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## 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 the use of marijuana  
2 should be legal for persons twenty-one years of age or older and  
3 that the sale of marijuana should be regulated and taxed  
4 similarly to alcohol. This approach will redirect law  
5 enforcement resources to more serious threats to public safety  
6 and redirect income from the black market to legitimate  
7 businesses and to new employers who will generate tax revenue  
8 for the State.

9           The legislature also finds that, in the interest of public  
10 health and safety, marijuana should be regulated so that:

- 11           (1) Individuals must show proof of age before purchasing  
12                 marijuana;
- 13           (2) Selling, distributing, or transferring marijuana to  
14                 minors and other individuals under the age of twenty-  
15                 one shall remain illegal under state law;
- 16           (3) Driving under the influence of marijuana shall remain  
17                 illegal under state law;



- 1 (4) Taxpaying business people, rather than criminal
- 2 actors, will conduct sales of marijuana; and
- 3 (5) Marijuana will be labeled and subject to additional
- 4 regulations to ensure that consumers are informed and
- 5 protected.

6 SECTION 2. The Hawaii Revised Statutes is amended by  
7 adding a new chapter to be appropriately designated and to read  
8 as follows:

9 **"CHAPTER**

10 **MARIJUANA**

11 § -1 **Definitions.** As used in this chapter:

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

16 "Department" means the department of taxation.

17 "Marijuana" includes "marijuana", as defined in section  
18 329-1, and "marijuana concentrate", as defined in section 712-  
19 1240.

20 "Marijuana accessories" means any equipment, products, or  
21 materials of any kind which are used, intended for use, or



1 designed for use in planting, propagating, cultivating, growing,  
2 harvesting, composting, manufacturing, compounding, converting,  
3 producing, processing, preparing, testing, analyzing, packaging,  
4 repackaging, storing, containing, or vaporizing marijuana or for  
5 ingesting, inhaling, or otherwise introducing marijuana into the  
6 human body.

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

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

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

20 "Marijuana products" means concentrated marijuana products  
21 and marijuana products that comprise marijuana and other



1 ingredients and are intended for use or consumption, including  
2 but not limited to edible products, ointments, and tinctures.

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

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

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

16 § -2 **Personal use of marijuana.** Notwithstanding any  
17 state law to the contrary, the following acts shall neither be a  
18 criminal offense under Hawaii law nor a basis for seizure or  
19 forfeiture of assets under Hawaii law for persons twenty-one  
20 years of age or older:



- 1           (1) Possessing, using, displaying, purchasing, or  
2                    transporting marijuana accessories or one ounce or  
3                    less of marijuana;
- 4           (2) Possessing, growing, processing, or transporting up to  
5                    five marijuana plants and possession of the marijuana  
6                    produced by the plants on the premises where the  
7                    plants were grown; provided that the plants are grown  
8                    in a secured space, the plants are not grown openly or  
9                    publicly, and are not made available for sale;
- 10          (3) Transfer of one ounce or less of marijuana without  
11                    remuneration to a person who is twenty-one years of  
12                    age or older;
- 13          (4) Consumption of marijuana; provided that nothing in  
14                    this section shall permit consumption that is  
15                    conducted openly and publicly or in a manner that  
16                    endangers others; and
- 17          (5) Assisting another person who is twenty-one years of  
18                    age or older in any of the acts described in  
19                    paragraphs (1) through (4).

20           **§ -3 Lawful operation of marijuana-related facilities.**

21   Notwithstanding any state law to the contrary, the following



1 acts shall neither be a criminal offense under Hawaii law nor a  
2 basis for seizure or forfeiture of assets under Hawaii law for  
3 persons twenty-one years of age or older:

4 (1) Manufacture, sale, purchase, or possession of  
5 marijuana accessories;

6 (2) Possessing, displaying, or transporting marijuana or  
7 marijuana products; purchase of marijuana from a  
8 marijuana cultivation facility; purchase of marijuana  
9 or marijuana products from a marijuana product  
10 manufacturing facility; or sale of marijuana or  
11 marijuana products to consumers if the person  
12 conducting the activities described in this paragraph  
13 holds a valid license to operate a retail marijuana  
14 store or is acting in the person's capacity as an  
15 owner, employee, or agent of a licensed retail  
16 marijuana store;

17 (3) Cultivating, harvesting, processing, packaging,  
18 transporting, displaying, or possessing marijuana;  
19 delivery or transfer of marijuana to a marijuana  
20 testing facility; selling marijuana to a marijuana  
21 cultivation facility, a marijuana product



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

- 9 (4) Packaging, processing, transporting, manufacturing,  
10 displaying, or possessing marijuana or marijuana  
11 products; delivery or transfer of marijuana or  
12 marijuana products to a marijuana testing facility;  
13 selling marijuana or marijuana products to a retail  
14 marijuana store or a marijuana product manufacturing  
15 facility; purchase of marijuana from a marijuana  
16 cultivation facility; or purchase of marijuana or  
17 marijuana products from a marijuana product  
18 manufacturing facility, if the person conducting the  
19 activities described in this paragraph holds a valid  
20 license to operate a marijuana product manufacturing  
21 facility or is acting in the person's capacity as an



- 1 owner, employee, or agent of a licensed marijuana  
2 product manufacturing facility;
- 3 (5) Possessing, cultivating, processing, repackaging,  
4 storing, transporting, displaying, transferring, or  
5 delivering marijuana or marijuana products if the  
6 person holds a valid license to operate a marijuana  
7 testing facility or is acting in the person's capacity  
8 as owner, employee, or agent of a licensed marijuana  
9 testing facility; and
- 10 (6) Leasing or otherwise allowing the use of property  
11 owned, occupied, or controlled by any person,  
12 corporation, or other entity for any of the activities  
13 conducted in accordance with paragraphs (1) through  
14 (5).

15 § -4 Regulation of marijuana. (a) Not later than  
16 October 29, 2015, the department shall adopt rules pursuant to  
17 chapter 91 necessary for implementation of this chapter. The  
18 rules shall not prohibit the operation of marijuana  
19 establishments either expressly or by making operations  
20 unreasonably impracticable. The rules shall include:





- 1 (1) Procedures for the issuance, renewal, suspension, and  
2 revocation of a license to operate a marijuana  
3 establishment;
- 4 (2) A schedule of application, licensing, and renewal  
5 fees;
- 6 (3) Qualifications for a license that are directly and  
7 demonstrably related to the operation of a marijuana  
8 establishment;
- 9 (4) Security requirements for marijuana establishments;
- 10 (5) Requirements to prevent the sale or diversion of  
11 marijuana and marijuana products to persons under the  
12 age of twenty-one;
- 13 (6) Labeling requirements for marijuana and marijuana  
14 products sold or distributed by a marijuana  
15 establishment;
- 16 (7) Health and safety regulations and standards for the  
17 manufacture of marijuana products and the cultivation  
18 of marijuana;
- 19 (8) Restrictions on the advertising and display of  
20 marijuana and marijuana products; and



1           (9) Civil penalties not to exceed \$100 per violation for  
2           any failure to comply with rules made pursuant to this  
3           section.

4           (b) To ensure that individual privacy is protected,  
5           notwithstanding subsection (a), the department shall not require  
6           a consumer to provide a retail marijuana store with personal  
7           information other than government-issued identification to  
8           determine the consumer's age. A retail marijuana store shall  
9           not be required to acquire and record personal information about  
10          consumers other than information typically acquired in a  
11          financial transaction conducted at a retail liquor store.

12          (c) A marijuana establishment shall be subject to payment  
13          of income taxes on gross receipts under chapter 235 and payment  
14          of excise taxes under chapter 237 for each transaction conducted  
15          by the marijuana establishment.

16          (d) All revenue derived from the taxation of marijuana  
17          shall be deposited in the general fund of the State and expended  
18          as provided by section 237-13(9).

19          (e) The department shall establish rules pursuant to  
20          chapter 91 for the collection and expenditure of all taxes  
21          levied.



1 (f) Each application for a license to operate a marijuana  
2 establishment shall be submitted to the department. The  
3 department shall:

4 (1) Begin accepting and processing applications by July 1,  
5 2016;

6 (2) Issue a license to the applicant within ninety days of  
7 receipt of an application unless the department finds  
8 the applicant is not in compliance with rules adopted  
9 pursuant to subsection (a); and

10 (3) Upon denial of an application, notify the applicant in  
11 writing of the reason or reasons for its denial.

12 No license issued by the department pursuant to this section  
13 shall be valid for more than one year.

14 § -5 **Effect on other laws.** (a) Nothing in this chapter  
15 shall require an employer to permit or accommodate the use,  
16 consumption, possession, transfer, display, transportation,  
17 sale, or growing of marijuana in the workplace or to affect any  
18 employer policy restricting the use of marijuana by employees.

19 (b) Nothing in this chapter shall be construed to permit  
20 driving under the influence of marijuana or driving while  
21 impaired by marijuana or to supersede statutory laws related to



1 driving under the influence of marijuana or driving while  
2 impaired by marijuana, nor shall this chapter prevent the State  
3 from enacting and imposing criminal penalties for driving under  
4 the influence of or while impaired by marijuana.

5 (c) Nothing in this chapter shall be construed to permit  
6 the transfer of marijuana, with or without remuneration, to a  
7 person under the age of twenty-one or to allow a person under  
8 the age of twenty-one to purchase, possess, use, transport,  
9 grow, or consume marijuana.

10 (d) Nothing in this chapter shall prohibit a person,  
11 employer, school, hospital, detention facility, corporation, or  
12 any other entity who occupies, owns, or controls a property from  
13 prohibiting or otherwise regulating the possession, consumption,  
14 use, display, transfer, distribution, sale, transportation, or  
15 growing of marijuana on or in that property.

16 § -6 **Medical marijuana provisions unaffected.** Nothing  
17 in this chapter shall limit any privileges or rights of a  
18 medical marijuana qualifying patient, primary caregiver, or  
19 registered entity as provided in chapter 329, part IX."

20 SECTION 3. Section 237-13, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§237-13   **Imposition of tax.**   (a)   There is hereby levied  
2 and shall be assessed and collected annually privilege taxes  
3 against persons on account of their business and other  
4 activities in the State measured by the application of rates  
5 against values of products, gross proceeds of sales, or gross  
6 income, whichever is specified, as follows:

7           (1)   Tax on manufacturers.

8                   (A)   Upon every person engaging or continuing within  
9                   the State in the business of manufacturing,  
10                   including compounding, canning, preserving,  
11                   packing, printing, publishing, milling,  
12                   processing, refining, or preparing for sale,  
13                   profit, or commercial use, either directly or  
14                   through the activity of others, in whole or in  
15                   part, any article or articles, substance or  
16                   substances, commodity or commodities, the amount  
17                   of the tax to be equal to the value of the  
18                   articles, substances, or commodities,  
19                   manufactured, compounded, canned, preserved,  
20                   packed, printed, milled, processed, refined, or  
21                   prepared for sale, as shown by the gross proceeds



1 derived from the sale thereof by the manufacturer  
2 or person compounding, preparing, or printing  
3 them, multiplied by one-half of one per cent.

4 (B) The measure of the tax on manufacturers is the  
5 value of the entire product for sale, regardless  
6 of the place of sale or the fact that deliveries  
7 may be made to points outside the State.

8 (C) If any person liable for the tax on manufacturers  
9 ships or transports the person's product, or any  
10 part thereof, out of the State, whether in a  
11 finished or unfinished condition, or sells the  
12 same for delivery to points outside the State  
13 (for example, consigned to a mainland purchaser  
14 via common carrier f.o.b. Honolulu), the value of  
15 the products in the condition or form in which  
16 they exist immediately before entering interstate  
17 or foreign commerce, determined as hereinafter  
18 provided, shall be the basis for the assessment  
19 of the tax imposed by this paragraph. This tax  
20 shall be due and payable as of the date of entry  
21 of the products into interstate or foreign



1 commerce, whether the products are then sold or  
2 not. The department shall determine the basis  
3 for assessment, as provided by this paragraph, as  
4 follows:

5 (i) If the products at the time of their entry  
6 into interstate or foreign commerce already  
7 have been sold, the gross proceeds of sale,  
8 less the transportation expenses, if any,  
9 incurred in realizing the gross proceeds for  
10 transportation from the time of entry of the  
11 products into interstate or foreign  
12 commerce, including insurance and storage in  
13 transit, shall be the measure of the value  
14 of the products;

15 (ii) If the products have not been sold at the  
16 time of their entry into interstate or  
17 foreign commerce, and in cases governed by  
18 clause (i) in which the products are sold  
19 under circumstances such that the gross  
20 proceeds of sale are not indicative of the  
21 true value of the products, the value of the



1 products constituting the basis for  
2 assessment shall correspond as nearly as  
3 possible to the gross proceeds of sales for  
4 delivery outside the State, adjusted as  
5 provided in clause (i), or if sufficient  
6 data are not available, sales in the State,  
7 of similar products of like quality and  
8 character and in similar quantities, made by  
9 the taxpayer (unless not indicative of the  
10 true value) or by others. Sales outside the  
11 State, adjusted as provided in clause (i),  
12 may be considered when they constitute the  
13 best available data. The department shall  
14 prescribe uniform and equitable rules for  
15 ascertaining the values;

16 (iii) At the election of the taxpayer and with the  
17 approval of the department, the taxpayer may  
18 make the taxpayer's returns under clause (i)  
19 even though the products have not been sold  
20 at the time of their entry into interstate  
21 or foreign commerce; and





1 (iv) In all cases in which products leave the  
2 State in an unfinished condition, the basis  
3 for assessment shall be adjusted so as to  
4 deduct the portion of the value as is  
5 attributable to the finishing of the goods  
6 outside the State.

7 (2) Tax on business of selling tangible personal property;  
8 producing.

9 (A) Upon every person engaging or continuing in the  
10 business of selling any tangible personal  
11 property whatsoever (not including, however,  
12 bonds or other evidence of indebtedness, [~~or~~]  
13 stocks, marijuana, or marijuana products), there  
14 is likewise hereby levied, and shall be assessed  
15 and collected, a tax equivalent to four per cent  
16 of the gross proceeds of sales of the business;  
17 provided that, in the case of a wholesaler, the  
18 tax shall be equal to one-half of one per cent of  
19 the gross proceeds of sales of the business; and  
20 provided further that insofar as the sale of  
21 tangible personal property is a wholesale sale



1 under section 237-4(a)(8), the sale shall be  
2 subject to section 237-13.3. Upon every person  
3 engaging or continuing within this State in the  
4 business of a producer, the tax shall be equal to  
5 one-half of one per cent of the gross proceeds of  
6 sales of the business, or the value of the  
7 products, for sale, if sold for delivery outside  
8 the State or shipped or transported out of the  
9 State, and the value of the products shall be  
10 determined in the same manner as the value of  
11 manufactured products covered in the cases under  
12 paragraph (1)(C).

13 (B) Gross proceeds of sales of tangible property in  
14 interstate and foreign commerce shall constitute  
15 a part of the measure of the tax imposed on  
16 persons in the business of selling tangible  
17 personal property, to the extent, under the  
18 conditions, and in accordance with the provisions  
19 of the Constitution of the United States and the  
20 Acts of the Congress of the United States which  
21 may be now in force or may be hereafter adopted,



1 and whenever there occurs in the State an  
2 activity to which, under the Constitution and  
3 Acts of Congress, there may be attributed gross  
4 proceeds of sales, the gross proceeds shall be so  
5 attributed.

6 (C) No manufacturer or producer, engaged in such  
7 business in the State and selling the  
8 manufacturer's or producer's products for  
9 delivery outside of the State (for example,  
10 consigned to a mainland purchaser via common  
11 carrier f.o.b. Honolulu), shall be required to  
12 pay the tax imposed in this chapter for the  
13 privilege of so selling the products, and the  
14 value or gross proceeds of sales of the products  
15 shall be included only in determining the measure  
16 of the tax imposed upon the manufacturer or  
17 producer.

18 (D) When a manufacturer or producer, engaged in such  
19 business in the State, also is engaged in selling  
20 the manufacturer's or producer's products in the  
21 State at wholesale, retail, or in any other



1 manner, the tax for the privilege of engaging in  
2 the business of selling the products in the State  
3 shall apply to the manufacturer or producer as  
4 well as the tax for the privilege of  
5 manufacturing or producing in the State, and the  
6 manufacturer or producer shall make the returns  
7 of the gross proceeds of the wholesale, retail,  
8 or other sales required for the privilege of  
9 selling in the State, as well as making the  
10 returns of the value or gross proceeds of sales  
11 of the products required for the privilege of  
12 manufacturing or producing in the State. The  
13 manufacturer or producer shall pay the tax  
14 imposed in this chapter for the privilege of  
15 selling its products in the State, and the value  
16 or gross proceeds of sales of the products, thus  
17 subjected to tax, may be deducted insofar as  
18 duplicated as to the same products by the measure  
19 of the tax upon the manufacturer or producer for  
20 the privilege of manufacturing or producing in  
21 the State; provided that no producer of



1 agricultural products who sells the products to a  
2 purchaser who will process the products outside  
3 the State shall be required to pay the tax  
4 imposed in this chapter for the privilege of  
5 producing or selling those products.

6 (E) A taxpayer selling to a federal cost-plus  
7 contractor may make the election provided for by  
8 paragraph (3) (C), and in that case the tax shall  
9 be computed pursuant to the election,  
10 notwithstanding this paragraph or paragraph (1)  
11 to the contrary.

12 (F) The department, by rule, may require that a  
13 seller take from the purchaser of tangible  
14 personal property a certificate, in a form  
15 prescribed by the department, certifying that the  
16 sale is a sale at wholesale; provided that:

17 (i) Any purchaser who furnishes a certificate  
18 shall be obligated to pay to the seller,  
19 upon demand, the amount of the additional  
20 tax that is imposed upon the seller whenever  
21 the sale in fact is not at wholesale; and



1                   (ii) The absence of a certificate in itself shall  
2                   give rise to the presumption that the sale  
3                   is not at wholesale unless the sales of the  
4                   business are exclusively at wholesale.

5           (3) Tax upon contractors.

6                   (A) Upon every person engaging or continuing within  
7                   the State in the business of contracting, the tax  
8                   shall be equal to four per cent of the gross  
9                   income of the business.

10                   (B) In computing the tax levied under this paragraph,  
11                   there shall be deducted from the gross income of  
12                   the taxpayer so much thereof as has been included  
13                   in the measure of the tax levied under  
14                   subparagraph (A), on:

15                           (i) Another taxpayer who is a contractor, as  
16                           defined in section 237-6;

17                           (ii) A specialty contractor, duly licensed by the  
18                           department of commerce and consumer affairs  
19                           pursuant to section 444-9, in respect of the  
20                           specialty contractor's business; or



1 (iii) A specialty contractor who is not licensed  
2 by the department of commerce and consumer  
3 affairs pursuant to section 444-9, but who  
4 performs contracting activities on federal  
5 military installations and nowhere else in  
6 this State;

7 provided that any person claiming a deduction  
8 under this paragraph shall be required to show in  
9 the person's return the name and general excise  
10 number of the person paying the tax on the amount  
11 deducted by the person.

12 (C) In computing the tax levied under this paragraph  
13 against any federal cost-plus contractor, there  
14 shall be excluded from the gross income of the  
15 contractor so much thereof as fulfills the  
16 following requirements:

17 (i) The gross income exempted shall constitute  
18 reimbursement of costs incurred for  
19 materials, plant, or equipment purchased  
20 from a taxpayer licensed under this chapter,  
21 not exceeding the gross proceeds of sale of



1                   the taxpayer on account of the transaction;  
2                   and  
3                   (ii) The taxpayer making the sale shall have  
4                   certified to the department that the  
5                   taxpayer is taxable with respect to the  
6                   gross proceeds of the sale, and that the  
7                   taxpayer elects to have the tax on gross  
8                   income computed the same as upon a sale to  
9                   the state government.

10                  (D) A person who, as a business or as a part of a  
11                  business in which the person is engaged, erects,  
12                  constructs, or improves any building or  
13                  structure, of any kind or description, or makes,  
14                  constructs, or improves any road, street,  
15                  sidewalk, sewer, or water system, or other  
16                  improvements on land held by the person (whether  
17                  held as a leasehold, fee simple, or otherwise),  
18                  upon the sale or other disposition of the land or  
19                  improvements, even if the work was not done  
20                  pursuant to a contract, shall be liable to the  
21                  same tax as if engaged in the business of





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1           contracting, unless the person shows that at the  
2           time the person was engaged in making the  
3           improvements the person intended, and for the  
4           period of at least one year after completion of  
5           the building, structure, or other improvements  
6           the person continued to intend to hold and not  
7           sell or otherwise dispose of the land or  
8           improvements. The tax in respect of the  
9           improvements shall be measured by the amount of  
10          the proceeds of the sale or other disposition  
11          that is attributable to the erection,  
12          construction, or improvement of such building or  
13          structure, or the making, constructing, or  
14          improving of the road, street, sidewalk, sewer,  
15          or water system, or other improvements. The  
16          measure of tax in respect of the improvements  
17          shall not exceed the amount which would have been  
18          taxable had the work been performed by another,  
19          subject as in other cases to the deductions  
20          allowed by subparagraph (B). Upon the election  
21          of the taxpayer, this paragraph may be applied



1           notwithstanding that the improvements were not  
2           made by the taxpayer, or were not made as a  
3           business or as a part of a business, or were made  
4           with the intention of holding the same. However,  
5           this paragraph shall not apply in respect of any  
6           proceeds that constitute or are in the nature of  
7           rent; all such gross income shall be taxable  
8           under paragraph (9); provided that insofar as the  
9           business of renting or leasing real property  
10          under a lease is taxed under section 237-16.5,  
11          the tax shall be levied by section 237-16.5.

12          (4) Tax upon theaters, amusements, radio broadcasting  
13          stations, etc.

14          (A) Upon every person engaging or continuing within  
15          the State in the business of operating a theater,  
16          opera house, moving picture show, vaudeville,  
17          amusement park, dance hall, skating rink, radio  
18          broadcasting station, or any other place at which  
19          amusements are offered to the public, the tax  
20          shall be equal to four per cent of the gross  
21          income of the business, and in the case of a sale



1 of an amusement at wholesale under section 237-  
2 4(a)(13), the tax shall be subject to section  
3 237-13.3.

4 (B) The department may require that the person  
5 rendering an amusement at wholesale take from the  
6 licensed seller a certificate, in a form  
7 prescribed by the department, certifying that the  
8 sale is a sale at wholesale; provided that:

9 (i) Any licensed seller who furnishes a  
10 certificate shall be obligated to pay to the  
11 person rendering the amusement, upon demand,  
12 the amount of additional tax that is imposed  
13 upon the seller whenever the sale is not at  
14 wholesale; and

15 (ii) The absence of a certificate in itself shall  
16 give rise to the presumption that the sale  
17 is not at wholesale unless the person  
18 rendering the sale is exclusively rendering  
19 the amusement at wholesale.

20 (5) Tax upon sales representatives, etc. Upon every  
21 person classified as a representative or purchasing



1 agent under section 237-1, engaging or continuing  
2 within the State in the business of performing  
3 services for another, other than as an employee, there  
4 is likewise hereby levied and shall be assessed and  
5 collected a tax equal to four per cent of the  
6 commissions and other compensation attributable to the  
7 services so rendered by the person.

8 (6) Tax on service business.

9 (A) Upon every person engaging or continuing within  
10 the State in any service business or calling  
11 including professional services not otherwise  
12 specifically taxed under this chapter, there is  
13 likewise hereby levied and shall be assessed and  
14 collected a tax equal to four per cent of the  
15 gross income of the business, and in the case of  
16 a wholesaler under section 237-4(a)(10), the tax  
17 shall be equal to one-half of one per cent of the  
18 gross income of the business. Notwithstanding  
19 the foregoing, a wholesaler under section 237-  
20 4(a)(10) shall be subject to section 237-13.3.



- 1           (B) The department may require that the person  
2           rendering a service at wholesale take from the  
3           licensed seller a certificate, in a form  
4           prescribed by the department, certifying that the  
5           sale is a sale at wholesale; provided that:
- 6           (i) Any licensed seller who furnishes a  
7           certificate shall be obligated to pay to the  
8           person rendering the service, upon demand,  
9           the amount of additional tax that is imposed  
10          upon the seller whenever the sale is not at  
11          wholesale; and
- 12          (ii) The absence of a certificate in itself shall  
13          give rise to the presumption that the sale  
14          is not at wholesale unless the person  
15          rendering the sale is exclusively rendering  
16          services at wholesale.
- 17          (C) Where any person is engaged in the business of  
18          selling interstate or foreign common carrier  
19          telecommunication services within and without the  
20          State, other than as a home service provider, the  
21          tax shall be imposed on that portion of gross



1 income received by a person from service which is  
2 originated or terminated in this State and is  
3 charged to a telephone number, customer, or  
4 account in this State notwithstanding any other  
5 state law (except for the exemption under section  
6 237-23(a)(1)) to the contrary. If, under the  
7 Constitution and laws of the United States, the  
8 entire gross income as determined under this  
9 paragraph of a business selling interstate or  
10 foreign common carrier telecommunication services  
11 cannot be included in the measure of the tax, the  
12 gross income shall be apportioned as provided in  
13 section 237-21; provided that the apportionment  
14 factor and formula shall be the same for all  
15 persons providing those services in the State.

16 (D) Where any person is engaged in the business of a  
17 home service provider, the tax shall be imposed  
18 on the gross income received or derived from  
19 providing interstate or foreign mobile  
20 telecommunications services to a customer with a  
21 place of primary use in this State when such



1 services originate in one state and terminate in  
2 another state, territory, or foreign country;  
3 provided that all charges for mobile  
4 telecommunications services which are billed by  
5 or for the home service provider are deemed to be  
6 provided by the home service provider at the  
7 customer's place of primary use, regardless of  
8 where the mobile telecommunications originate,  
9 terminate, or pass through; provided further that  
10 the income from charges specifically derived from  
11 interstate or foreign mobile telecommunications  
12 services, as determined by books and records that  
13 are kept in the regular course of business by the  
14 home service provider in accordance with section  
15 239-24, shall be apportioned under any  
16 apportionment factor or formula adopted under  
17 subparagraph (C). Gross income shall not  
18 include:  
19 (i) Gross receipts from mobile  
20 telecommunications services provided to a



1 customer with a place of primary use outside  
2 this State;

3 (ii) Gross receipts from mobile  
4 telecommunications services that are subject  
5 to the tax imposed by chapter 239;

6 (iii) Gross receipts from mobile  
7 telecommunications services taxed under  
8 section 237-13.8; and

9 (iv) Gross receipts of a home service provider  
10 acting as a serving carrier providing mobile  
11 telecommunications services to another home  
12 service provider's customer.

13 For the purposes of this paragraph, "charges for  
14 mobile telecommunications services", "customer",  
15 "home service provider", "mobile  
16 telecommunications services", "place of primary  
17 use", and "serving carrier" have the same meaning  
18 as in section 239-22.

19 (7) Tax on insurance producers. Upon every person engaged  
20 as a licensed producer pursuant to chapter 431, there  
21 is hereby levied and shall be assessed and collected a





1 tax equal to 0.15 per cent of the commissions due to  
2 that activity.

3 (8) Tax on receipts of sugar benefit payments. Upon the  
4 amounts received from the United States government by  
5 any producer of sugar (or the producer's legal  
6 representative or heirs), as defined under and by  
7 virtue of the Sugar Act of 1948, as amended, or other  
8 Acts of the Congress of the United States relating  
9 thereto, there is hereby levied a tax of one-half of  
10 one per cent of the gross amount received; provided  
11 that the tax levied hereunder on any amount so  
12 received and actually disbursed to another by a  
13 producer in the form of a benefit payment shall be  
14 paid by the person or persons to whom the amount is  
15 actually disbursed, and the producer actually making a  
16 benefit payment to another shall be entitled to claim  
17 on the producer's return a deduction from the gross  
18 amount taxable hereunder in the sum of the amount so  
19 disbursed. The amounts taxed under this paragraph  
20 shall not be taxable under any other paragraph,  
21 subsection, or section of this chapter.



1        (9) Tax on marijuana. Upon every person engaging or  
2        continuing in the business of selling any marijuana or  
3        marijuana products, there is likewise hereby levied,  
4        and shall be assessed and collected, a tax equivalent  
5        to twenty per cent of the gross proceeds of sales of  
6        the business; provided that, in the case of a  
7        wholesaler, the tax shall be equal to one-half of one  
8        per cent of the gross proceeds of sales of the  
9        business. All revenue collected under this section  
10       shall be deposited in the general fund of the State;  
11       provided that not less than:

12       (A) Two per cent of the revenue collected under this  
13       paragraph shall be expended for drug abuse  
14       prevention programs;

15       (B) Two per cent shall be expended for public  
16       security programs; and

17       (C) Two per cent shall be expended for administrative  
18       expenses of the department of taxation for  
19       purposes of implementing this section.

20       ~~(9)~~ (10) Tax on other business. Upon every person  
21       engaging or continuing within the State in any



1 business, trade, activity, occupation, or calling not  
2 included in the preceding paragraphs or any other  
3 provisions of this chapter, there is likewise hereby  
4 levied and shall be assessed and collected, a tax  
5 equal to four per cent of the gross income thereof.  
6 In addition, the rate prescribed by this paragraph  
7 shall apply to a business taxable under one or more of  
8 the preceding paragraphs or other provisions of this  
9 chapter, as to any gross income thereof not taxed  
10 thereunder as gross income or gross proceeds of sales  
11 or by taxing an equivalent value of products, unless  
12 specifically exempted.

13 (b) Definitions. As used in this section:

14 "Marijuana" includes "marijuana", as defined in section  
15 329-1, and "marijuana concentrate", as defined in section 712-  
16 1240.

17 "Marijuana products" means concentrated marijuana products  
18 and marijuana products that comprise marijuana and other  
19 ingredients and are intended for use or consumption, including  
20 but not limited to edible products, ointments, and tinctures."



1 SECTION 4. Chapter 712, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4 "§712- Marijuana. The following acts shall be exempt  
5 from arrest, prosecution, and criminal culpability under this  
6 part:

7 (a) Any act permitted under section -2; and

8 (b) Any act permitted under section -3."

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

12 SECTION 6. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

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

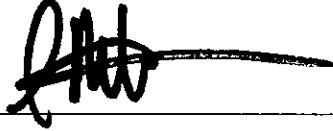


# H.B. NO. 117

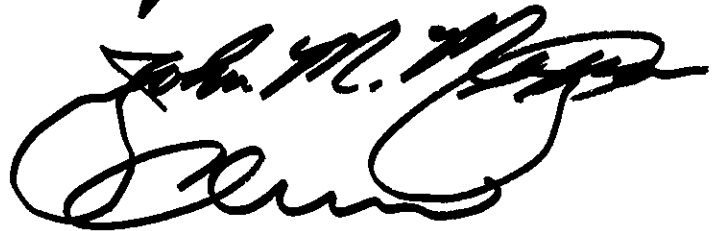
1 SECTION 8. This Act shall take effect on July 1, 2015.

2

INTRODUCED BY: \_\_\_\_\_



Guthrie Huolen



JAN 23 2015



# H.B. NO. 117

**Report Title:**

Marijuana; Legalization; Taxation

**Description:**

Legalizes under state law the growing, processing, possession, transfer, and personal use of marijuana in a specified quantity to persons at least twenty-one years of age. Requires licensing to operate marijuana establishments. Subjects marijuana establishments to excise taxes and income taxes.

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

