
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that the National
2 Institute on Drug Abuse defines drug checking as "a harm
3 reduction practice in which people check to see if drugs contain
4 certain substances". Drug checking methods range from tools
5 including fentanyl test strips, which may be used in any setting
6 where drugs are used, to more advanced technologies, including
7 infrared spectrometry, which are typically conducted at on-site
8 facilities such as syringe service programs. The National
9 Institute on Drug Abuse supports research to improve the
10 accuracy, accessibility, and effectiveness of drug checking
11 technologies, including smartphone- and internet-based services,
12 mobile facilities, and programs that offer overdose response and
13 education.

14 The legislature further finds that substantial research and
15 evidence highlight the effectiveness, long-standing use, and
16 public health value of drug checking services. A May 2024 study
17 published in the *Harm Reduction Journal* emphasizes the



1 effectiveness of drug checking services in reducing risks
2 associated with substance use, including overdose, and
3 identifies benefits at the individual, community, public health,
4 and health system levels. The study urges policymakers to
5 consider allocating resources for the implementation and
6 expansion of drug checking services in areas affected by
7 overdose mortality.

8 A September 2024 evidence brief issued by the Canadian
9 Centre on Substance Use and Addiction reports that drug checking
10 has been used to monitor unregulated drug supplies for more than
11 fifty years and identifies thirty-one drug checking services
12 operating across twenty countries. The evidence brief
13 identifies benefits of drug checking which include reducing
14 risks associated with substance use, including overdose;
15 improving clinical care, including by informing care plans and
16 medication choices among clinicians and nursing professionals;
17 increasing access to health and social services by facilitating
18 trust and connection between underserved populations and service
19 providers; monitoring drug-related trends to inform public
20 health and safety decisions; and reducing costs associated with
21 emergency medical services and hospitalization.



1 The legislature also finds that, in recent years, illicit
2 street drugs in the State have been found to contain unspecified
3 quantities of fentanyl, medetomidine, xylazine, and other
4 substances, posing serious risks of accidental overdose. In
5 response to increasing fentanyl-related overdoses, the
6 legislature passed Act 111, Session Laws of Hawaii 2023, which
7 exempted fentanyl testing strips from the definition of drug
8 paraphernalia under the Uniform Controlled Substances Act.

9 While fentanyl test strips are an important tool, they only
10 detect the presence of fentanyl. Other drug checking tools,
11 including chemical reagents, can detect the presence of
12 additional substances. More advanced tools, including
13 spectrometers, currently used by harm reduction service
14 providers in Chicago and New York City, can both detect and
15 quantify the substances present in a sample.

16 The legislature believes that providing individuals,
17 service providers, and communities with accurate information
18 regarding the presence and concentration of substances in
19 illicit drugs will reduce accidental and fatal overdoses.



1 The purpose of this Act is to exempt additional drug
2 checking tools from the definition of drug paraphernalia under
3 the uniform controlled substances act.

4 SECTION 2. Section 329-1, Hawaii Revised Statutes, is
5 amended by amending the definition of "drug paraphernalia" to
6 read as follows:

7 ""Drug paraphernalia" means all equipment, products, and
8 materials of any kind that are used, primarily intended for use,
9 or primarily designed for use, in planting, propagating,
10 cultivating, growing, harvesting, manufacturing, compounding,
11 converting, producing, processing, preparing, testing,
12 analyzing, packaging, repackaging, storing, containing,
13 concealing, injecting, ingesting, inhaling, or otherwise
14 introducing into the human body a controlled substance in
15 violation of this chapter. [~~Drug paraphernalia~~] For the
16 purposes of this definition:

17 (1) "Drug paraphernalia" includes but is not limited to:

18 [~~(1)~~](A) Kits used, primarily intended for use, or
19 primarily designed for use in planting,
20 propagating, cultivating, growing, or harvesting
21 of any species of plant that is a controlled



1 substance or from which a prohibited controlled
2 substance can be derived;

3 ~~[(2)]~~ (B) Kits used, primarily intended for use, or
4 primarily designed for use in manufacturing,
5 compounding, converting, producing, processing,
6 or preparing prohibited controlled substances;

7 ~~[(3)]~~ (C) Isomerization devices used, primarily intended
8 for use, or primarily designed for use in
9 increasing the potency of any species of plant
10 that is a prohibited controlled substance;

11 ~~[(4)]~~ (D) Testing equipment used, primarily intended for
12 use, or primarily designed for use in
13 identifying, or in analyzing the strength,
14 effectiveness, or purity of prohibited controlled
15 substances;

16 ~~[(5)]~~ (E) Scales and balances used, primarily intended for
17 use, or primarily designed for use in weighing or
18 measuring prohibited controlled substances;

19 ~~[(6)]~~ (F) Diluents and adulterants; ~~[such as]~~ including
20 quinine hydrochloride, mannitol, mannite,
21 dextrose, and lactose, used, primarily intended



1 for use, or primarily designed for use in cutting
2 prohibited controlled substances;

3 ~~[(7)]~~ (G) Separation gins and sifters used, primarily
4 intended for use, or primarily designed for use
5 in removing twigs and seeds from, or in otherwise
6 cleaning or refining, prohibited marijuana;

7 ~~[(8)]~~ (H) Blenders, bowls, containers, spoons, and mixing
8 devices used, primarily intended for use, or
9 primarily designed for use in compounding
10 prohibited controlled substances;

11 ~~[(9)]~~ (I) Capsules, balloons, envelopes, and other
12 containers used, primarily intended for use, or
13 primarily designed for use in packaging small
14 quantities of prohibited controlled substances;

15 ~~[(10)]~~ (J) Containers and other objects used, primarily
16 intended for use, or primarily designed for use
17 in storing or concealing prohibited controlled
18 substances;

19 ~~[(11)]~~ (K) Hypodermic syringes, needles, and other objects
20 used, primarily intended for use, or primarily
21 designed for use in parenterally injecting



1 prohibited controlled substances into the human
2 body; and
3 ~~(12)~~ (L) Objects used, primarily intended for use, or
4 primarily designed for use in ingesting,
5 inhaling, or otherwise introducing prohibited
6 marijuana, cocaine, hashish, hashish oil, or
7 methamphetamine into the human body, ~~[such as:]~~
8 including:
9 ~~(A)~~ (i) Metal, wooden, acrylic, glass, stone,
10 plastic, or ceramic pipes with or without
11 screens, permanent screens, hashish heads,
12 or punctured metal bowls;
13 ~~(B)~~ (ii) Water pipes;
14 ~~(C)~~ (iii) Carburetion tubes and devices;
15 ~~(D)~~ (iv) Smoking and carburetion masks;
16 ~~(E)~~ (v) Roach clips: meaning objects used to hold
17 burning materials, such as marijuana
18 cigarettes, that have become too small or
19 too short to be held in the hand;
20 ~~(F)~~ (vi) Miniature cocaine spoons, and cocaine vials;
21 ~~(G)~~ (vii) Chamber pipes;



- 1 ~~[(H)]~~ (viii) Carburetor pipes;
- 2 ~~[(I)]~~ (ix) Electric pipes;
- 3 ~~[(J)]~~ (x) Air-driven pipes;
- 4 ~~[(K)]~~ (xi) Chillums;
- 5 ~~[(L)]~~ (xii) Bongs; and
- 6 ~~[(M)]~~ (xiii) Ice pipes or chillers~~[-]~~;
- 7 (2) In determining whether an object is drug
- 8 paraphernalia, a court or other authority ~~[should]~~
- 9 shall consider, in addition to all other logically
- 10 relevant factors, the following:
- 11 ~~[(1)]~~ (A) Statements by an owner or anyone in control of
- 12 the object concerning its use;
- 13 ~~[(2)]~~ (B) Prior convictions, if any, of an owner, or of
- 14 anyone in control of the object, under any state
- 15 or federal law relating to any controlled
- 16 substance;
- 17 ~~[(3)]~~ (C) The proximity of the object, in time and space,
- 18 to a direct violation of this chapter;
- 19 ~~[(4)]~~ (D) The proximity of the object to controlled
- 20 substances;



1 ~~[(11)]~~ (K) Whether the owner, or anyone in control of the
2 object, is a legitimate supplier of like or
3 related items to the community, such as a
4 licensed distributor or dealer of tobacco
5 products;

6 ~~[(12)]~~ (L) Direct or circumstantial evidence of the ratio of
7 sales of the object or objects to the total sales
8 of the business enterprise;

9 ~~[(13)]~~ (M) The existence and scope of legitimate uses for
10 the object in the community; and

11 ~~[(14)]~~ (N) Expert testimony concerning its use~~[-]~~; and

12 (3) "Drug paraphernalia" does not include testing products
13 utilized in determining whether a controlled substance
14 contains chemicals, toxic substances, or hazardous
15 compounds in quantities that can cause physical harm
16 or death, including but not limited to fentanyl test
17 strips[-], chemical reagents, and spectrometers."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect on March 22, 2075.



Report Title:

Uniform Controlled Substances Act; Drug Paraphernalia; Drug Testing Products

Description:

Excludes drug testing products from the definition of drug paraphernalia under the Uniform Controlled Substances Act. Effective 3/22/2075. (SD2)

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