~~ounce or more, containing any marijuana,~~
- 16          ~~(g) Possesses, cultivates, or has under the person's~~  
17          ~~control twenty five or more marijuana plants; or~~
- 18          ~~(h) Sells or barter any marijuana or any Schedule V~~  
19          ~~substance in any amount].~~
- 20           (2) Promoting a detrimental drug in the first degree is a  
21   class C felony.



1       ~~[(3) Any marijuana seized as evidence of a violation of~~  
2       ~~this section in excess of one pound may be destroyed after it~~  
3       ~~has been photographed and the weight thereof recorded. The~~  
4       ~~remainder of the marijuana shall remain in the custody of the~~  
5       ~~police department until the termination of any criminal action~~  
6       ~~brought as a result of the seizure of the marijuana.~~  
7       ~~Photographs duly identified as accurately representing the~~  
8       ~~marijuana shall be deemed competent evidence of the marijuana~~  
9       ~~involved and shall be admissible in any proceeding, hearing, or~~  
10      ~~trial to the same extent as the marijuana itself; provided that~~  
11      ~~nothing in this subsection shall be construed to limit or to~~  
12      ~~restrict the application of rule 901 of the Hawaii rules of~~  
13      ~~evidence.]"~~

14       SECTION 11. 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; or  
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; or~~  
6       ~~-(d)]~~ (c) Distributes any marijuana or any Schedule V  
7       substance in any amount."

SECTION 12. Section 712-1249, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

10           "(1) A person commits the offense of promoting a  
11 detrimental drug in the third degree if the person knowingly  
12 possesses [~~any marijuana or~~] any Schedule V substance in any  
13 amount."

14 PART IV.

15           SECTION 13.   Section 712-1249.4, Hawaii Revised Statutes,  
16   is repealed.

17           ~~["§712-1249.4] Commercial promotion of marijuana in the~~  
18   ~~first degree. (1) A person commits the offense of commercial~~  
19   ~~promotion of marijuana in the first degree if the person~~  
20   ~~knowingly:~~



- 1        ~~(a) Possesses marijuana having an aggregate weight of~~  
2        ~~twenty five pounds or more;~~
- 3        ~~(b) Distributes marijuana having an aggregate weight of~~  
4        ~~five pounds or more;~~
- 5        ~~(c) Possesses, cultivates, or has under the person's~~  
6        ~~control one hundred or more marijuana plants;~~
- 7        ~~(d) Cultivates on land owned by another person, including~~  
8        ~~land owned by the government or other legal entity,~~  
9        ~~twenty five or more marijuana plants, unless the~~  
10       ~~person has the express permission from the owner of~~  
11       ~~the land to cultivate the marijuana or the person has~~  
12       ~~a legal or an equitable ownership interest in the land~~  
13       ~~or the person has a legal right to occupy the land; or~~
- 14       ~~(e) Uses, or causes to be used, any firearm or other~~  
15       ~~weapon, device, instrument, material, or substance,~~  
16       ~~whether animate or inanimate, which in the manner used~~  
17       ~~is capable of causing death, serious bodily injury,~~  
18       ~~substantial bodily injury, or other bodily injury, as~~  
19       ~~defined in chapter 707 in order to prevent the theft,~~  
20       ~~removal, search and seizure, or destruction of~~  
21       ~~marijuana.~~



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

3       ~~(3) Any marijuana seized as evidence in violation of this~~  
4   ~~section in excess of an aggregate weight of twenty five pounds~~  
5   ~~as stated in subsection (1)(a), or in excess of an aggregate~~  
6   ~~weight of five pounds as stated in subsection (1)(b), or in~~  
7   ~~excess of one hundred marijuana plants as stated in subsection~~  
8   ~~(1)(c), or in excess of twenty five marijuana plants as stated~~  
9   ~~in subsection (1)(d) may be destroyed after the excess amount~~  
10   ~~has been photographed and the number of plants and the weight~~  
11   ~~thereof has been recorded. The required minimum amount of the~~  
12   ~~marijuana needed to constitute the elements of this offense~~  
13   ~~shall remain in the custody of the police until the termination~~  
14   ~~of any criminal action brought as a result of the seizure of the~~  
15   ~~marijuana. Photographs duly identified as accurately~~  
16   ~~representing the marijuana shall be deemed competent evidence of~~  
17   ~~the marijuana involved and shall be admissible in any~~  
18   ~~proceeding, hearing, or trial to the same extent as the~~  
19   ~~marijuana itself; provided that nothing in this subsection shall~~  
20   ~~be construed to limit or restrict the application of rule 901 of~~  
21   ~~the Hawaii rules of evidence." ]~~



1 SECTION 14. Section 712-1249.5, Hawaii Revised Statutes,  
2 is repealed.

3 [~~"§712-1249.5 Commercial promotion of marijuana in the~~  
4 ~~second degree. (1) A person commits the offense of commercial~~  
5 ~~promotion of marijuana in the second degree if the person~~  
6 ~~knowingly:~~

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

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

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

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

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



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

3       ~~(3) Any marijuana seized as evidence in violation of this~~  
4 ~~section in excess of an aggregate weight of two pounds as stated~~  
5 ~~in subsection (1)(a), or in excess of an aggregate weight of one~~  
6 ~~pound as stated in subsection (1)(b), or in excess of twenty~~  
7 ~~five marijuana plants as stated in subsection (1)(c) may be~~  
8 ~~destroyed after the excess amount has been photographed and the~~  
9 ~~number of plants and the weight thereof has been recorded. The~~  
10 ~~required minimum amount of the marijuana needed to constitute~~  
11 ~~the elements of this offense shall remain in the custody of the~~  
12 ~~police until the termination of any criminal action brought as a~~  
13 ~~result of the seizure of the marijuana. Photographs duly~~  
14 ~~identified as accurately representing the marijuana shall be~~  
15 ~~deemed competent evidence of the marijuana involved and shall be~~  
16 ~~admissible in any proceeding, hearing, or trial to the same~~  
17 ~~extent as the marijuana itself; provided that nothing in this~~  
18 ~~subsection shall be construed to limit or to restrict the~~  
19 ~~application of rule 901 of the Hawaii rules of evidence." ]~~



## PART VI.

SECTION 15. In codifying the new sections added by section 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 16. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 17. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 18. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 19. This Act shall take effect upon its approval.

INTRODUCED BY:

R. D. O. J. K.  
by request





# S.B. NO. 383

**Report Title:**

Marijuana; Legalization; Prohibition; Minors; Zoning

**Description:**

Repeals criminal and civil penalties related to marijuana. Prohibits the furnishing of marijuana to a minor. Allows the cultivation of marijuana on private property. Prohibits counties from prohibiting the cultivation of marijuana on private property.

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

