

JAN 18 2013

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; provided that compassion centers shall
8 not be located within fifty miles of each other, in accordance
9 with section 329-A and shall not be located within two miles of
10 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 will 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;

21 (3) Register annually with the department of public
22 safety; and



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

5 (c) Every ordinance enacted under subsection (a) shall
6 include, at minimum, the following requirements for the
7 establishment of a compassion center:

8 (1) That the sale of the marijuana or marijuana plant for
9 medical use be made only to qualifying patients or
10 their caregivers who are registered with the
11 department of public safety, as provided in section
12 329-123;

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

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

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

21 (3) That the compassion center make a record, to be kept
22 for not less than five years following the sale, of



1 every sale of marijuana or marijuana plant with the
2 name, address, and patient identification number of
3 the purchaser as appears on the written certification,
4 the prescribing physician's name, and other
5 identifying information as may be required by
6 ordinance;

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

8 (1) County licensing and registration of compassion
9 centers; and

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

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

17 **§329-B Registration recognition of other jurisdictions.** A

18 person who is duly issued a medical marijuana registration
19 certificate or similar authorization from a jurisdiction outside
20 of this State shall be entitled to purchase marijuana for
21 medical use from a compassion center established pursuant to
22 section 329-A; provided that the person provides approved



1 government identification, verified information on the
2 prescribing physician, and temporary residence information."

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

5 **"§237-24.3 Additional amounts not taxable.** In addition to
6 the amounts not taxable under section 237-24, this chapter shall
7 not apply to:

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

17 (2) Amounts received from sales of:

18 (A) Intoxicating liquor as the term "liquor" is
19 defined in chapter 244D;

20 (B) Cigarettes and tobacco products as defined in
21 chapter 245; and

22 (C) Agricultural, meat, or fish products;



1 to any person or common carrier in interstate or
2 foreign commerce, or both, whether ocean-going or air,
3 for consumption out-of-state on the shipper's vessels
4 or airplanes;

5 (3) Amounts received by the manager, submanager, or board
6 of directors of:

7 (A) An association of owners of a condominium
8 property regime established in accordance with
9 chapter 514A or 514B; or

10 (B) A nonprofit homeowners or community association
11 incorporated in accordance with chapter 414D or
12 any predecessor thereto and existing pursuant to
13 covenants running with the land,
14 in reimbursement of sums paid for common expenses;

15 (4) Amounts received or accrued from:

16 (A) The loading or unloading of cargo from ships,
17 barges, vessels, or aircraft, whether or not the
18 ships, barges, vessels, or aircraft travel
19 between the State and other states or countries
20 or between the islands of the State;

21 (B) Tugboat services including pilotage fees
22 performed within the State, and the towage of



1 ships, barges, or vessels in and out of state

2 harbors, or from one pier to another; and

3 (C) The transportation of pilots or governmental
4 officials to ships, barges, or vessels offshore;
5 rigging gear; checking freight and similar
6 services; standby charges; and use of moorings
7 and running mooring lines;

8 (5) Amounts received by an employee benefit plan by way of
9 contributions, dividends, interest, and other income;
10 and amounts received by a nonprofit organization or
11 office, as payments for costs and expenses incurred
12 for the administration of an employee benefit plan;
13 provided that this exemption shall not apply to any
14 gross rental income or gross rental proceeds received
15 after June 30, 1994, as income from investments in
16 real property in this State; and provided further that
17 gross rental income or gross rental proceeds from
18 investments in real property received by an employee
19 benefit plan after June 30, 1994, under written
20 contracts executed prior to July 1, 1994, shall not be
21 taxed until the contracts are renegotiated, renewed,
22 or extended, or until after December 31, 1998,



1 whichever is earlier. For the purposes of this
2 paragraph, "employee benefit plan" means any plan as
3 defined in [~~section~~] Section 1002(3) of [~~title~~] Title
4 29 of the United States Code, as amended;

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

12 (7) Amounts received by a hospital, infirmary, medical
13 clinic, health care facility, pharmacy, or a
14 practitioner licensed to administer the drug to an
15 individual for selling prescription drugs or
16 prosthetic devices to an individual; provided that
17 this paragraph shall not apply to any amounts received
18 for services provided in selling prescription drugs or
19 prosthetic devices[~~-~~]; provided further that this
20 paragraph shall not apply to any amounts received by
21 compassion centers established under section 46- for



1 selling marijuana for medical use. As used in this
2 paragraph:

3 "Prescription drugs" are those drugs defined
4 under section 328-1 and dispensed by filling or
5 refilling a written or oral prescription by a
6 practitioner licensed under law to administer the drug
7 and sold by a licensed pharmacist under section 328-16
8 or practitioners licensed to administer drugs; and

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



1 (8) Taxes on transient accommodations imposed by chapter
2 237D and passed on and collected by operators holding
3 certificates of registration under that chapter;

4 (9) Amounts received as dues by an unincorporated
5 merchants association from its membership for
6 advertising media, promotional, and advertising costs
7 for the promotion of the association for the benefit
8 of its members as a whole and not for the benefit of
9 an individual member or group of members less than the
10 entire membership;

11 (10) Amounts received by a labor organization for real
12 property leased to:

13 (A) A labor organization; or

14 (B) A trust fund established by a labor organization
15 for the benefit of its members, families, and
16 dependents for medical or hospital care, pensions
17 on retirement or death of employees,
18 apprenticeship and training, and other membership
19 service programs.

20 As used in this paragraph, "labor organization" means
21 a labor organization exempt from federal income tax



1 under section 501(c)(5) of the Internal Revenue Code,
2 as amended;

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

7 (12) Amounts received as rent for the rental or leasing of
8 aircraft or aircraft engines used by the lessees or
9 renters for interstate air transportation of
10 passengers and goods. For purposes of this paragraph,
11 payments made pursuant to a lease shall be considered
12 rent regardless of whether the lease is an operating
13 lease or a financing lease. The definition of
14 "interstate air transportation" is the same as in 49
15 [~~U.S.C.~~] United States Code 40102."

16 SECTION 5. In codifying the new sections added by section
17 3 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

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



1 SECTION 7. This Act shall take effect on July 1, 2013;
 2 provided that the amendments made by this Act to section
 3 237-24.3, Hawaii Revised Statutes, shall not be repealed when
 4 that section is repealed and reenacted on December 31, 2014,
 5 pursuant to Act 91, Session Laws of Hawaii 2010.

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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. 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.

