
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 SECTION 1. The legislature finds that in the interest of
2 the efficient use of law enforcement resources, increasing
3 respect for laws, and enhancing revenue for public purposes, the
4 use of marijuana should be legal for persons twenty-one years of
5 age or older and taxed in a manner similar to alcohol. Law
6 enforcement resources should be redirected to more serious
7 threats to public safety, and income from black market
8 enterprises should be redirected to legitimate businesses and
9 new employers who will furnish tax revenues to the State.

10 The purpose of this Act is to promote the interest of
11 health and public safety by regulating marijuana in a manner
12 similar to alcohol so that:

- 13 (1) Individuals must submit proof of age before purchasing
14 marijuana;
- 15 (2) Selling, distributing, or transferring marijuana to
16 minors and other individuals under the age of twenty-
17 one remain illegal;



- 1 (3) Driving under the influence of marijuana remains
- 2 illegal;
- 3 (4) Legitimate, taxpaying business people, and not
- 4 criminal actors, will conduct sales of marijuana; and
- 5 (5) Marijuana will be labeled and subject to additional
- 6 requirements to ensure that consumers are informed and
- 7 protected.

8 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
9 amended by adding a new part to be appropriately designated and
10 to read as follows:

11 "PART . PERSONAL USE OF MARIJUANA

12 §329-A Definitions. As used in this part, unless the
13 context otherwise requires:

14 "Consumer" means a person twenty-one years of age or older
15 who purchases marijuana or marijuana products for personal use
16 by persons twenty-one years of age or older, but not for resale
17 to others.

18 "Department" means the department of taxation.

19 "Marijuana accessories" means any equipment, products, or
20 materials of any kind that are used, intended for use, or
21 designed for use in planting, propagating, cultivating, growing,
22 harvesting, composting, manufacturing, compounding, converting,



1 producing, processing, preparing, testing, analyzing, packaging,
2 repackaging, storing, vaporizing, or containing marijuana, or
3 for ingesting, inhaling, or otherwise introducing marijuana into
4 the human body.

5 "Marijuana cultivation facility" means an entity licensed
6 to cultivate, prepare, and package marijuana and sell marijuana
7 to retail marijuana stores, to marijuana product manufacturing
8 facilities, and to other marijuana cultivation facilities, but
9 not to consumers.

10 "Marijuana establishment" means a marijuana cultivation
11 facility, a marijuana testing facility, a marijuana product
12 manufacturing facility, or a retail marijuana store.

13 "Marijuana product manufacturing facility" means an entity
14 licensed to purchase marijuana; manufacture, prepare, and
15 package marijuana products; and sell marijuana and marijuana
16 products to other marijuana product manufacturing facilities and
17 to retail marijuana stores, but not to consumers.

18 "Marijuana products" means concentrated marijuana products
19 and marijuana products that are comprised of marijuana and other
20 ingredients and are intended for use or consumption, including
21 edible products, ointments, and tinctures.



1 "Marijuana testing facility" means an entity licensed to
2 analyze and certify the safety and potency of marijuana.

3 "Retail marijuana store" means an entity licensed to
4 purchase marijuana from marijuana cultivation facilities and
5 marijuana and marijuana products from marijuana product
6 manufacturing facilities and to sell marijuana and marijuana
7 products to consumers.

8 "Unreasonably impracticable" means that the measures
9 necessary to comply with this part require such a high
10 investment of risk, money, time, or any other resource or asset
11 that the operation of a marijuana establishment is not worthy of
12 being carried out in practice by a reasonably prudent
13 businessperson.

14 **§329-B Personal use of marijuana.** Notwithstanding any
15 other provision of law, the following acts shall be lawful and
16 shall not be an offense or a basis for seizure or forfeiture of
17 assets for persons twenty-one years of age or older:

18 (1) Possessing, using, displaying, purchasing, or
19 transporting marijuana accessories or one ounce or
20 less of marijuana;

21 (2) Possessing, growing, processing, or transporting no
22 more than five marijuana plants, and possession of the



1 marijuana produced by the plants on the premises where
2 the plants were grown, provided that the growing takes
3 place in a secured space, is not conducted openly or
4 publicly, and is not made available for sale;

5 (3) Transfer of one ounce or less of marijuana without
6 remuneration to a person who is twenty-one years of
7 age or older;

8 (4) Consumption of marijuana, provided that nothing in
9 this section shall permit consumption that is
10 conducted openly and publicly or in a manner that
11 endangers others; and

12 (5) Assisting another person who is twenty-one years of
13 age or older in committing any of the acts described
14 in this section.

15 **§329-C Lawful operation of marijuana establishments.**

16 Notwithstanding any other provision of law, the following acts
17 shall be lawful and shall not be an offense or a basis for
18 seizure or forfeiture of assets for persons twenty-one years of
19 age or older:

20 (1) Manufacture, possession, or purchase of marijuana
21 accessories or the sale of marijuana accessories to a
22 person who is twenty-one years of age or older;



- 1 (2) Possessing, displaying, or transporting marijuana or
2 marijuana products; purchase of marijuana from a
3 marijuana cultivation facility; purchase of marijuana
4 or marijuana products from a marijuana product
5 manufacturing facility; or sale of marijuana or
6 marijuana products to consumers, if the person
7 conducting the activities described in this paragraph
8 has obtained a current, valid license to operate a
9 retail marijuana store or is acting in the person's
10 capacity as an owner, employee, or agent of a licensed
11 retail marijuana store;
- 12 (3) Cultivating, harvesting, processing, packaging,
13 transporting, displaying, or possessing marijuana;
14 delivery or transfer of marijuana to a marijuana
15 testing facility; selling marijuana to a marijuana
16 cultivation facility, a marijuana product
17 manufacturing facility, or a retail marijuana store;
18 or the purchase of marijuana from a marijuana
19 cultivation facility, if the person conducting the
20 activities described in this paragraph has obtained a
21 current, valid license to operate a marijuana
22 cultivation facility or is acting in the person's



1 capacity as an owner, employee, or agent of a licensed
2 marijuana cultivation facility;

3 (4) Packaging, processing, transporting, manufacturing,
4 displaying, or possessing marijuana or marijuana
5 products; delivery or transfer of marijuana or
6 marijuana products to a marijuana testing facility;
7 selling marijuana or marijuana products to a retail
8 marijuana store or a marijuana product manufacturing
9 facility; the purchase of marijuana from a marijuana
10 cultivation facility; or the purchase of marijuana or
11 marijuana products from a marijuana product
12 manufacturing facility, if the person conducting the
13 activities described in this paragraph has obtained a
14 current, valid license to operate a marijuana product
15 manufacturing facility or is acting in the person's
16 capacity as an owner, employee, or agent of a licensed
17 marijuana product manufacturing facility;

18 (5) Possessing, cultivating, processing, repackaging,
19 storing, transporting, displaying, transferring, or
20 delivering marijuana or marijuana products if the
21 person has obtained a current, valid license to
22 operate a marijuana testing facility or is acting in



1 the person's capacity as an owner, employee, or agent
2 of a licensed marijuana testing facility; and
3 (6) Leasing or otherwise allowing the use of property
4 owned, occupied, or controlled by any person,
5 corporation, or other entity for any of the activities
6 conducted lawfully in accordance with this section.

7 **§329-D Department rules; marijuana establishments. (a)**

8 Not later than one hundred twenty days after the effective date
9 of this part, the department shall adopt rules under chapter 91
10 necessary to implement this part. The rules shall not prohibit
11 the operation of marijuana establishments, either expressly or
12 through rules that make their operation unreasonably
13 impracticable. The rules shall include:

- 14 (1) Procedures for the issuance, renewal, suspension, and
15 revocation of a license to operate a marijuana
16 establishment;
- 17 (2) A schedule of application, licensing, and renewal
18 fees;
- 19 (3) Qualifications for licensure that are directly and
20 demonstrably related to the operation of a marijuana
21 establishment;
- 22 (4) Security requirements for marijuana establishments;



- 1 (5) Requirements to prevent the sale or diversion of
2 marijuana and marijuana products to persons under the
3 age of twenty-one;
- 4 (6) Labeling requirements for marijuana and marijuana
5 products sold or distributed by a marijuana
6 establishment;
- 7 (7) Health and safety requirements and standards for the
8 manufacture of marijuana products and the cultivation
9 of marijuana;
- 10 (8) Restrictions on the advertising and display of
11 marijuana and marijuana products; and
- 12 (9) Civil penalties for the failure to comply with any
13 rule adopted pursuant to this section.
- 14 (b) For the purpose of ensuring that individual privacy is
15 protected, notwithstanding subsection (a), the department shall
16 not require a consumer to provide a retail marijuana store with
17 personal information other than government-issued identification
18 to determine the consumer's age, and a retail marijuana store
19 shall not be required to acquire and record personal information
20 about consumers other than information typically acquired in a
21 financial transaction conducted at a retail liquor store.



1 **§329-E Taxation of marijuana transactions.** (a) There
2 shall be an excise tax at a rate of fifteen per cent to be
3 levied upon the proceeds of marijuana sold or otherwise
4 transferred by a marijuana cultivation facility to a marijuana
5 product manufacturing facility or to a retail marijuana store.

6 (b) The department shall establish procedures for the
7 collection of all taxes levied under this section.

8 **§329-F Marijuana establishments; licenses; procedures.**

9 Each application for an annual license to operate a marijuana
10 establishment shall be submitted to the department. The
11 department shall:

12 (1) Begin accepting and processing applications by July 1,
13 2014;

14 (2) Issue an annual license to the applicant between
15 forty-five and ninety days after receipt of an
16 application unless the department finds the applicant
17 is not in compliance with rules adopted pursuant to
18 section 329-D; and

19 (3) Upon denial of an application, notify the applicant in
20 writing of the specific reason for its denial.

21 **§329-G Employers; driving; minors; control of property.**

22 Nothing in this part shall be construed to:



- 1 (1) Require an employer to permit or accommodate the use,
2 consumption, possession, transfer, display,
3 transportation, sale, or growing of marijuana in the
4 workplace or to affect the ability of employers to
5 have policies restricting the use of marijuana by
6 employees;
- 7 (2) Allow driving under the influence of marijuana or
8 driving while impaired by marijuana or to supersede
9 any law relating to driving under the influence of
10 marijuana or driving while impaired by marijuana, nor
11 shall this part preclude the State from enacting laws
12 and imposing penalties for driving under the influence
13 of or while impaired by marijuana;
- 14 (3) Permit the transfer of marijuana, with or without
15 remuneration, to a person under the age of twenty-one
16 or to allow a person under the age of twenty-one to
17 purchase, possess, use, transport, grow, or consume
18 marijuana; or
- 19 (4) Prohibit a person, employer, school, hospital,
20 detention facility, corporation, or any other entity
21 who occupies, owns, or controls property from
22 prohibiting or otherwise regulating the possession,



1 consumption, use, display, transfer, distribution,
2 sale, transportation, or growing of marijuana on or in
3 that property.

4 **§329-H Medical use of marijuana unaffected.** Nothing in
5 this part shall be construed to limit any privileges or rights
6 of a medical marijuana qualifying patient, primary caregiver, or
7 registered entity as provided in part IX of this chapter.

8 **§329-I Severability; conflicting provisions.** All
9 provisions of this part are severable and, except where
10 otherwise indicated, shall supersede conflicting state
11 statutory, local charter, ordinance, or resolution, and other
12 state and local provisions."

13 SECTION 3. Section 712-1240.1, Hawaii Revised Statutes, is
14 amended by amending subsection (2) to read as follows:

15 "(2) It is an affirmative defense to prosecution for any
16 marijuana-related offense defined in this part that the person
17 who possessed or distributed the marijuana was authorized to
18 possess or distribute the marijuana for medical purposes
19 pursuant to part IX of chapter 329[-] or acted in accordance
20 with part of that chapter."

21 SECTION 4. In codifying the new sections added by section
22 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 5. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on July 1, 2013.
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INTRODUCED BY:

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Report Title:

Personal Use of Marijuana; Licenses to Cultivate, Manufacture, Test, or Sell Marijuana

Description:

Authorizes persons 21 years of age or older to consume or possess limited amounts of marijuana for personal use. Provides for the licensing of marijuana cultivation facilities, product manufacturing facilities, safety testing facilities, and retail stores. Applies an excise tax on transactions between marijuana establishments.

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

