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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

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

3           1. By adding a new definition to be appropriately inserted  
4 and to read:

5           "Fentanyl test strip" means a small strip of paper that  
6 can detect the presence of fentanyl in:

7           (1) Different kinds of drugs, including cocaine,  
8           methamphetamine, and heroin; and

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

11          2. By amending the definition of "drug paraphernalia" to  
12 read:

13          "Drug paraphernalia" means all equipment, products, and  
14 materials of any kind [~~which~~] that are used, primarily intended  
15 for use, or primarily designed for use, in planting,  
16 propagating, cultivating, growing, harvesting, manufacturing,  
17 compounding, converting, producing, processing, preparing,



1 testing, analyzing, packaging, repackaging, storing, containing,  
2 concealing, injecting, ingesting, inhaling, or otherwise  
3 introducing into the human body a controlled substance in  
4 violation of this chapter. [~~I~~] Drug paraphernalia includes but  
5 is not limited to:

6 (1) Kits used, primarily intended for use, or primarily  
7 designed for use in planting, propagating,  
8 cultivating, growing, or harvesting of any species of  
9 plant [~~which~~] that is a controlled substance or from  
10 which a prohibited controlled substance can be  
11 derived;

12 (2) Kits used, primarily intended for use, or primarily  
13 designed for use in manufacturing, compounding,  
14 converting, producing, processing, or preparing  
15 prohibited controlled substances;

16 (3) Isomerization devices used, primarily intended for  
17 use, or primarily designed for use in increasing the  
18 potency of any species of plant [~~which~~] that is a  
19 prohibited controlled substance;

20 (4) Testing equipment used, primarily intended for use, or  
21 primarily designed for use in identifying, or in



- 1 analyzing the strength, effectiveness, or purity of  
2 prohibited controlled substances;
- 3 (5) Scales and balances used, primarily intended for use,  
4 or primarily designed for use in weighing or measuring  
5 prohibited controlled substances;
- 6 (6) Diluents and adulterants; such as quinine  
7 hydrochloride, mannitol, mannite, dextrose, and  
8 lactose, used, primarily intended for use, or  
9 primarily designed for use in cutting prohibited  
10 controlled substances;
- 11 (7) Separation gins and sifters used, primarily intended  
12 for use, or primarily designed for use in removing  
13 twigs and seeds from, or in otherwise cleaning or  
14 refining, prohibited marijuana;
- 15 (8) Blenders, bowls, containers, spoons, and mixing  
16 devices used, primarily intended for use, or primarily  
17 designed for use in compounding prohibited controlled  
18 substances;
- 19 (9) Capsules, balloons, envelopes, and other containers  
20 used, primarily intended for use, or primarily



- 1           designed for use in packaging small quantities of  
2           prohibited controlled substances;
- 3       (10) Containers and other objects used, primarily intended  
4           for use, or primarily designed for use in storing or  
5           concealing prohibited controlled substances;
- 6       (11) Hypodermic syringes, needles, and other objects used,  
7           primarily intended for use, or primarily designed for  
8           use in parenterally injecting prohibited controlled  
9           substances into the human body;
- 10       (12) Objects used, primarily intended for use, or primarily  
11           designed for use in ingesting, inhaling, or otherwise  
12           introducing prohibited marijuana, cocaine, hashish,  
13           hashish oil, or methamphetamine into the human body,  
14           such as:
- 15           (A) Metal, wooden, acrylic, glass, stone, plastic, or  
16           ceramic pipes with or without screens, permanent  
17           screens, hashish heads, or punctured metal bowls;
- 18           (B) Water pipes;
- 19           (C) Carburetion tubes and devices;
- 20           (D) Smoking and carburetion masks;



- 1 (E) Roach clips: meaning objects used to hold  
2 burning materials, such as marijuana cigarettes,  
3 that have become too small or too short to be  
4 held in the hand;
- 5 (F) Miniature cocaine spoons, and cocaine vials;
- 6 (G) Chamber pipes;
- 7 (H) Carburetor pipes;
- 8 (I) Electric pipes;
- 9 (J) Air-driven pipes;
- 10 (K) Chillums;
- 11 (L) Bongs; and
- 12 (M) Ice pipes or chillers.

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

- 16 (1) Statements by an owner or [by] anyone in control of  
17 the object concerning its use;
- 18 (2) Prior convictions, if any, of an owner, or of anyone  
19 in control of the object, under any state or federal  
20 law relating to any controlled substance;



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



- 1       (11) Whether the owner, or anyone in control of the object,
- 2           is a legitimate supplier of like or related items to
- 3           the community, such as a licensed distributor or
- 4           dealer of tobacco products;
- 5       (12) Direct or circumstantial evidence of the ratio of
- 6           sales of the object or objects to the total sales of
- 7           the business enterprise;
- 8       (13) The existence and scope of legitimate uses for the
- 9           object in the community; and
- 10       (14) Expert testimony concerning its use.

11       "Drug paraphernalia" does not include fentanyl test  
12 strips."

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

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



**Report Title:**

Drug Paraphernalia; Testing Products; Fentanyl Testing Strips;  
Uniform Controlled Substances Act; Exclusion

**Description:**

Excludes fentanyl testing strips from the definition of drug paraphernalia in the uniform Controlled Substances Act. Defines fentanyl test strip. (HD1)

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