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# A BILL FOR AN ACT

RELATING TO FENTANYL TEST STRIPS.

**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. It includes but is not limited to:

- 5 (1) Kits used, primarily intended for use, or primarily  
6 designed for use in planting, propagating,  
7 cultivating, growing, or harvesting of any species of  
8 plant [~~which~~] that is a controlled substance or from  
9 which a prohibited controlled substance can be  
10 derived;
- 11 (2) Kits used, primarily intended for use, or primarily  
12 designed for use in manufacturing, compounding,  
13 converting, producing, processing, or preparing  
14 prohibited controlled substances;
- 15 (3) Isomerization devices used, primarily intended for  
16 use, or primarily designed for use in increasing the  
17 potency of any species of plant [~~which~~] that is a  
18 prohibited controlled substance;
- 19 (4) Testing equipment used, primarily intended for use, or  
20 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 the  
17 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; the innocence of an owner, or of anyone
- 12            in control of the object, as to a direct violation of
- 13            this chapter shall not prevent a finding that the
- 14            object is intended for use, or designed for use as
- 15            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 testing products  
12 utilized in determining whether a controlled substance contains  
13 chemicals, toxic substances, or hazardous compounds in  
14 quantities that can cause physical harm or death, including but  
15 not limited to fentanyl test strips."

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 Statutory material to be repealed is bracketed  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

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



**Report Title:**

Fentanyl Test Strips; Drug Paraphernalia; Uniform Controlled Substances Act

**Description:**

Excludes from the definition of "drug paraphernalia", testing products utilized in determining whether a controlled substance contains chemicals, toxic substances, or hazardous compounds in quantities that can cause physical harm or death, including but not limited to fentanyl test strips. Defines "fentanyl test strip". (SD1)

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