
A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- Establishment of compassion centers. In addition
5 to the powers of the counties enumerated under section 46-1.5, a
6 county may provide by ordinance for the establishment of one or
7 more compassion centers in accordance with section 329- ."

8 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§237- General excise tax on marijuana sales. In
12 addition to the amounts taxable under this chapter, there shall
13 be assessed, levied, and collected a general excise tax on
14 marijuana in the amount of \$30 per ounce of sale by a compassion
15 center under section 329- ; provided that the department of
16 taxation shall deposit \$15 to the state general fund and \$15 for
17 each ounce sold and for which the tax has been collected to the
18 county general fund of the county that the sale occurred."

1 SECTION 3. Chapter 329, Hawaii Revised Statutes, is
2 amended by adding a new section to part IX to be appropriately
3 designated and to read as follows:

4 "§329- Compassion centers; establishment. (a) A county
5 may authorize by ordinance the establishment of one or more
6 compassion centers for the legal distribution of marijuana. The
7 purpose of a compassion center shall be to sell marijuana or the
8 marijuana plant, or both, to persons who are certified for the
9 medical use of marijuana and their primary caregivers who are
10 registered in compliance with section 329-123.

11 (b) A compassion center shall:

12 (1) Comply with section 712-1249.6; and

13 (2) Not hire any convicted felon to work in a compassion
14 center.

15 (c) Every ordinance enacted under subsection (a) shall
16 include, at minimum, the following requirements for the
17 establishment of a compassion center:

18 (1) That the sale of marijuana or marijuana plant for
19 medical use be made only to persons who are certified
20 by physicians to use marijuana for medical purposes or
21 their caregivers who are registered with the

1 department of public safety as provided in section
2 329-123;

3 (2) That the purchaser of the marijuana or marijuana plant
4 for medical use present to the dispenser at the time
5 of sale a photo identification issued by a government
6 agency, along with:

7 (A) Written certification and the registration
8 certificate required under section 329-123; or

9 (B) Proof of registration with the department of
10 public safety in the case of a primary caregiver;

11 (3) That the compassion center make a record, to be kept
12 for not less than two years following the sale, of
13 every sale of marijuana or marijuana plant with the
14 name, address, and patient identification number of
15 the purchaser as appears on the written certification,
16 and other identifying information as may be required
17 by ordinance;

18 (d) Each county's ordinance shall provide for:

19 (1) The amount of marijuana and marijuana plant that may
20 be dispensed at any single sale under this section;

21 (2) County licensing and registration of compassion
22 centers; and

1 (3) Such other regulation deemed suitable by the county
2 for purposes of this section, including but not
3 limited to, unannounced county inspections of the
4 premises, amount of marijuana or marijuana plants that
5 may be stored on the premises, and security measures
6 to protect the premises from burglary.

7 (e) A sale of marijuana pursuant to this section shall not
8 constitute a criminal offense unless the sale exceeds the amount
9 determined under subsection (c).

10 (f) Each compassion center shall cultivate and grow its
11 own supply of marijuana; provided that the compassion center
12 shall provide for adequate security to protect the marijuana."

13 SECTION 4. Section 237-24.3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§237-24.3 Additional amounts not taxable.** In addition to
16 the amounts not taxable under section 237-24, this chapter shall
17 not apply to:

18 (1) Amounts received from the loading, transportation, and
19 unloading of agricultural commodities shipped for a
20 producer or produce dealer on one island of this State
21 to a person, firm, or organization on another island
22 of this State. The terms "agricultural commodity",

- 1 "producer", and "produce dealer" shall be defined in
2 the same manner as they are defined in section 147-1;
3 provided that agricultural commodities need not have
4 been produced in the State;
- 5 (2) Amounts received from sales of:
- 6 (A) Intoxicating liquor as the term "liquor" is
7 defined in chapter 244D;
- 8 (B) Cigarettes and tobacco products as defined in
9 chapter 245; and
- 10 (C) Agricultural, meat, or fish products;
11 to any person or common carrier in interstate or
12 foreign commerce, or both, whether ocean-going or air,
13 for consumption out-of-state on the shipper's vessels
14 or airplanes;
- 15 (3) Amounts received by the manager, submanager, or board
16 of directors of:
- 17 (A) An association of owners of a condominium
18 property regime established in accordance with
19 chapter 514A or 514B; or
- 20 (B) A nonprofit homeowners or community association
21 incorporated in accordance with chapter 414D or

- 1 any predecessor thereto and existing pursuant to
2 covenants running with the land,
3 in reimbursement of sums paid for common expenses;
- 4 (4) Amounts received or accrued from:
- 5 (A) The loading or unloading of cargo from ships,
6 barges, vessels, or aircraft, whether or not the
7 ships, barges, vessels, or aircraft travel
8 between the State and other states or countries
9 or between the islands of the State;
- 10 (B) Tugboat services including pilotage fees
11 performed within the State, and the towage of
12 ships, barges, or vessels in and out of state
13 harbors, or from one pier to another; and
- 14 (C) The transportation of pilots or governmental
15 officials to ships, barges, or vessels offshore;
16 rigging gear; checking freight and similar
17 services; standby charges; and use of moorings
18 and running mooring lines;
- 19 (5) Amounts received by an employee benefit plan by way of
20 contributions, dividends, interest, and other income;
21 and amounts received by a nonprofit organization or
22 office, as payments for costs and expenses incurred

1 for the administration of an employee benefit plan;
2 provided that this exemption shall not apply to any
3 gross rental income or gross rental proceeds received
4 after June 30, 1994, as income from investments in
5 real property in this State; and provided further that
6 gross rental income or gross rental proceeds from
7 investments in real property received by an employee
8 benefit plan after June 30, 1994, under written
9 contracts executed prior to July 1, 1994, shall not be
10 taxed until the contracts are renegotiated, renewed,
11 or extended, or until after December 31, 1998,
12 whichever is earlier. For the purposes of this
13 paragraph, "employee benefit plan" means any plan as
14 defined in section 1002(3) of title 29 of the United
15 States Code, as amended;

16 (6) Amounts received for purchases made with United States
17 Department of Agriculture food coupons under the
18 federal food stamp program, and amounts received for
19 purchases made with United States Department of
20 Agriculture food vouchers under the Special
21 Supplemental Foods Program for Women, Infants and
22 Children;

1 (7) Amounts received by a hospital, infirmary, medical
2 clinic, health care facility, pharmacy, or a
3 practitioner licensed to administer the drug to an
4 individual for selling prescription drugs or
5 prosthetic devices to an individual; provided that
6 this paragraph shall not apply to any amounts received
7 for services provided in selling prescription drugs or
8 prosthetic devices~~[-]~~; provided further that this
9 paragraph shall not apply to any amounts received by
10 compassion centers established under section 46- for
11 selling marijuana for medical use. As used in this
12 paragraph:

13 "Prescription drugs" are those drugs defined
14 under section 328-1 and dispensed by filling or
15 refilling a written or oral prescription by a
16 practitioner licensed under law to administer the drug
17 and sold by a licensed pharmacist under section 328-16
18 or practitioners licensed to administer drugs; and

19 "Prosthetic device" means any artificial device
20 or appliance, instrument, apparatus, or contrivance,
21 including their components, parts, accessories, and
22 replacements thereof, used to replace a missing or

1 surgically removed part of the human body, which is
2 prescribed by a licensed practitioner of medicine,
3 osteopathy, or podiatry and which is sold by the
4 practitioner or which is dispensed and sold by a
5 dealer of prosthetic devices; provided that
6 "prosthetic device" shall not mean any auditory,
7 ophthalmic, dental, or ocular device or appliance,
8 instrument, apparatus, or contrivance;

9 (8) Taxes on transient accommodations imposed by chapter
10 237D and passed on and collected by operators holding
11 certificates of registration under that chapter;

12 (9) Amounts received as dues by an unincorporated
13 merchants association from its membership for
14 advertising media, promotional, and advertising costs
15 for the promotion of the association for the benefit
16 of its members as a whole and not for the benefit of
17 an individual member or group of members less than the
18 entire membership;

19 (10) Amounts received by a labor organization for real
20 property leased to:

21 (A) A labor organization; or

1 (B) A trust fund established by a labor organization
2 for the benefit of its members, families, and
3 dependents for medical or hospital care, pensions
4 on retirement or death of employees,
5 apprenticeship and training, and other membership
6 service programs.

7 As used in this paragraph, "labor organization" means
8 a labor organization exempt from federal income tax
9 under section 501(c)(5) of the Internal Revenue Code,
10 as amended;

11 (11) Amounts received from foreign diplomats and consular
12 officials who are holding cards issued or authorized
13 by the United States Department of State granting them
14 an exemption from state taxes; and

15 (12) Amounts received as rent for the rental or leasing of
16 aircraft or aircraft engines used by the lessees or
17 renters for interstate air transportation of
18 passengers and goods. For purposes of this paragraph,
19 payments made pursuant to a lease shall be considered
20 rent regardless of whether the lease is an operating
21 lease or a financing lease. The definition of

1 "interstate air transportation" is the same as in 49
2 U.S.C. 40102."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on August 7, 2012.

6

Report Title:

Counties; Compassion Centers

Description:

Provides that each county has the power to establish compassion centers for the dispensing of medical marijuana. Requires that compassion centers shall only provide service to qualified patients and primary caregivers registered with the department of public safety. Makes compassion centers subject to the general excise tax by making inapplicable the exemption for amounts received from sales of prescription drugs or prosthetic devices. Imposes a general excise tax on marijuana sales. Eff 8/7/2012. (SD1)

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