
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

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

4 **"PART . PERSONAL USE OF MARIJUANA**

5 **§329-A Definitions.** As used in this part, unless the
6 context otherwise requires:

7 "Consumer" means a person twenty-one years of age or older
8 who purchases marijuana or marijuana products for personal use
9 by persons twenty-one years of age or older, but not for resale
10 to others.

11 "Marijuana accessories" means any equipment, products, or
12 materials of any kind that are used, intended for use, or
13 designed for use in planting, propagating, cultivating, growing,
14 harvesting, composting, manufacturing, compounding, converting,
15 producing, processing, preparing, testing, analyzing, packaging,
16 repackaging, storing, vaporizing, or containing marijuana, or
17 for ingesting, inhaling, or otherwise introducing marijuana into
18 the human body.



1 "Marijuana cultivation facility" means an entity licensed
2 to cultivate, prepare, and package marijuana and sell marijuana
3 to retail marijuana stores, to marijuana product manufacturing
4 facilities, and to other marijuana cultivation facilities, but
5 not to consumers.

6 "Marijuana establishment" means a marijuana cultivation
7 facility, a marijuana testing facility, a marijuana product
8 manufacturing facility, or a retail marijuana store.

9 "Marijuana product manufacturing facility" means an entity
10 licensed to purchase marijuana; manufacture, prepare, and
11 package marijuana products; and sell marijuana and marijuana
12 products to other marijuana product manufacturing facilities and
13 to retail marijuana stores, but not to consumers.

14 "Marijuana products" means concentrated marijuana products
15 and marijuana products that are comprised of marijuana and other
16 ingredients and are intended for use or consumption, including
17 edible products, ointments, and tinctures.

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

20 "Retail marijuana store" means an entity licensed to
21 purchase marijuana from marijuana cultivation facilities and
22 marijuana and marijuana products from marijuana product



1 manufacturing facilities and to sell marijuana and marijuana
2 products to consumers.

3 **§329-B Personal use of marijuana lawful.** Notwithstanding
4 any other provision of law, the following acts shall be lawful
5 and shall not be a basis for seizure or forfeiture of assets for
6 persons twenty-one years of age or older:

7 (1) Possessing, using, displaying, purchasing, or
8 transporting marijuana accessories or one ounce or
9 less of marijuana;

10 (2) Possessing, growing, processing, or transporting no
11 more than marijuana plants, with or
12 fewer being mature, flowering plants, and possession
13 of the marijuana produced by the plants on the
14 premises where the plants were grown, provided that
15 the growing takes place in an enclosed, locked space,
16 is not conducted openly or publicly, and is not made
17 available for sale;

18 (3) Transfer of one ounce or less of marijuana without
19 remuneration to a person who is twenty-one years of
20 age or older;

21 (4) Consumption of marijuana, provided that nothing in
22 this section shall permit consumption that is



1 conducted openly and publicly or in a manner that
2 endangers others; and

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

6 **§329-C Lawful operation of marijuana establishments.**

7 Notwithstanding any other provision of law, the following acts
8 shall be lawful and shall not be a basis for seizure or
9 forfeiture of assets for persons twenty-one years of age or
10 older:

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

14 (2) Possessing, displaying, or transporting marijuana or
15 marijuana products; purchase of marijuana from a
16 marijuana cultivation facility; purchase of marijuana
17 or marijuana products from a marijuana product
18 manufacturing facility; or sale of marijuana or
19 marijuana products to consumers, if the person
20 conducting the activities described in this paragraph
21 has obtained a current, valid license to operate a
22 retail marijuana store or is acting in the person's



1 capacity as an owner, employee, or agent of a licensed
2 retail marijuana store;

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

16 (4) Packaging, processing, transporting, manufacturing,
17 displaying, or possessing marijuana or marijuana
18 products; delivery or transfer of marijuana or
19 marijuana products to a marijuana testing facility;
20 selling marijuana or marijuana products to a retail
21 marijuana store or a marijuana product manufacturing
22 facility; the purchase of marijuana from a marijuana



1 cultivation facility; or the purchase of marijuana or
2 marijuana products from a marijuana product
3 manufacturing facility, if the person conducting the
4 activities described in this paragraph has obtained a
5 current, valid license to operate a marijuana product
6 manufacturing facility or is acting in the person's
7 capacity as an owner, employee, or agent of a licensed
8 marijuana product manufacturing facility;

9 (5) Possessing, cultivating, processing, repackaging,
10 storing, transporting, displaying, transferring, or
11 delivering marijuana or marijuana products if the
12 person has obtained a current, valid license to
13 operate a marijuana testing facility or is acting in
14 the person's capacity as an owner, employee, or agent
15 of a licensed marijuana testing facility; and

16 (6) Leasing or otherwise allowing the use of property
17 owned, occupied, or controlled by any person,
18 corporation, or other entity for any of the activities
19 conducted lawfully in accordance with this section.

20 **§329-D Department rules; marijuana establishments. (a)**

21 The department shall adopt rules pursuant to chapter 91 to



1 implement this part. The rules shall authorize the operation of
2 marijuana establishments and shall include:

3 (1) Procedures for the issuance, renewal, suspension, and
4 revocation of a license to operate a marijuana
5 establishment;

6 (2) A schedule of application, licensing, and renewal
7 fees; provided that the application fee shall not
8 exceed \$, with this upper limit adjusted
9 annually for inflation based on the consumer price
10 index for urban Honolulu issued by the United States
11 Bureau of Labor Statistics, unless the department
12 determines a greater fee is necessary to carry out the
13 department's responsibilities under this part;

14 (3) Qualifications for licensure that are directly and
15 demonstrably related to the operation of a marijuana
16 establishment, including licensure as a business under
17 chapter 237;

18 (4) Security requirements for marijuana establishments;

19 (5) Requirements to prevent the sale or diversion of
20 marijuana and marijuana products to persons under the
21 age of twenty-one;



1 (6) Labeling requirements for marijuana and marijuana
2 products sold or distributed by a marijuana
3 establishment;

4 (7) Health and safety standards for the manufacture of
5 marijuana products and the cultivation of marijuana;

6 (8) Restrictions on the advertising and display of
7 marijuana and marijuana products; and

8 (9) Civil penalties for the failure to comply with any
9 rule adopted pursuant to this section.

10 (b) For the purpose of ensuring that individual privacy is
11 protected, the department shall not require a consumer to
12 provide a retail marijuana store with personal information other
13 than government-issued identification to determine the
14 consumer's age, and a retail marijuana store shall not be
15 required to acquire and record personal information about
16 consumers other than information typically acquired in a
17 financial transaction conducted at a retail liquor store.

18 **§329-E County ordinances.** (a) Not later than
19 , each county shall enact an ordinance specifying the
20 entity within the county that shall be responsible for
21 processing applications submitted for a license to operate a
22 marijuana establishment within the county and for the issuance



1 of those licenses if the issuance by the county becomes
2 necessary because of a failure by the department to adopt rules
3 pursuant to section 329-D or because of a failure by the
4 department to process and issue licenses as required by section
5 329-F(a).

6 (b) A county may enact ordinances, not in conflict with
7 this part or with rules adopted pursuant to this part:

8 (1) Governing the time, place, manner, and number of
9 marijuana establishment operations;

10 (2) Establishing procedures for the issuance, suspension,
11 and revocation of a license issued by the county in
12 accordance with section 329-F(b) or 329-F(c);

13 (3) Establishing a schedule of annual operating,
14 licensing, and application fees for marijuana
15 establishments; provided that the application fee
16 shall only be due if an application is submitted to a
17 county in accordance with section 329-F(c) and a
18 licensing fee shall only be due if a license is issued
19 by a county in accordance with section 329-F(b) or
20 329-F(c);

21 (4) Establishing civil penalties for violation of an
22 ordinance governing the time, place, and manner of a



1 marijuana establishment that may operate in the
2 county; or
3 (5) Prohibiting the operation of marijuana cultivation
4 facilities, marijuana product manufacturing
5 facilities, marijuana testing facilities, or retail
6 marijuana stores.

7 **§329-F Marijuana establishments; licenses; procedures.**

8 (a) Each application for an annual license to operate a
9 marijuana establishment shall be submitted to the department.

10 The department shall:

- 11 (1) Begin accepting and processing applications no later
12 than ;
- 13 (2) Immediately forward a copy of each application and
14 half of the license application fee to the county in
15 which the applicant desires to operate the marijuana
16 establishment;
- 17 (3) Issue an annual license to the applicant between
18 forty-five and ninety days after receipt of an
19 application unless the department finds the applicant
20 is not in compliance with rules adopted pursuant to
21 section 329-D or the department is notified by the
22 relevant county that the applicant is not in



1 compliance with ordinances enacted pursuant to section
2 329-E(b) and in effect at the time of application;
3 provided that where a county has enacted a numerical
4 limit on the number of marijuana establishments and a
5 greater number of applicants seek licenses, the
6 department shall solicit and consider input from the
7 county as to the county's preference or preferences
8 for licensure; and

9 (4) Upon denial of an application, notify the applicant in
10 writing of the specific reason for its denial.

11 (b) If the department does not issue a license to an
12 applicant within ninety days of receipt of the application filed
13 in accordance with subsection (a) and does not notify the
14 applicant of the specific reason for its denial, in writing and
15 within the ninety-day time period, or if the department has
16 adopted rules pursuant to section 329-D and has accepted
17 applications pursuant to subsection (a) but has not issued any
18 licenses by _____, the applicant may resubmit the
19 application directly to the county, pursuant to section 329-
20 E(a), and the county may issue an annual license to the
21 applicant. A county issuing a license to an applicant shall do
22 so within ninety days of receipt of the resubmitted application



1 unless the county finds and notifies the applicant that the
2 applicant is not in compliance with ordinances enacted pursuant
3 to section 329-E(b) in effect at the time the application is
4 resubmitted and the county shall notify the department if an
5 annual license has been issued to the applicant. If an
6 application is submitted to a county under this subsection, the
7 department shall forward to the county the application fee paid
8 by the applicant to the department upon request by the county.
9 A license issued by a county in accordance with this subsection
10 shall have the same force and effect as a license issued by the
11 department in accordance with subsection (a) and the holder of
12 such license shall not be subject to regulation or enforcement
13 by the department during the term of that license. A subsequent
14 or renewed license may be issued under this subsection on an
15 annual basis only upon resubmission to the county of a new
16 application submitted to the department pursuant to subsection
17 (a).

18 (c) If the department does not adopt rules required by
19 section 329-D, an applicant may submit an application directly
20 to a county after and the county may issue an annual
21 license to the applicant. A county issuing a license to an
22 applicant shall do so within ninety days of receipt of the



1 application unless it finds and notifies the applicant that the
2 applicant is not in compliance with ordinances enacted pursuant
3 to section 329-E(b) in effect at the time of application and
4 shall notify the department if an annual license has been issued
5 to the applicant. A license issued by a county in accordance
6 with this subsection shall have the same force and effect as a
7 license issued by the department in accordance with subsection
8 (a) and the holder of the license shall not be subject to
9 regulation or enforcement by the department during the term of
10 that license. A subsequent or renewed license may be issued
11 under this subsection on an annual basis if the department has
12 not adopted rules pursuant to section 329-D at least ninety days
13 prior to the date upon which the subsequent or renewed license
14 would be effective or if the department has adopted rules
15 pursuant to section 329-D but has not, at least ninety days
16 after the adoption of the rules, issued licenses pursuant to
17 subsection (a).

18 **§329-G Employers; driving; minors; control of real**
19 **property.** Nothing in this part shall be construed to:

20 (1) Require an employer to permit or accommodate the use,
21 consumption, possession, transfer, display,
22 transportation, sale, or growing of marijuana in the



1 workplace or to affect the ability of employers to
2 have policies restricting the use of marijuana by
3 employees;

4 (2) Allow driving under the influence of marijuana or
5 driving while impaired by marijuana or to supersede
6 any law relating to driving under the influence of
7 marijuana or driving while impaired by marijuana, nor
8 shall this part preclude the State from enacting laws
9 and imposing penalties for driving under the influence
10 of or while impaired by marijuana;

11 (3) Permit the transfer of marijuana, with or without
12 remuneration, to a person under the age of twenty-one
13 or to allow a person under the age of twenty-one to
14 purchase, possess, use, transport, grow, or consume
15 marijuana; or

16 (4) Prohibit a person, employer, school, hospital,
17 detention facility, corporation, or any other entity
18 who occupies, owns, or controls real property from
19 prohibiting or otherwise regulating the possession,
20 consumption, use, display, transfer, distribution,
21 sale, transportation, or growing of marijuana on or in
22 that property.



1 §329-H Medical use of marijuana unaffected. Nothing in
2 this part shall be construed as in any manner affecting the
3 provisions of part IX relating to the medical use of marijuana."

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

6 "(2) It is an affirmative defense to prosecution for any
7 marijuana-related offense defined in this part that the person
8 who possessed or distributed the marijuana was authorized to
9 possess or distribute the marijuana for medical purposes
10 pursuant to part IX of chapter 329[-] or acted in accordance
11 with part of that chapter."

12 SECTION 3. In codifying the new sections added by section
13 1 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

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

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



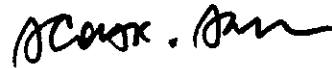
H.B. NO. 150

1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY:





JAN 17 2013



H.B. NO. 150

Report Title:

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

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. Requires the counties to provide for licensing of marijuana facilities if the State fails to do so. Authorizes the counties to regulate or prohibit marijuana facilities within their boundaries.

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

