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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. 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 such as 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 Hawaii 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 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 quinine  
20 hydrochloride, mannitol, mannite, dextrose, and  
21 lactose, used, primarily intended for use, or



1 primarily designed for use in cutting prohibited  
2 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 ~~(A)~~ (i) Metal, wooden, acrylic, glass, stone,  
9 plastic, or ceramic pipes with or without  
10 screens, permanent screens, hashish heads,  
11 or punctured metal bowls;

12 ~~(B)~~ (ii) Water pipes;

13 ~~(C)~~ (iii) Carburetion tubes and devices;

14 ~~(D)~~ (iv) Smoking and carburetion masks;

15 ~~(E)~~ (v) Roach clips: meaning objects used to hold  
16 burning materials, such as marijuana  
17 cigarettes, that have become too small or  
18 too short to be held in the hand;

19 ~~(F)~~ (vi) Miniature cocaine spoons, and cocaine vials;

20 ~~(G)~~ (vii) Chamber pipes;

21 ~~(H)~~ (viii) Carburetor pipes;



1           ~~(I)~~ (ix) Electric pipes;

2           ~~(J)~~ (x) Air-driven pipes;

3           ~~(K)~~ (xi) Chillums;

4           ~~(L)~~ (xii) Bongs; and

5           ~~(M)~~ (xiii) Ice pipes or chillers~~(-)~~;

6       (2) In determining whether an object is drug  
7       paraphernalia, a court or other authority should  
8       consider, in addition to all other logically relevant  
9       factors, the following:

10       ~~(1)~~ (A) Statements by an owner or anyone in control of  
11       the object concerning its use;

12       ~~(2)~~ (B) Prior convictions, if any, of an owner, or of  
13       anyone in control of the object, under any state  
14       or federal law relating to any controlled  
15       substance;

16       ~~(3)~~ (C) The proximity of the object, in time and space,  
17       to a direct violation of this chapter;

18       ~~(4)~~ (D) The proximity of the object to controlled  
19       substances;

20       ~~(5)~~ (E) The existence of any residue of controlled  
21       substances on the object;





1 related items to the community, such as a  
2 licensed distributor or dealer of tobacco  
3 products;

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

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

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

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

16 SECTION 3. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 3000.



**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 7/1/3000. (HD2)

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