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# A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

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

4           "§329D-           Tax revenues for medical marijuana registry and  
5 regulation. Of the tax revenues received from medical marijuana  
6 dispensaries pursuant to chapter 237,           per cent shall be  
7 deposited into the medical marijuana registry and regulation  
8 special fund established by section 321-30.1, to be used for  
9 public health and health purposes including but not limited to  
10 drug recognition expert training for law enforcement officers  
11 and other public health education efforts."

12           SECTION 2. Section 237-13, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "§237-13 Imposition of tax. There is hereby levied and  
15 shall be assessed and collected annually privilege taxes against  
16 persons on account of their business and other activities in the  
17 State measured by the application of rates against values of



1 products, gross proceeds of sales, or gross income, whichever is  
2 specified, as follows:

3 (1) Tax on manufacturers.

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



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

5 (C) If any person liable for the tax on manufacturers  
6 ships or transports the person's product, or any  
7 part thereof, out of the State, whether in a  
8 finished or unfinished condition, or sells the  
9 same for delivery to points outside the State  
10 (for example, consigned to a mainland purchaser  
11 via common carrier f.o.b. Honolulu), the value of  
12 the products in the condition or form in which  
13 they exist immediately before entering interstate  
14 or foreign commerce, determined as hereinafter  
15 provided, shall be the basis for the assessment  
16 of the tax imposed by this paragraph. This tax  
17 shall be due and payable as of the date of entry  
18 of the products into interstate or foreign  
19 commerce, whether the products are then sold or  
20 not. The department shall determine the basis



1 for assessment, as provided by this paragraph, as  
2 follows:

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

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



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

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

20 (iv) In all cases in which products leave the  
21 State in an unfinished condition, the basis



1                   for assessment shall be adjusted so as to  
2                   deduct the portion of the value as is  
3                   attributable to the finishing of the goods  
4                   outside the State.

5           (2) Tax on business of selling tangible personal property;  
6           producing.

7           (A) Upon every person engaging or continuing in the  
8           business of selling any tangible personal  
9           property whatsoever (not including, however,  
10           bonds or other evidence of indebtedness, or  
11           stocks), there is likewise hereby levied, and  
12           shall be assessed and collected, a tax equivalent  
13           to four per cent of the gross proceeds of sales  
14           of the business; provided that, in the case of a  
15           wholesaler, the tax shall be equal to one-half of  
16           one per cent of the gross proceeds of sales of  
17           the business; and provided further that insofar  
18           as the sale of tangible personal property is a  
19           wholesale sale under section 237-4(a)(8), the tax  
20           shall be one-half of one per cent of the gross  
21           proceeds. Upon every person engaging or



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

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



1           proceeds of sales, the gross proceeds shall be so  
2           attributed.

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

15          (D) When a manufacturer or producer, engaged in such  
16          business in the State, also is engaged in selling  
17          the manufacturer's or producer's products in the  
18          State at wholesale, retail, or in any other  
19          manner, the tax for the privilege of engaging in  
20          the business of selling the products in the State  
21          shall apply to the manufacturer or producer as





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



1           imposed in this chapter for the privilege of  
2           producing or selling those products.

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

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

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

19          (ii) The absence of a certificate in itself shall  
20          give rise to the presumption that the sale



1                   is not at wholesale unless the sales of the  
2                   business are exclusively at wholesale.

3           (3) Tax upon contractors.

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

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

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

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

19          (iii) A specialty contractor who is not licensed  
20          by the department of commerce and consumer  
21          affairs pursuant to section 444-9, but who



1 performs contracting activities on federal  
2 military installations and nowhere else in  
3 this State;

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

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

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



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

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



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



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

10 (4) Tax upon theaters, amusements, radio broadcasting  
11 stations, etc.

12 (A) Upon every person engaging or continuing within  
13 the State in the business of operating a theater,  
14 opera house, moving picture show, vaudeville,  
15 amusement park, dance hall, skating rink, radio  
16 broadcasting station, or any other place at which  
17 amusements are offered to the public, the tax  
18 shall be equal to four per cent of the gross  
19 income of the business, and in the case of a sale  
20 of an amusement at wholesale under section 237-



1           4(a) (13), the tax shall be one-half of one per  
2           cent of the gross income.

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

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

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

19          (5) Tax upon sales representatives, etc. Upon every  
20          person classified as a representative or purchasing  
21          agent under section 237-1, engaging or continuing





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

7           (6) Tax on service business.

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

18           (B) The department may require that the person  
19           rendering a service at wholesale take from the  
20           licensed seller a certificate, in a form



1           prescribed by the department, certifying that the  
2           sale is a sale at wholesale; provided that:

3           (i) Any licensed seller who furnishes a  
4           certificate shall be obligated to pay to the  
5           person rendering the service, upon demand,  
6           the amount of additional tax that is imposed  
7           upon the seller whenever the sale is not at  
8           wholesale; and

9           (ii) The absence of a certificate in itself shall  
10          give rise to the presumption that the sale  
11          is not at wholesale unless the person  
12          rendering the sale is exclusively rendering  
13          services at wholesale.

14          (C) Where any person is engaged in the business of  
15          selling interstate or foreign common carrier  
16          telecommunication services within and without the  
17          State, other than as a home service provider, the  
18          tax shall be imposed on that portion of gross  
19          income received by a person from service which is  
20          originated or terminated in this State and is  
21          charged to a telephone number, customer, or



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

13 (D) Where any person is engaged in the business of a  
14 home service provider, the tax shall be imposed  
15 on the gross income received or derived from  
16 providing interstate or foreign mobile  
17 telecommunications services to a customer with a  
18 place of primary use in this State when such  
19 services originate in one state and terminate in  
20 another state, territory, or foreign country;  
21 provided that all charges for mobile



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

16 (i) Gross receipts from mobile  
17 telecommunications services provided to a  
18 customer with a place of primary use outside  
19 this State;



- 1           (ii) Gross receipts from mobile  
2                   telecommunications services that are subject  
3                   to the tax imposed by chapter 239;  
4           (iii) Gross receipts from mobile  
5                   telecommunications services taxed under  
6                   section 237-13.8; and  
7           (iv) Gross receipts of a home service provider  
8                   acting as a serving carrier providing mobile  
9                   telecommunications services to another home  
10                  service provider's customer.

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

17           (7) Tax on insurance producers. Upon every person engaged  
18                  as a licensed producer pursuant to chapter 431, there  
19                  is hereby levied and shall be assessed and collected a  
20                  tax equal to 0.15 per cent of the commissions due to  
21                  that activity.



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



1           dispensary by the State pursuant to chapter 329D,  
2           there is hereby levied and shall be assessed and  
3           collected a tax equal to           per cent of the gross  
4           proceeds or gross income derived from sales on any  
5           marijuana or manufactured marijuana product dispensed.

6           ~~(9)~~ (10) Tax on other business. Upon every person  
7           engaging or continuing within the State in any  
8           business, trade, activity, occupation, or calling not  
9           included in the preceding paragraphs or any other  
10          provisions of this chapter, there is likewise hereby  
11          levied and shall be assessed and collected, a tax  
12          equal to four per cent of the gross income thereof.  
13          In addition, the rate prescribed by this paragraph  
14          shall apply to a business taxable under one or more of  
15          the preceding paragraphs or other provisions of this  
16          chapter, as to any gross income thereof not taxed  
17          thereunder as gross income or gross proceeds of sales  
18          or by taxing an equivalent value of products, unless  
19          specifically exempted."

20



1 SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) There is established within the state treasury the  
4 medical marijuana registry and regulation special fund. The  
5 fund shall be expended at the discretion of the director of  
6 health:

- 7 (1) To establish and regulate a system of medical  
8 marijuana dispensaries in the State;
- 9 (2) To offset the cost of the processing and issuance of  
10 patient registry identification certificates and  
11 primary caregiver registration certificates;
- 12 (3) To fund positions and operating costs authorized by  
13 the legislature;
- 14 (4) To establish and manage a secure and confidential  
15 database;
- 16 (5) To fund public education as required by  
17 section 329D-26;
- 18 (6) To fund substance abuse prevention and education  
19 programs; [~~and~~]





1 (7) For any other expenditure necessary, consistent with  
2 this chapter and chapter 329D, to implement medical  
3 marijuana registry and regulation programs~~[ ]~~; and

4 (8) For public health and health purposes as specified in  
5 section 329D- .

6 (b) The fund shall consist of all moneys derived from fees  
7 collected pursuant to subsection (c) ~~[and]~~, section 329D-4[ ],  
8 and section 329D- . There is established within the medical  
9 marijuana registry and regulation special fund:

10 (1) A medical marijuana registry program sub-account, into  
11 which shall be deposited all fees collected pursuant  
12 to subsection (c); and

13 (2) A medical marijuana dispensary program sub-account,  
14 into which shall be deposited all fees collected  
15 pursuant to section 329D-4."

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.

21 SECTION 6. This Act shall take effect on July 1, 2090.



**Report Title:**

Marijuana; Use Tax; GET; Special Fund

**Description:**

Amends provisions related to licensed medical marijuana dispensaries by imposing Use Tax on dispensaries gross income and allocating a portion of GET revenues received from dispensaries to the Medical Marijuana Registry and Regulation Special Fund. (HD2 PROPOSED)

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

