

JAN 17 2014

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# 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-A;  
8 provided that compassion centers shall not be located within  
9 fifty miles of each other and shall not be located within two  
10 miles of a school."

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

14           "§237-       General excise tax on marijuana sales. In  
15 addition to the amounts taxable under this chapter, there shall  
16 be assessed, levied, and collected a general excise tax on the  
17 sale of marijuana by a compassion center under section 329-A in  
18 the amount of \$30 per ounce of sale; provided that the



1 department of taxation shall deposit the amount into the state  
2 general fund.

3 Any violation of general excise tax laws shall result in  
4 the immediate rescission of the compassion center license, which  
5 shall result in closure of the compassion center until the  
6 violation is resolved."

7 SECTION 3. Chapter 329, Hawaii Revised Statutes, is  
8 amended by adding two new sections to part IX to be  
9 appropriately designated and to read as follows:

10 **"§329-A Compassion centers; establishment.** (a) A county  
11 may authorize by ordinance the establishment of one or more  
12 compassion centers for the legal distribution of marijuana. The  
13 purpose of a compassion center shall be to sell marijuana or the  
14 marijuana plant, or both, to qualifying patients and their  
15 primary caregivers; provided that they are registered in  
16 compliance with section 329-123.

17 (b) A compassion center shall:

18 (1) Not violate section 712-1249.6;

19 (2) Not hire any convicted felon to work in a compassion  
20 center;



1       (3) Register annually with the department of public safety  
2       until January 1, 2015, and with the department of  
3       health beginning January 2, 2015; and

4       (4) Pay an annual registration fee of \$5,000; provided  
5       that the registration fee be deposited into the  
6       general fund of the county in which the compassion  
7       center conducts business.

8       (c) Every ordinance enacted pursuant to subsection (a)  
9       shall include, at minimum, the following requirements for the  
10       establishment of a compassion center:

11       (1) That the sale of the marijuana or marijuana plant for  
12       medical use be made only to qualifying patients or  
13       their caregivers who are registered in compliance with  
14       section 329-123;

15       (2) That the purchaser of the marijuana or marijuana plant  
16       for medical use present to the dispenser at the time  
17       of sale a photo identification issued by a government  
18       agency, along with:

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

21       (B) Proof of registration required under section 329-  
22       123(c) in the case of a primary caregiver; and



1       (3) That the compassion center make a record, to be kept  
2       for not less than five years following the sale, of  
3       every sale of marijuana or marijuana plant with the  
4       name, address, and patient identification number of  
5       the purchaser as appears on the written certification,  
6       the prescribing physician's name, and other  
7       identifying information as may be required by  
8       ordinance.

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

10      (1) County licensing and registration of compassion  
11      centers; and

12      (2) Unannounced county inspections of the premises, amount  
13      of marijuana or marijuana plants that may be stored on  
14      the premises, and security measures to protect the  
15      premises from burglary.

16      (e) Each compassion center shall cultivate and grow its  
17      own supply of marijuana; provided that the compassion center  
18      shall provide for adequate security to protect the marijuana.

19      **§329-B Registration recognition of other jurisdictions.** A

20      person who is duly issued a medical marijuana registration  
21      certificate or similar authorization from a jurisdiction outside  
22      of this State shall be entitled to purchase marijuana for



1 medical use from a compassion center established pursuant to  
2 section 329-A; provided that the person provides approved  
3 government identification, verified information on the  
4 prescribing physician, and temporary residence information."

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

7 **"§237-24.3 Additional amounts not taxable.** In addition to  
8 the amounts not taxable under section 237-24, this chapter shall  
9 not apply to:

10 (1) Amounts received from the loading, transportation, and  
11 unloading of agricultural commodities shipped for a  
12 producer or produce dealer on one island of this State  
13 to a person, firm, or organization on another island  
14 of this State. The terms "agricultural commodity",  
15 "producer", and "produce dealer" shall be defined in  
16 the same manner as they are defined in section 147-1;  
17 provided that agricultural commodities need not have  
18 been produced in the State;

19 (2) Amounts received by the manager, submanager, or board  
20 of directors of:



- 1           (A) An association of owners of a condominium  
2                   property regime established in accordance with  
3                   chapter 514A or 514B; or
- 4           (B) A nonprofit homeowners or community association  
5                   incorporated in accordance with chapter 414D or  
6                   any predecessor thereto and existing pursuant to  
7                   covenants running with the land,  
8           in reimbursement of sums paid for common expenses;
- 9       (3) Amounts received or accrued from:
- 10           (A) The loading or unloading of cargo from ships,  
11                   barges, vessels, or aircraft, whether or not the  
12                   ships, barges, vessels, or aircraft travel  
13                   between the State and other states or countries  
14                   or between the islands of the State;
- 15           (B) Tugboat services including pilotage fees  
16                   performed within the State, and the towage of  
17                   ships, barges, or vessels in and out of state  
18                   harbors, or from one pier to another; and
- 19           (C) The transportation of pilots or governmental  
20                   officials to ships, barges, or vessels offshore;  
21                   rigging gear; checking freight and similar



1 services; standby charges; and use of moorings  
2 and running mooring lines;

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



1           (5) Amounts received for purchases made with United States  
2 Department of Agriculture food coupons under the  
3 federal food stamp program, and amounts received for  
4 purchases made with United States Department of  
5 Agriculture food vouchers under the Special  
6 Supplemental Foods Program for Women, Infants and  
7 Children;

8           (6) Amounts received by a hospital, infirmary, medical  
9 clinic, health care facility, pharmacy, or a  
10 practitioner licensed to administer the drug to an  
11 individual for selling prescription drugs or  
12 prosthetic devices to an individual; provided that  
13 this paragraph shall not apply to any amounts received  
14 for services provided in selling prescription drugs or  
15 prosthetic devices[-]; provided further that this  
16 paragraph shall not apply to any amounts received by  
17 compassion centers established pursuant to section  
18 46- for selling marijuana for medical use. As used  
19 in this paragraph:

20           "Prescription drugs" are those drugs defined  
21 under section 328-1 and dispensed by filling or  
22 refilling a written or oral prescription by a





1 practitioner licensed under law to administer the drug  
2 and sold by a licensed pharmacist under section 328-16  
3 or practitioners licensed to administer drugs; and

4 "Prosthetic device" means any artificial device  
5 or appliance, instrument, apparatus, or contrivance,  
6 including their components, parts, accessories, and  
7 replacements thereof, used to replace a missing or  
8 surgically removed part of the human body, which is  
9 prescribed by a licensed practitioner of medicine,  
10 osteopathy, or podiatry and which is sold by the  
11 practitioner or which is dispensed and sold by a  
12 dealer of prosthetic devices; provided that  
13 "prosthetic device" shall not mean any auditory,  
14 ophthalmic, dental, or ocular device or appliance,  
15 instrument, apparatus, or contrivance;

16 (7) Taxes on transient accommodations imposed by chapter  
17 237D and passed on and collected by operators holding  
18 certificates of registration under that chapter;

19 (8) Amounts received as dues by an unincorporated  
20 merchants association from its membership for  
21 advertising media, promotional, and advertising costs  
22 for the promotion of the association for the benefit



1 of its members as a whole and not for the benefit of  
2 an individual member or group of members less than the  
3 entire membership;

4 (9) Amounts received by a labor organization for real  
5 property leased to:

6 (A) A labor organization; or

7 (B) A trust fund established by a labor organization  
8 for the benefit of its members, families, and  
9 dependents for medical or hospital care, pensions  
10 on retirement or death of employees,  
11 apprenticeship and training, and other membership  
12 service programs.

13 As used in this paragraph, "labor organization" means  
14 a labor organization exempt from federal income tax  
15 under section 501(c)(5) of the Internal Revenue Code,  
16 as amended;

17 (10) Amounts received from foreign diplomats and consular  
18 officials who are holding cards issued or authorized  
19 by the United States Department of State granting them  
20 an exemption from state taxes; and

21 (11) Amounts received as rent for the rental or leasing of  
22 aircraft or aircraft engines used by the lessees or



1           renters for interstate air transportation of  
 2           passengers and goods. For purposes of this paragraph,  
 3           payments made pursuant to a lease shall be considered  
 4           rent regardless of whether the lease is an operating  
 5           lease or a financing lease. The definition of  
 6           "interstate air transportation" is the same as in 49  
 7           U.S.C. section 40102."

8           SECTION 5. In codifying the new sections added by section  
 9           3 of this Act, the revisor of statutes shall substitute  
 10          appropriate section numbers for the letters used in designating  
 11          the new sections in this Act.

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

14          SECTION 7. This Act shall take effect on July 1, 2014.

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# S.B. NO. 2734

*D. Jim*



# S.B. NO. 2734

**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 qualifying patients and primary caregivers registered with the department of public safety (department of health beginning January 2, 2015). 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. Imposes registration fee on compassion centers, to be shared with counties.

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

