
A BILL FOR AN ACT

RELATING TO CANNABIS.

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

1 SECTION 1. The legislature finds that it is high time
2 Hawaii begins to reap the revenue benefits from taxing adult
3 cannabis use. Cannabis can bring agricultural solutions to
4 Hawaii's struggling agrarian communities, where growing and
5 selling established Hawaii-brand cannabis products will result
6 in significant revenue.

7 The legislature further finds that the costs to enforce
8 criminal cannabis possession statutes are substantial and
9 unnecessary. According to the report entitled "The Budgetary
10 Implications of Marijuana Decriminalization and Legalization for
11 Hawai'i," which was originally completed in 2005 by Lawrence W.
12 Boyd, and updated in 2013 by David C. Nixon, state and county
13 law enforcement agencies spent \$9,300,000 annually (in 2011
14 dollars) to enforce simple cannabis possession laws.

15 A 2014 scientific survey of registered voters in the State
16 conducted by Qmark Research found that sixty-six per cent of
17 those surveyed favored legalizing the use of cannabis by adults



1 and regulating and collecting taxes from the sale of cannabis.
2 Numerous states have passed laws legalizing the possession of
3 small amounts of cannabis for adult personal use, including
4 Alaska, California, Colorado, District of Columbia, Maine,
5 Massachusetts, Michigan, Nevada, Oregon, Vermont, and
6 Washington.

7 In the interest of allowing law enforcement agencies to
8 focus on violent and property crimes, generating revenue for
9 education and other public purposes, and protecting individual
10 freedom, the legislature also finds that the use of cannabis
11 must be legal for persons twenty-one years of age or older and
12 subject to a twelve per cent excise tax.

13 Cannabis must be regulated for the health and public safety
14 of Hawaii's citizenry as follows:

- 15 (1) Individuals must show proof of age before purchasing
16 cannabis;
- 17 (2) Selling, distributing, or transferring cannabis to a
18 minor and other individuals under the age of twenty-
19 one must remain illegal;
- 20 (3) Legitimate, taxpaying businesses, and not criminal
21 actors, must conduct sales of cannabis;



1 (4) Cannabis sold in this State must be tested, labeled,
2 and subject to additional regulations to ensure that
3 consumers are informed and protected; and

4 (5) Hemp must be regulated separately from strains of
5 cannabis with higher delta-9 tetrahydrocannabinol
6 concentrations.

7 The legislature declares that it is necessary to ensure
8 consistency and fairness in the application of this chapter
9 throughout the State. Therefore, the matters addressed by this
10 chapter are, except as specified herein, matters of statewide
11 concern.

12 The purpose of this Act is to:

13 (1) Legalize the personal use of cannabis for persons
14 twenty-one years of age or older;

15 (2) Require licensing to operate a cannabis establishment;

16 (3) Subject cannabis establishments to excise taxes; and

17 (4) Decriminalize criminal offenses involving the
18 possession of marijuana by adults.

19 SECTION 2. The Hawaii Revised Statutes is amended by
20 adding a new chapter to be appropriately designated and to read
21 as follows:



1 "CHAPTER

2 RESPONSIBLE ADULT CANNABIS USE

3 § -1 Definitions. As used in this chapter, unless the
4 context otherwise requires:

5 "Cannabis" means all parts of the plant of the genus
6 cannabis, the seeds thereof, the resin extracted from any part
7 of the plant, and every compound, manufacture, salt, derivative,
8 mixture, or preparation of the plant, its seeds, or its resin,
9 including cannabis concentrate. "Cannabis" does not include
10 hemp, nor does it include fiber produced from the stalks, oil or
11 cake made from the seeds of the plant, sterilized seed of the
12 plant which is incapable of germination, or the weight of any
13 other ingredient combined with cannabis to prepare topical or
14 oral administrations, food, drink, or other product.

15 "Cannabis accessories" means any equipment, products, or
16 materials of any kind that are used, intended for use, or
17 designed for use in planting, propagating, cultivating, growing,
18 harvesting, composting, manufacturing, compounding, converting,
19 producing, processing, preparing, testing, analyzing, packaging,
20 repackaging, storing, vaporizing, or containing cannabis, or for



1 ingesting, inhaling, or otherwise introducing cannabis into the
2 human body.

3 "Cannabis cultivation facility" means an entity registered
4 to cultivate, prepare, and package cannabis and sell cannabis to
5 retail cannabis stores, to cannabis product manufacturing
6 facilities, to on-site consumption establishments, and to other
7 cannabis cultivation facilities, but not to consumers.

8 "Cannabis establishment" means a cannabis cultivation
9 facility, an on-site consumption establishment, a cannabis
10 testing facility, a cannabis product manufacturing facility, a
11 cannabis transporter, a retail cannabis store, or any other type
12 of cannabis business authorized and registered by the
13 department.

14 "Cannabis product manufacturing facility" means an entity
15 registered to purchase cannabis and cannabis products from
16 cannabis product manufacturing facilities; manufacture, prepare,
17 and package cannabis products; and sell cannabis and cannabis
18 products to cannabis product manufacturing facilities, on-site
19 consumption establishments, and retail cannabis stores, but not
20 to consumers.



1 "Cannabis products" means concentrated cannabis products
2 and cannabis products that are comprised of cannabis and other
3 ingredients and are intended for use or consumption, such as,
4 but not limited to, edible products, ointments, and tinctures.

5 "Cannabis testing facility" means an entity registered to
6 test cannabis for potency and contaminants.

7 "Cannabis transporter" means an entity registered to
8 transport cannabis between cannabis establishments.

9 "Consumer" means a person twenty-one years of age or older
10 who purchases cannabis or cannabis products for personal use by
11 the person's self or other persons twenty-one years of age or
12 older, but not for resale.

13 "County" means any of the political subdivisions of the
14 State, including the city and county of Honolulu, and the
15 counties of Hawaii, Kauai, and Maui; provided that the county of
16 Maui shall include the county of Kalawao for the purposes of
17 this chapter.

18 "Department" means the department of health, or its
19 successor agency.

20 "Hemp" means the plant of the genus cannabis and any part
21 of the plant, whether growing or not, with a delta-9



1 tetrahydrocannabinol concentration that does not exceed three-
2 tenths per cent on a dry weight basis of any part of the plant
3 or per volume or weight of product, or with a combined
4 concentration of delta-9 tetrahydrocannabinol and
5 tetrahydrocannabinolic acid in any part of the plant that does
6 not exceed three-tenths per cent regardless of moisture content.

7 "Immature cannabis plant" means a cannabis plant that has
8 not flowered and which does not have buds that may be observed
9 by visual examination.

10 "Local regulatory authority" means the office or entity
11 designated by a county to process cannabis establishment
12 applications.

13 "Minor" means any person below the age of twenty-one years.

14 "On-site consumption establishment" means an entity
15 registered to purchase cannabis from cannabis cultivation
16 facilities and cannabis and cannabis products from cannabis
17 product manufacturing facilities and sell cannabis or cannabis
18 products to consumers for on-site consumption.

19 "Possession limit" means:

- 20 (1) One ounce of cannabis in plant form;
21 (2) Five grams of concentrated cannabis;



- 1 (3) Cannabis products containing no more than 500
- 2 milligrams of delta-9 tetrahydrocannabinol;
- 3 (4) Seven cannabis plants; and
- 4 (5) Any additional cannabis produced by an individual's
- 5 lawfully possessed cannabis plants; provided that any
- 6 amount of cannabis in excess of one ounce of cannabis
- 7 shall be possessed in the same secure facility where
- 8 the plants were cultivated.

9 "Public place" means any place to which the general public
10 has access. The term does not include an on-site consumption
11 establishment.

12 "Restricted use pesticide" shall have the same meaning as
13 defined in section 149A-2.

14 "Retail cannabis store" means an entity registered to
15 purchase cannabis from cannabis cultivation facilities and
16 cannabis and cannabis products from cannabis product
17 manufacturing facilities and to sell cannabis and cannabis
18 products to consumers for off-site consumption.

19 "Small local farm" means a farm physically located within
20 the State of Hawaii that has ten acres or less of land and is



1 owned by owners who shall be residents of the State of Hawaii
2 for at least five years.

3 "Unreasonably impracticable" means that the measures
4 necessary to comply with the regulations require such a high
5 investment of risk, money, time, or any other resource or asset
6 that the operation of a cannabis establishment is not worthy of,
7 being carried out in practice by a reasonably prudent
8 businessperson.

9 § -2 **Personal use of cannabis.** (a) Notwithstanding any
10 other state law to the contrary, the following acts shall
11 neither be a criminal offense under state law nor a basis for
12 seizure or forfeiture of assets under state law for persons
13 twenty-one years of age or older:

- 14 (1) Possessing, consuming, growing, using, processing,
15 purchasing, or transporting an amount of cannabis that
16 does not exceed the possession limit;
- 17 (2) Transferring an amount of cannabis that does not
18 exceed the possession limit to a person who is twenty-
19 one years of age or older without remuneration;
- 20 (3) Controlling property where actions described by this
21 subsection occur; and



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

4 (b) Notwithstanding any other provision of law, unless
5 there is a specific finding that an individual parolee or
6 probationer's use of cannabis could create a danger to the
7 individual or other persons, it shall not be a violation of
8 conditions of parole or probation to:

9 (1) Engage in conduct allowed by subsection (a); or

10 (2) Test positive for cannabis, delta-9

11 tetrahydrocannabinol, or any other cannabinoid.

12 **§ -3 Resentencing for marijuana offenders; expungement.**

13 (a) A person convicted for an offense under chapter 329 or
14 under part IV of chapter 712 the basis of which is an act
15 permitted by this chapter shall have the right to petition the
16 court for review and adjustment of the sentence.

17 (b) Upon written application from a person arrested for or
18 charged with an offense the basis of which is an act permitted
19 by this chapter, the attorney general, or the attorney general's
20 duly authorized representative within the department of the
21 attorney general, shall issue an expungement order annulling,



1 canceling, and rescinding the record of arrest for that
2 particular offense.

3 (c) Upon written application from a person convicted of an
4 offense the basis of which is an act permitted by this chapter,
5 the court shall issue a court order to expunge the record of
6 conviction for that particular offense.

7 § -4 Decriminalization; drug awareness programs; minors;
8 fees. Notwithstanding any other law to the contrary, possession
9 of one ounce or less of cannabis by a minor shall be a civil
10 violation punishable by forfeiture of the cannabis and
11 completion of up to four hours of instruction in a drug
12 awareness program. The minor and the parents or legal guardians
13 if the minor is under the age of eighteen shall be notified of
14 the offense and available drug awareness programs, which shall
15 be established by the department. The department shall set fees
16 which shall not exceed \$100 for the program sufficient to cover
17 costs of administering the program. If a minor fails to
18 complete a drug awareness program within one year of notice of
19 the offense and available program, a court may impose a civil
20 penalty of not more than \$150, not more than forty hours of
21 community service, or both.



1 § -5 **Restricted use pesticides; prohibited.** No cannabis
2 cultivation facility or cannabis product manufacturing facility
3 shall apply restricted use pesticides on cannabis plants or
4 cannabis products to be sold within the State.

5 § -6 **False identification; penalty.** (a) A minor shall
6 not present or offer to a cannabis establishment or the cannabis
7 establishment's agent or employee any written or oral evidence
8 of age that is false, fraudulent, or not actually the minor's
9 own, for the purposes of:

- 10 (1) Purchasing, attempting to purchase, or otherwise
- 11 procuring or attempting to procure cannabis; or
- 12 (2) Gaining access to a cannabis establishment.

13 (b) Any minor who violates this section is guilty of a
14 civil violation punishable by a fine of not more than \$150 or
15 not more than fifteen hours of community service.

16 § -7 **Cannabis accessories; authorized.** (a)
17 Notwithstanding any other provision of law, it is not unlawful
18 and shall not be an offense under state law or be a basis for
19 seizure or forfeiture of assets under state law for persons
20 twenty-one years of age or older to manufacture, possess, or
21 purchase cannabis accessories, or to distribute or sell cannabis



1 accessories to any person who is twenty-one years of age or
2 older.

3 (b) A person who is twenty-one years of age or older is
4 authorized to manufacture, possess, and purchase cannabis
5 accessories, and to distribute or sell cannabis accessories to
6 any person who is twenty-one years of age or older.

7 § -8 Lawful operation of cannabis-related facilities.

8 (a) Notwithstanding any other state law to the contrary, the
9 following acts shall neither be a criminal offense under state
10 law nor a basis for seizure or forfeiture of assets under state
11 law for persons twenty-one years of age or older:

12 (1) Manufacture, sale, purchase, or possession of cannabis
13 accessories; and

14 (2) Leasing or otherwise allowing the use of property
15 owned, occupied, or controlled by any person,
16 corporation, or other entity for any of the activities
17 described in this section.

18 (b) Notwithstanding any other provision of law, the
19 following acts, when performed by a retail cannabis store with a
20 current, valid registration, or a person twenty-one years of age
21 or older who is acting in the person's capacity as an owner,



1 employee, or agent of a retail cannabis store, are not unlawful
2 and shall not be an offense under state law or be a basis for
3 seizure or forfeiture of assets under state law:

- 4 (1) Possessing, displaying, storing, or transporting
5 cannabis or cannabis products;
- 6 (2) Purchasing cannabis from a cannabis cultivation
7 facility;
- 8 (3) Purchasing cannabis or cannabis products from a
9 cannabis product manufacturing facility or cannabis
10 transporter;
- 11 (4) Transferring cannabis or cannabis products to a
12 cannabis testing facility;
- 13 (5) Distributing or selling cannabis or cannabis products
14 to retail cannabis stores; and
- 15 (6) Delivering, distributing, transferring, or selling
16 cannabis or cannabis products to consumers. For
17 purposes of this paragraph, "delivering" shall mean
18 the transporting of cannabis, cannabis products, and
19 cannabis accessories to a consumer.

20 (c) Notwithstanding any other provision of law, the
21 following acts, when performed by an on-site consumption



1 establishment with a current, valid registration, or a person
2 twenty-one years of age or older who is acting in the person's
3 capacity as an owner, employee, or agent of an on-site
4 consumption establishment, are not unlawful and shall not be an
5 offense under state law or be a basis for seizure or forfeiture
6 of assets under state law:

- 7 (1) Possessing, displaying, storing, or transporting
8 cannabis or cannabis products;
- 9 (2) Purchasing cannabis from a cannabis cultivation
10 facility;
- 11 (3) Purchasing cannabis or cannabis products from a
12 cannabis product manufacturing facility or cannabis
13 transporter;
- 14 (4) Transferring cannabis or cannabis products to a
15 cannabis testing facility; and
- 16 (5) Distributing, transferring, or selling cannabis or
17 cannabis products to consumers or on-site consumption
18 establishments.

19 (d) Notwithstanding any other provision of law, the
20 following acts, when performed by a cannabis cultivation
21 facility with a current, valid registration, or a person twenty-



1 one years of age or older who is acting in the person's capacity
2 as an owner, employee, or agent of a cannabis cultivation
3 facility, are not unlawful and shall not be an offense under
4 state law or be a basis for seizure or forfeiture of assets
5 under state law:

6 (1) Cultivating, harvesting, processing, packaging,
7 transporting, displaying, storing, or possessing
8 cannabis;

9 (2) Transferring cannabis to a cannabis testing facility;

10 (3) Transferring, distributing, or selling cannabis to a
11 cannabis cultivation facility, cannabis product
12 manufacturing facility, cannabis transporter, on-site
13 consumption establishment, or retail cannabis store;

14 (4) Purchasing cannabis from a cannabis cultivation
15 facility or a cannabis transporter; and

16 (5) Receiving cannabis seeds or immature cannabis plants
17 from a person twenty-one years of age or older.

18 (e) Notwithstanding any other provision of law, the
19 following acts, when performed by a cannabis product
20 manufacturing facility with a current, valid registration, or a
21 person twenty-one years of age or older who is acting in the



1 person's capacity as an owner, employee, or agent of a cannabis
2 product manufacturing facility, are not unlawful and shall not
3 be an offense under state law or be a basis for seizure or
4 forfeiture of assets under state law:

5 (1) Packaging, processing, transporting, manufacturing,
6 displaying, or possessing cannabis or cannabis
7 products;

8 (2) Transferring cannabis or cannabis products to a
9 cannabis testing facility;

10 (3) Transferring, distributing, or selling cannabis or
11 cannabis products to a retail cannabis store, on-site
12 consumption establishment, cannabis transporter, or
13 cannabis product manufacturing facility;

14 (4) Purchasing cannabis from a cannabis cultivation
15 facility; and

16 (5) Purchasing cannabis or cannabis products from a
17 cannabis product manufacturing facility or a cannabis
18 transporter.

19 (f) Notwithstanding any other provision of law, the
20 following acts, when performed by a cannabis testing facility
21 with a current, valid registration, or a person twenty-one years



1 of age or older who is acting in the person's capacity as an
2 owner, employee, or agent of a cannabis testing facility, are
3 not unlawful and shall not be an offense under state law or be a
4 basis for seizure or forfeiture of assets under state law:

5 (1) Possessing, cultivating, processing, repackaging,
6 storing, transporting, or displaying cannabis or
7 cannabis products;

8 (2) Receiving cannabis or cannabis products from a
9 cannabis establishment or a person twenty-one years of
10 age or older; and

11 (3) Returning cannabis or cannabis products to a cannabis
12 establishment or a person twenty-one years of age or
13 older.

14 (g) Notwithstanding any other provision of law, the
15 following acts, when performed by a cannabis transporter with a
16 current, valid registration, or a person twenty-one years of age
17 or older who is acting in the person's capacity as an owner,
18 employee, or agent of a cannabis transporter, are not unlawful
19 and shall not be an offense under state law or be a basis for
20 seizure or forfeiture of assets under state law:



- 1 (1) Purchasing cannabis or cannabis products from a
- 2 cannabis establishment;
- 3 (2) Possessing, storing, or transporting cannabis or
- 4 cannabis products; and
- 5 (3) Distributing, selling, or transferring cannabis or
- 6 cannabis products to a cannabis establishment.

7 (h) Notwithstanding any other provision of law, engaging in

8 any activities involving cannabis or cannabis products, when

9 performed by a cannabis establishment with a current, valid

10 registration, or a person twenty-one years of age or older who

11 is acting in the person's capacity as an owner, employee, or

12 agent of a cannabis establishment, is not unlawful and shall not

13 be an offense under state law or be a basis for seizure or

14 forfeiture of assets under state law, if the activities are

15 within the scope of activities allowed for that type of cannabis

16 establishment.

17 § -9 **Medical cannabis provision unaffected.** Nothing in

18 this chapter shall be construed to affect the medical use of

19 cannabis or limit any privileges or rights as provided in part

20 IX of chapter 329.



1 § -10 **Priority licensing for medical cannabis**
2 **businesses.** Medical cannabis dispensaries shall be allowed to
3 register as a retail cannabis store and operate for one year
4 before other applicants are able to receive registrations. Any
5 person twenty-one years of age or older who meets the employee
6 requirements of chapter 329D may apply to be a grower at a
7 medical cannabis dispensary to ensure an adequate supply.
8 Cannabis testing facilities are to be licensed immediately to
9 test all batches of cannabis.

10 § -11 **Administrative rules.** (a) Not later than one
11 hundred eighty days after the effective date of this Act, the
12 department shall adopt rules necessary for implementation of
13 this chapter; provided that the rules shall not prohibit the
14 operation of cannabis establishments, either expressly or
15 through regulations that make their operation unreasonably
16 impracticable. The rules may include:

17 (1) Procedures for the issuance, renewal, suspension, and
18 revocation of a registration to operate a cannabis
19 establishment; provided that the procedures shall be
20 subject to all requirements of chapter 91;



- 1 (2) A schedule of reasonable application, registration,
2 and renewal fees; provided that application fees shall
3 not exceed \$5,000; provided further that this upper
4 limit shall be adjusted annually for inflation;
- 5 (3) Qualifications for registration that are directly and
6 demonstrably related to the operation of a cannabis
7 establishment and which shall not disqualify
8 applicants solely for arrest or conviction for
9 cannabis offenses prior to the effective date of this
10 Act;
- 11 (4) Security requirements including lighting, physical
12 security, video, and alarm requirements;
- 13 (5) Requirements for the transportation and storage of
14 cannabis and cannabis products by cannabis
15 establishments;
- 16 (6) Requirements for the delivery of cannabis and cannabis
17 products to consumers, including a prohibition on
18 delivering to any address located on land owned by the
19 federal government or any address on land or in a
20 building leased by the federal government;



- 1 (7) Employment and training requirements, including
2 requiring that each cannabis establishment create an
3 identification badge for each employee or agent;
4 provided that these requirements shall not disqualify
5 applicants solely for arrest or conviction for
6 cannabis offenses prior to the effective date of this
7 Act;
- 8 (8) Requirements designed to prevent the sale or diversion
9 of cannabis and cannabis products to minors;
- 10 (9) Standards for cannabis product manufacturers to
11 determine the amount of cannabis that is the
12 equivalent of cannabis products;
- 13 (10) Requirements for cannabis and cannabis products sold
14 or distributed by a cannabis establishment, including
15 prohibition of any misleading labeling and
16 requirements that cannabis product labels include the
17 following:
- 18 (A) The length of time it typically takes for a
19 product to take effect;
- 20 (B) The ingredients and possible allergens;
- 21 (C) A nutritional fact panel;



- 1 (D) Opaque, child resistant packaging, which shall be
2 designed or constructed to be significantly
3 difficult for children under five years of age to
4 open and not difficult for normal adults to use
5 properly as prescribed by title 16 Code of
6 Federal Regulations section 1700.20; and
7 (E) When practicable, a clearly identifiable,
8 standard symbol indicating that an edible
9 cannabis product contains cannabis;
- 10 (11) Health and safety regulations and standards for the
11 manufacture of cannabis products and both the indoor
12 and outdoor cultivation of cannabis by cannabis
13 establishments;
- 14 (12) Restrictions on advertising, marketing, and signage
15 including but not limited to a prohibition on mass-
16 market campaigns that have a high likelihood of
17 reaching minors;
- 18 (13) Regulations to create at least three tiers of
19 cultivation facilities, based on the size of the
20 facility or the number of plants cultivated; provided



- 1 that security regulations and licensing fees shall
2 vary based on the size of the cultivation facility;
- 3 (14) Restrictions on the display of cannabis and cannabis
4 products, including to ensure that cannabis and
5 cannabis products shall not be displayed in a manner
6 that is visible to the general public from a public
7 right-of-way;
- 8 (15) Restrictions or prohibitions on additives to cannabis
9 and cannabis products, including but not limited to
10 those that are toxic or designed to make the product
11 more addictive;
- 12 (16) Prohibitions on products that are designed to make the
13 product more appealing to children, including
14 prohibiting the use of any images designed or likely
15 to appeal to minors such as cartoons, toys, animals,
16 or children; and any other likeness of images,
17 characters, or phrases that are popularly used to
18 advertise to children;
- 19 (17) Restrictions preventing the production and sale of
20 cannabis products that are not reasonably detectable
21 to consumers, including prohibiting tasteless powders;



- 1 (18) Regulations governing visits to cultivation facilities
2 and product manufacturers, including requiring these
3 cannabis establishments to log visitors;
- 4 (19) A definition of the amount of delta-9
5 tetrahydrocannabinol that constitutes a single serving
6 in a cannabis product;
- 7 (20) Standards for the safe manufacture of cannabis
8 extracts and concentrates;
- 9 (21) Requirements that educational materials be
10 disseminated to consumers who purchase cannabis or
11 cannabis products;
- 12 (22) Requirements for random sample testing to ensure
13 quality control, including by ensuring that cannabis
14 and cannabis products are accurately labeled for
15 potency; provided that the testing analysis shall
16 include testing for residual solvents, poisons, or
17 toxins; harmful chemicals; dangerous molds or mildew;
18 filth; harmful microbials such as E. Coli or
19 salmonella; and pesticides;



- 1 (23) Standards for the operation of cannabis testing
- 2 facilities, including requirements for equipment and
- 3 qualifications for personnel;
- 4 (24) Civil penalties for the failure to comply with rules
- 5 adopted pursuant to this chapter;
- 6 (25) Procedures for collecting taxes levied on cannabis
- 7 establishments; and
- 8 (26) Requirements for on-site consumption establishments,
- 9 including for security, ventilation, odor control, and
- 10 consumption by patrons; provided that these rules may
- 11 include a prohibition on smoking indoors.

12 (b) In order to ensure that individual privacy is

13 protected, the department shall not require a consumer to

14 provide a retail cannabis store or on-site consumption

15 establishment with personal information other than government-

16 issued identification to determine the consumer's age, and a

17 retail cannabis store or on-site consumption establishment shall

18 not be required to acquire and record personal information about

19 consumers.

20 § -12 Cannabis establishment registrations. (a) Each

21 application or renewal application for an annual registration to



1 operate a cannabis establishment shall be submitted to the
2 department. The application shall include supporting
3 documentation to establish the following:

4 (1) That the individual applicant has been a legal
5 resident of the State for not less than five years
6 preceding the date of application; and

7 (2) That the applying entity is not less than sixty-five
8 per cent held by Hawaii legal residents or entities
9 wholly controlled by Hawaii legal residents who have
10 been Hawaii legal residents for not less than five
11 years immediately preceding the date the application
12 was submitted.

13 A renewal application may be submitted up to ninety days prior
14 to the expiration of the cannabis establishment's registration.

15 (b) The department shall begin accepting and processing
16 applications to operate cannabis establishments one year after
17 the effective date of this Act.

18 (c) Upon receiving an application or renewal application
19 for a cannabis establishment, the department shall immediately
20 forward a copy of each application and half of the registration
21 application fee to the local regulatory authority for the county



1 in which the applicant desires to operate the cannabis
2 establishment, unless the county has not designated a local
3 regulatory authority.

4 (d) Within one hundred twenty days after receiving an
5 application or renewal application, the department shall issue
6 an annual registration to the applicant, unless the department
7 finds the applicant is not in compliance with this chapter or
8 any rules adopted pursuant to this chapter in effect at the time
9 of application.

10 (e) Upon denial of an application, the department shall
11 notify the applicant in writing of the specific reason for its
12 denial within two weeks.

13 (f) Every cannabis establishment registration shall
14 specify the location where the cannabis establishment will
15 operate. A separate registration shall be required for each
16 location at which a cannabis establishment operates.

17 (g) Cannabis establishments and the books and records
18 maintained and created by cannabis establishments are subject to
19 inspection by the department.

20 § -13 Construction; employers; driving; minors; control
21 of property. Nothing in this chapter shall be construed to:



- 1 (1) Require an employer to permit or accommodate conduct
2 otherwise allowed by this chapter in any workplace or
3 on the employer's property;
- 4 (2) Prohibit an employer from disciplining an employee for
5 violation of a workplace drug policy or for working
6 while under the influence of cannabis;
- 7 (3) Prevent an employer from refusing to hire,
8 discharging, disciplining, or otherwise taking an
9 adverse employment action against a person with
10 respect to hire, tenure, terms, conditions, or
11 privileges of employment because of that person's
12 violation of a workplace drug policy or because that
13 person was working while under the influence of
14 cannabis;
- 15 (4) Supersede any law relating to driving under the
16 influence of cannabis or driving while impaired by
17 cannabis;
- 18 (5) Permit the transfer of cannabis, with or without
19 remuneration, to a minor or to allow a minor to
20 purchase, possess, use, transport, grow, or consume
21 cannabis; or



- 1 (6) Require any person, corporation, or any other entity
2 that occupies, owns, or controls real property to
3 allow the consumption, cultivation, display, sale, or
4 transfer of cannabis on or in that property; provided
5 that in the case of the rental of a residential
6 dwelling, a landlord shall not prohibit the possession
7 of cannabis or the consumption of cannabis that is not
8 inhaled, unless:
- 9 (A) The tenant is not leasing the entire residential
10 dwelling;
- 11 (B) The residence is incidental to detention or the
12 provision of medical, geriatric, educational,
13 counseling, religious, or similar service;
- 14 (C) The residence is a transitional housing facility;
15 or
- 16 (D) Failing to prohibit cannabis possession or
17 consumption would violate federal law or
18 regulations or cause the landlord to lose a
19 monetary or licensing-related benefit under
20 federal law or regulations.



1 § -14 **Contracts enforceable; public policy.** It is the
2 public policy of this State that:

3 (1) Contracts related to the operation of a cannabis
4 establishment registered pursuant to this chapter
5 shall be enforceable; and

6 (2) No contract entered into by a registered cannabis
7 establishment or its employees or agents as permitted
8 pursuant to a valid registration, or by those who
9 allow property to be used by a cannabis establishment,
10 its employees, or its agents as permitted pursuant to
11 a valid registration, shall be unenforceable on the
12 basis that cultivating, obtaining, manufacturing,
13 distributing, dispensing, transporting, selling,
14 possessing, or using cannabis or hemp is prohibited by
15 federal law.

16 § -15 **Interisland transportation of cannabis by a**
17 **consumer or owner, employee, or agent of a cannabis**
18 **establishment.** In addition to the transport permitted under
19 this chapter, a consumer or owner, employee, or agent of a
20 cannabis establishment may transport cannabis or cannabis



1 products between the islands of the State, in a manner and
2 amount prescribed by rules adopted pursuant to chapter 91 by:

3 (1) The department; and

4 (2) The department of transportation under section 261- ,
5 and with the understanding that state law and its protections do
6 not apply outside of the jurisdictional limits of the State.

7 § -16 Respecting state law. (a) No law enforcement
8 officer employed by an agency that receives state or local
9 government funds shall expend any state or local resources,
10 including the officer's time, to:

11 (1) Effect any arrest or seizure of cannabis, or conduct
12 any investigation, on the sole basis of activity the
13 officer believes to constitute a violation of federal
14 law if the officer has reason to believe that the
15 activity is in compliance with this chapter; or

16 (2) Provide any information or logistical support related
17 to the activity to any federal law enforcement
18 authority or prosecuting entity.

19 (b) No agency or political subdivision of the State may
20 rely on a violation of federal law as the sole basis for taking
21 an adverse action against a person providing professional



1 services to a cannabis establishment if the person has not
2 violated state laws.

3 § -17 **Deposit of fees and fines.** All fees and fines
4 collected by the department pursuant to this chapter or any
5 administrative rules adopted thereunder shall be deposited in
6 the cannabis regulation special fund pursuant to section 321- .

7 § -18 **Excise tax on cannabis.** (a) There shall be an
8 excise tax imposed, in addition to any other taxes permitted by
9 law, on proceeds from the sale or transfer of cannabis from a
10 cannabis cultivation facility to a retail cannabis store, on-
11 site consumption establishment, or cannabis product
12 manufacturing facility at the rate of twelve per cent.

13 (b) Any cannabis cultivation facility that has become
14 liable for the payment of an excise tax under this section
15 during the preceding calendar month for the transfer or sale of
16 cannabis shall pay the excise tax on or before the twentieth day
17 of each calendar month.

18 § -19 **Apportionment of revenue.** Revenues generated in
19 excess of the amount needed to implement and enforce this
20 chapter by the cannabis excise tax shall be distributed every
21 three months as follows:



1 (1) Fifty per cent shall be distributed to the counties
2 proportionally, based on the percentage of cannabis
3 sales within the county compared to statewide sale;
4 provided that this revenue shall be earmarked for
5 infrastructure projects within each county; and

6 (2) Fifty per cent shall be used to distribute grants to
7 help develop small local farms.

8 § -20 Severability; conflicting provisions. (a) If any
9 provision of this chapter, or the application thereof to any
10 person or circumstance, is held invalid, the invalidity does not
11 affect other provisions or applications of the chapter that can
12 be given effect without the invalid provision or application,
13 and to this end the provisions of this chapter are severable.

14 (b) Except where otherwise indicated in this chapter, this
15 chapter shall supersede conflicting state statutes; local
16 charters, ordinances, or resolutions; and other state or local
17 provisions."

18 SECTION 3. Chapter 261, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

1 "§261- Interisland transportation of cannabis; rules.

2 (a) The department shall adopt rules, pursuant to chapter 91,
3 regarding the interisland transportation of cannabis and useable
4 cannabis for purposes of medical use of cannabis. For purposes
5 of this subsection, "cannabis", "medical use", and "useable
6 cannabis" shall be as defined in section 329-121.

7 (b) The department shall adopt rules, pursuant to chapter
8 91, regarding the interisland transportation of cannabis or any
9 cannabis product for purposes other than medical use. For
10 purposes of this subsection, "cannabis" and "cannabis product"
11 shall be as defined in section -1."

12 SECTION 4. Chapter 321, Hawaii Revised Statutes, is
13 amended by adding a new section to part I to be appropriately
14 designated and to read as follows:

15 "§321- Cannabis regulation special fund; established.

16 (a) There is established within the state treasury the cannabis
17 regulation special fund. The department of health shall
18 administer the fund for auditing purposes. The fund shall be
19 expended at the discretion of the director of health:

20 (1) To establish and regulate a system of cannabis
21 establishments in the State;



1 (2) To fund positions and operating costs authorized by
2 the legislature; and

3 (3) For any other expenditure necessary, consistent with
4 this chapter and chapter .

5 (b) The fund shall consist of all moneys derived from fees
6 and fines collected under this chapter.

7 (c) Moneys on balance in the cannabis regulation special
8 fund at the close of each fiscal year shall remain in that fund
9 and shall not lapse to the credit of the general fund."

10 SECTION 5. Chapter 329, Hawaii Revised Statutes, is
11 amended by adding a new section to part IX to be appropriately
12 designated and to read as follows:

13 "§329- Interisland transportation of cannabis by a
14 qualifying patient, primary caregiver, qualifying out-of-state
15 patient, or caregiver of a qualifying out-of-state patient. In
16 addition to the transport permitted under section 329-122, a
17 qualifying patient, primary caregiver, qualifying out-of-state
18 patient, or caregiver of a qualifying out-of-state patient may
19 transport cannabis, usable cannabis, or manufactured cannabis
20 products between the islands of the State, in a manner and
21 amount prescribed by rules adopted pursuant to chapter 91 by:



1 (1) The department; and

2 (2) The department of transportation under section 261- ,
3 and with the understanding that state law and its protections do
4 not apply outside of the jurisdictional limits of the State."

5 SECTION 6. Section 291E-61, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) A person commits the offense of operating a vehicle
8 under the influence of an intoxicant if the person operates or
9 assumes actual physical control of a vehicle:

10 (1) While under the influence of alcohol in an amount
11 sufficient to impair the person's normal mental
12 faculties or ability to care for the person and guard
13 against casualty;

14 (2) While under the influence of any drug that impairs the
15 person's ability to operate the vehicle in a careful
16 and prudent manner[~~7~~], unless the person only has an
17 inactive tetrahydrocannabinol metabolite in the
18 person's system;

19 (3) With .08 or more grams of alcohol per two hundred ten
20 liters of breath; or



1 (4) With .08 or more grams of alcohol per one hundred
2 milliliters or cubic centimeters of blood."

3 SECTION 7. Section 291E-61.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) A person commits the offense of habitually operating
6 a vehicle under the influence of an intoxicant if:

7 (1) The person is a habitual operator of a vehicle while
8 under the influence of an intoxicant; and

9 (2) The person operates or assumes actual physical control
10 of a vehicle:

11 (A) While under the influence of alcohol in an amount
12 sufficient to impair the person's normal mental
13 faculties or ability to care for the person and
14 guard against casualty;

15 (B) While under the influence of any drug that
16 impairs the person's ability to operate the
17 vehicle in a careful and prudent manner [7],
18 unless the person only has an inactive
19 tetrahydrocannabinol metabolite in the person's
20 system;



1 (C) With .08 or more grams of alcohol per two hundred
2 ten liters of breath; or

3 (D) With .08 or more grams of alcohol per one hundred
4 milliliters or cubic centimeters of blood."

5 SECTION 8. Section 329-43.5, Hawaii Revised Statutes, is
6 amended by amending subsections (a) and (b) to read as follows:

7 "(a) Except as provided in chapter and subsection (e),
8 it is unlawful for any person to use, or to possess with intent
9 to use, drug paraphernalia to plant, propagate, cultivate, grow,
10 harvest, manufacture, compound, convert, produce, process,
11 prepare, test, analyze, pack, repack, store, contain, conceal,
12 inject, ingest, inhale, or otherwise introduce into the human
13 body a controlled substance in violation of this chapter. A
14 violation of this subsection shall constitute a violation
15 subject to a fine of no more than \$500.

16 (b) Except as provided in chapter and subsection (e),
17 it is unlawful for any person to deliver, possess with intent to
18 deliver, or manufacture with intent to deliver drug
19 paraphernalia, knowing or under circumstances where ~~[one]~~ the
20 person reasonably should know, that it will be used to plant,
21 propagate, cultivate, grow, harvest, manufacture, compound,



1 convert, produce, process, prepare, test, analyze, pack, repack,
2 store, contain, conceal, inject, ingest, inhale, or otherwise
3 introduce into the human body a controlled substance in
4 violation of this chapter. A violation of this subsection shall
5 constitute a violation subject to a fine of no more than \$500."

6 SECTION 9. Section 329-122, Hawaii Revised Statutes, is
7 amended by amending subsection (f) to read as follows:

8 "(f) For the purposes of this section, "transport" means
9 the transportation of cannabis, usable cannabis, or any
10 manufactured cannabis product between:

- 11 (1) A qualifying patient and the qualifying patient's
12 primary caregiver;
- 13 (2) A qualifying out-of-state patient under eighteen years
14 of age and the caregiver of a qualifying out-of-state
15 patient;
- 16 (3) The production centers and the retail dispensing
17 locations under a dispensary licensee's license; or
- 18 (4) A production center, retail dispensing location,
19 qualifying patient, primary caregiver, qualifying out-
20 of-state patient, or caregiver of a qualifying out-of-
21 state patient and a certified laboratory for the



1 purpose of laboratory testing; provided that a
2 qualifying patient, primary caregiver, qualifying out-
3 of-state patient, or caregiver of a qualifying out-of-
4 state patient may only transport up to one gram of
5 cannabis per test to a certified laboratory for
6 laboratory testing and may only transport the product
7 if the qualifying patient, primary caregiver,
8 qualifying out-of-state patient, or caregiver of a
9 qualifying out-of-state patient:

10 (A) Secures an appointment for testing at a certified
11 laboratory;

12 (B) Obtains confirmation, which may be electronic,
13 that includes the specific time and date of the
14 appointment and a detailed description of the
15 product and amount to be transported to the
16 certified laboratory for the appointment; and

17 (C) Has the confirmation, which may be electronic,
18 available during transport.

19 For purposes of interisland transportation, "transport" of
20 cannabis, usable cannabis, or any manufactured cannabis product,
21 by any means is allowable only between a production center or



1 retail dispensing location and a certified laboratory for the
2 sole purpose of laboratory testing pursuant to section 329D-8,
3 as permitted under section 329D-6(m) and subject to section
4 329D-6(j), or as provided in section 329- , and with the
5 understanding that state law and its protections do not apply
6 outside of the jurisdictional limits of the State. Allowable
7 ~~[transport pursuant to this section does not include]~~
8 interisland transportation by any means or for any purpose
9 between a ~~[qualified]~~ qualifying patient, primary caregiver,
10 qualifying out-of-state patient, or caregiver of a qualifying
11 out-of-state patient and any other entity or individual,
12 including an individual who is a ~~[qualified]~~ qualifying patient,
13 primary caregiver, qualifying out-of-state patient, or caregiver
14 of a qualifying out-of-state patient ~~[-]~~ shall be as provided
15 pursuant to section 329- ."

16 SECTION 10. Section 712-1240, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending the definition of "detrimental drug" to
19 read:



1 ""Detrimental drug" means any substance or immediate
2 precursor defined or specified as a "Schedule V substance" by
3 chapter 329 [~~, or any marijuana~~]."

4 2. By amending the definition of "marijuana concentrate"
5 to read:

6 ""Marijuana concentrate" means hashish,
7 tetrahydrocannabinol, or any alkaloid, salt, derivative,
8 preparation, compound, or mixture, whether natural or
9 synthesized, of tetrahydrocannabinol. "Marijuana concentrate"
10 does not include cannabis products as defined under section -

11 1."

12 SECTION 11. Section 712-1240.1, Hawaii Revised Statutes,
13 is amended by amending subsection (2) to read as follows:

14 "(2) It is an affirmative defense to prosecution for any
15 marijuana-related offense defined in this part that the person
16 who possessed or distributed the marijuana was authorized to
17 possess or distribute the marijuana for medical purposes or for
18 personal use pursuant to part IX of chapter 329 [-] and chapter
19 _____."

20 SECTION 12. Section 712-1247, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:



- 1 "(1) A person commits the offense of promoting a
2 detrimental drug in the first degree if the person knowingly:
- 3 (a) Possesses four hundred or more capsules or tablets
4 containing one or more of the Schedule V substances;
- 5 (b) Possesses one or more preparations, compounds,
6 mixtures, or substances of an aggregate weight of one
7 ounce or more, containing one or more of the Schedule
8 V substances;
- 9 (c) Distributes fifty or more capsules or tablets
10 containing one or more of the Schedule V substances;
- 11 (d) Distributes one or more preparations, compounds,
12 mixtures, or substances of an aggregate weight of one-
13 eighth ounce or more, containing one or more of the
14 Schedule V substances;
- 15 ~~[(e) Possesses one or more preparations, compounds,
16 mixtures, or substances of an aggregate weight of one
17 pound or more, containing any marijuana,~~
- 18 ~~+(f)]~~ (e) Distributes one or more preparations, compounds,
19 mixtures, or substances of an aggregate weight of one
20 ounce or more, containing any marijuana;



1 ~~[(g)]~~ (f) Possesses, cultivates, or has under the person's
2 control twenty-five or more marijuana plants; or
3 ~~[(h)]~~ (g) Sells or barter any marijuana or any Schedule V
4 substance in any amount."

5 SECTION 13. Section 712-1248, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) A person commits the offense of promoting a
8 detrimental drug in the second degree if the person knowingly:

9 (a) Possesses fifty or more capsules or tablets containing
10 one or more of the Schedule V substances;

11 (b) Possesses one or more preparations, compounds,
12 mixtures, or substances, of an aggregate weight of
13 one-eighth ounce or more, containing one or more of
14 the Schedule V substances; or

15 ~~[(e) Possesses one or more preparations, compounds,~~
16 ~~mixtures, or substances, of an aggregate weight of one~~
17 ~~ounce or more, containing any marijuana; or~~

18 ~~[(d)]~~ (c) Distributes any marijuana or any Schedule V
19 substance in any amount."

20 SECTION 14. Section 712-1249, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:



1 "(1) A person commits the offense of promoting a
2 detrimental drug in the third degree if the person knowingly
3 possesses [~~any marijuana or~~] any Schedule V substance in any
4 amount."

5 SECTION 15. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so much
7 thereof as may be necessary for fiscal year 2019-2020 for
8 deposit into the cannabis regulation special fund established
9 under section 3 of this Act.

10 SECTION 16. There is appropriated out of the cannabis
11 regulation special fund the sum of \$ or so much thereof
12 as may be necessary for fiscal year 2019-2020 for the regulation
13 of cannabis in the State.

14 The sum appropriated shall be expended by the department of
15 health for the purposes of this Act.

16 SECTION 17. The department of health shall reimburse the
17 general fund for the appropriation made under section 12 to the
18 cannabis regulation special fund established under section 3 of
19 this Act using the proceeds in the special fund.

20 SECTION 18. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



H.B. NO. 1581

1 SECTION 19. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Tim Winkler

Amy Peruso

Sam Finn

[Signature]

Lyn de Cabo

Nicole E. L...

Bob Kasper

[Signature]

S. Weil

[Signature]

JAN 24 2019



H.B. NO. 1581

Report Title:

Cannabis; Legalization; Decriminalization

Description:

Legalizes the personal use of cannabis for persons twenty-one years of age or older. Requires licensing to operate cannabis establishments. Subjects cannabis establishment to excise taxes. Authorizes the interisland transportation of cannabis. Decriminalizes possession of cannabis. Appropriates funds.

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