

JAN 20 2017

A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

- 1 SECTION 1. Chapter 712, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:
- 4 "§712- Personal use of marijuana or marijuana
5 concentrate. (a) Notwithstanding any law to the contrary, a
6 person shall not be subject to criminal prosecution for
7 possession or distribution of marijuana or marijuana concentrate
8 for personal use and in accordance with this section.
- 9 (b) The cultivation of marijuana plants for personal use
10 shall be permitted; provided that:
- 11 (1) No more than ten marijuana plants, with five or fewer
12 being mature, flowering plants, are cultivated on land
13 zoned for residential purposes and not on any public
14 lands;
- 15 (2) The marijuana plants are grown in an enclosed and
16 locked space not grown openly or publicly; and
- 17 (3) The marijuana plants are not available for sale.



1 (c) A person who transfers or transports one ounce or less
2 of marijuana or marijuana concentrate regardless of remuneration
3 to another person who is twenty-one years of age or older for
4 the purpose of personal use shall not be subject to criminal
5 prosecution.

6 (d) A person who assists, advises, or abets another person
7 who is twenty-one years of age or older in any action described
8 under this section shall not be subject to criminal
9 prosecution."

10 SECTION 2. Section 712-1240, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By adding a new definition to be appropriately inserted
13 and to read:

14 "Personal use" means an amount of marijuana not exceeding
15 one ounce that is used for private, personal, or recreational
16 purposes by persons twenty-one years of age or older. "Personal
17 use" includes possession, use, display, purchase, transport, or
18 transfer of marijuana or marijuana concentrate."

19 2. By amending the definition of "detrimental drug" to
20 read:



1 "Detrimental drug" means any substance or immediate
2 precursor defined or specified as a "Schedule V substance" by
3 chapter 329, or any marijuana[-], except marijuana for personal
4 use pursuant to section 712- ."

5 3. By amending the definition of "harmful drug" to read:

6 "\"Harmful drug\" means any substance or immediate precursor
7 defined or specified as a \"Schedule III substance\" or a
8 \"Schedule IV substance\" by chapter 329, or any marijuana
9 concentrate, except marijuana concentrate for personal use
10 pursuant to section 712- , marijuana, and a substance specified
11 in section 329-18(c)(14).\"

12 SECTION 3. Section 712-1240.1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§712-1240.1 Defense to promoting. (1) It is a defense
15 to prosecution for any offense defined in this part that the
16 person who possessed or distributed the dangerous, harmful, or
17 detrimental drug did so under authority of law as a
18 practitioner, as an ultimate user of the drug pursuant to a
19 lawful prescription, or as a person otherwise authorized by law.

20 (2) It is an affirmative defense to prosecution for any
21 marijuana-related offense defined in this part that the person



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1 who possessed or distributed the marijuana was authorized to
2 possess or distribute the marijuana for medical purposes
3 pursuant to part IX of chapter 329.

4 (3) It is a defense to prosecution for any marijuana-
5 related offense defined in this part that the person who
6 possessed or distributed the marijuana or marijuana concentrate
7 did so for personal use pursuant to section 712- , except for
8 possession by or distribution of marijuana or marijuana in any
9 amount to a minor."

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

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

14 (a) Possesses one hundred 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 (b) Possesses one or more preparations, compounds,
19 mixtures, or substances, of an aggregate weight of one
20 ounce or more containing one or more of the harmful



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

3 (c) Distributes twenty-five 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, or
6 any combination thereof;

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

12 (e) Distributes any harmful drug or any marijuana
13 concentrate, including marijuana concentrate for
14 personal use pursuant to section 712- , in any amount
15 to a minor."

16 SECTION 5. Section 712-1251, Hawaii Revised Statutes, is
17 amended by amending subsection (2) to read as follows:

18 "(2) Subsection (1) does not apply to:

19 (a) Other occupants of the motor vehicle if the substance
20 is found upon the person of one of the occupants
21 therein;



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1 (b) All occupants, except the driver or owner of the motor
2 vehicle, if the substance is found in some portion of
3 the vehicle normally accessible only to the driver or
4 owner; [~~or~~]

5 (c) The driver of a motor vehicle who is at the time
6 operating it for hire in the pursuit of the driver's
7 trade, if the substance is found in a part of the
8 vehicle used or occupied by passengers [~~or~~]; or

9 (d) All occupants if the substance found is marijuana or
10 marijuana concentrate for personal use pursuant to
11 section 712- ."

12 SECTION 6. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 7. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4

INTRODUCED BY: Will Eyo By Request



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Report Title:

Marijuana; Marijuana Concentrate; Personal Use

Description:

Allows the possession and distribution of marijuana or marijuana concentrate for personal use; provided that the amount of marijuana or marijuana concentrate does not exceed one ounce and is used for private, personal, or recreational purposes by persons twenty-one years of age or older. Creates a defense to a marijuana-related offense if the marijuana or marijuana concentrate was for personal use, except for possession by or distribution to a minor.

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

