

---

---

## A BILL FOR AN ACT

RELATING TO CANNABIS.

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

1           SECTION 1. The legal history of cannabis or marijuana in  
2 the United States primarily addresses the regulation of cannabis  
3 for medical use, and secondarily the use of cannabis for  
4 personal or recreational purposes. By the mid-1930s, cannabis  
5 was regulated as a drug in every state, including thirty-five  
6 states that adopted the Uniform State Narcotic Drug Act, which  
7 was subsequently replaced in 1970 with the federal Uniform  
8 Controlled Substances Act. Under the federal Uniform Controlled  
9 Substances Act, marijuana and tetrahydrocannabinol are  
10 classified as schedule I controlled substances.

11           Notwithstanding the prospect of federal prosecution,  
12 several states, including Hawaii, enacted medical cannabis laws.  
13 Chapter 329, part IX, Hawaii Revised Statutes, was enacted to  
14 create a medical use of cannabis exemption from criminal  
15 sanctions. Other jurisdictions, such as Alaska, Arizona,  
16 Arkansas, California, Colorado, Connecticut, Delaware, District  
17 of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan,



1 Minnesota, Montana, Nevada, New Hampshire, New Jersey, New  
2 Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania,  
3 Rhode Island, Vermont, and Washington, also allow the use of  
4 cannabis for medicinal purposes. Furthermore, chapter 329D,  
5 Hawaii Revised Statutes, was enacted to establish medical  
6 cannabis dispensaries authorized to operate beginning in July  
7 2016. As Hawaii expands its medical cannabis program through  
8 the use of highly regulated and monitored dispensaries, more  
9 patients are anticipated to consider medical cannabis as a  
10 viable treatment, knowing that the medicine will be regulated  
11 and tested.

12 In addition to medical cannabis laws, some states legalized  
13 or decriminalized cannabis. Alaska, California, Colorado,  
14 Connecticut, Delaware, District of Columbia, Illinois, Maine,  
15 Maryland, Massachusetts, Minnesota, Mississippi, Missouri,  
16 Nebraska, Nevada, New Hampshire, New York, North Carolina, Ohio,  
17 Oregon, Rhode Island, Vermont, and Washington decriminalized  
18 cannabis in small amounts. In each state, cannabis users no  
19 longer face jail time for the possession or use of cannabis in  
20 the amount permitted by statute. Most places that  
21 decriminalized small amounts of cannabis replaced incarceration



1 or criminal charges with civil fines, confiscation, drug  
2 education, or drug treatment, or made various cannabis offenses  
3 the lowest priority for law enforcement.

4 The legislature finds that the legalization of cannabis for  
5 personal or recreational use is a natural, logical, and  
6 reasonable outgrowth of the current science of cannabis and  
7 attitude toward cannabis. In 2012, voters in Colorado and  
8 Washington voted to legalize and regulate the production,  
9 possession, and distribution of cannabis for persons age twenty-  
10 one and older. Following Colorado and Washington's lead,  
11 Alaska, California, District of Columbia, Maine, Massachusetts,  
12 Michigan, Nevada, Oregon, and Vermont also legalized small  
13 amounts of cannabis for adult recreational use.

14 Colorado was the first state to remove the prohibition on  
15 commercial production of cannabis for general use. Colorado  
16 collected \$67,594,323 from medical and retail cannabis taxes and  
17 fees during the first year of retail cannabis sales in 2014, and  
18 a total of \$905,508,416 in revenues as of 2018.

19 The legislature further finds that cannabis cultivation and  
20 sales hold potential for economic development, increased tax  
21 revenues, and reduction in crime.



1 The purpose of this Act is to:

2 (1) Decriminalize and regulate small amounts of cannabis  
3 for personal use;

4 (2) Establish a licensing scheme for the cultivation,  
5 sale, and use of small amounts of cannabis for  
6 personal use;

7 (3) Tax cannabis sales in the same manner as state excise  
8 taxes; and

9 (4) Subject income derived from cannabis sales to state  
10 income taxes.

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

14 "CHAPTER

15 LEGALIZATION OF CANNABIS FOR PERSONAL USE

16 § -1 Definitions. As used in this chapter:

17 "Cannabis" means all parts of the plant of the genus  
18 cannabis, whether growing or not; the seeds thereof; the resin  
19 extracted from any part of the plant; and every compound,  
20 manufacture, salt, derivative, mixture, or preparation of the  
21 plant, its seeds, or its resin, including cannabis concentrate.



1 "Cannabis" does not include industrial hemp; fiber produced from  
2 the stalks, oil, or cake made from the seeds of the plant;  
3 sterilized seed of the plant which is incapable of germination;  
4 or the weight of any other ingredient combined with cannabis to  
5 prepare topical or oral administrations, food, drink, or other  
6 product. For purposes of this definition, "industrial hemp"  
7 means the plant of the genus cannabis and any part of such  
8 plant, whether growing or not, with a delta-9  
9 tetrahydrocannabinol concentration that does not exceed 0.3 per  
10 cent on a dry weight basis.

11 "Cannabis accessories" means any equipment, products, or  
12 materials of any kind that are used, intended for use, or  
13 designed for use in planting, propagating, cultivating, growing,  
14 harvesting, composting, manufacturing, compounding, converting,  
15 producing, processing, preparing, testing, analyzing, packaging,  
16 repackaging, storing, vaporizing, or containing cannabis, or for  
17 ingesting, inhaling, or otherwise introducing cannabis into the  
18 human body.

19 "Cannabis cultivation facility" means an entity licensed to  
20 cultivate, prepare, and package cannabis and sell cannabis to  
21 retail cannabis stores, cannabis product manufacturing



1 facilities, and other cannabis cultivation facilities, but not  
2 to consumers.

3 "Cannabis establishment" means a cannabis cultivation  
4 facility, cannabis testing facility, cannabis product  
5 manufacturing facility, or retail cannabis store.

6 "Cannabis product manufacturing facility" means an entity  
7 licensed to purchase cannabis; manufacture, prepare, and package  
8 cannabis products; and sell cannabis and cannabis products to  
9 other cannabis product manufacturing facilities and retail  
10 cannabis stores, but not to consumers.

11 "Cannabis products" means cannabis concentrate products and  
12 products that comprise cannabis and other ingredients intended  
13 for use or consumption and include but are not limited to edible  
14 products, ointments, and tinctures.

15 "Cannabis testing facility" means an entity licensed to  
16 analyze and certify the safety and potency of cannabis.

17 "Department" means the department of taxation.

18 "License" means a license issued by the department to  
19 authorize the operation of a cannabis establishment.

20 "Personal use" means an amount of cannabis not exceeding  
21 one ounce that is used for private, personal, or recreational



1 purposes by persons age twenty-one years or older. The term  
2 personal use includes display, possession, sale, transport,  
3 transfer, or processing of cannabis or cannabis products.

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

9 § -2 Personal use of cannabis. (a) Notwithstanding any  
10 law to the contrary, the personal use of cannabis is permitted.

11 (b) Personal use of cannabis shall not be the basis for  
12 arrest, seizure, or forfeiture of assets.

13 (c) The possession, use, display, purchase, transfer, or  
14 transport of cannabis, cannabis accessories, or cannabis  
15 paraphernalia for personal use shall be immune from criminal  
16 prosecution.

17 (d) The possession, growing, processing, or transporting  
18 of not more than six cannabis plants, with three or fewer being  
19 mature, flowering plants, and possession of the cannabis  
20 produced by the plants on the premises where the plants are  
21 grown shall not be subject to criminal prosecution; provided



1 that the growing takes place in an enclosed and locked space and  
2 is not conducted openly or publicly, and that the plants are not  
3 made available for sale.

4 (e) The transfer or sale of one ounce or less of cannabis  
5 with or without remuneration to a person who is twenty-one years  
6 of age or older is permitted.

7 (f) The consumption of cannabis products is permitted.

8 (g) Assisting, advising, or abetting another person who is  
9 twenty-one years of age or older in any actions described in  
10 this section is permitted.

11 **§ -3 Lawful operation of cannabis establishments;**  
12 **license required.** Notwithstanding any law to the contrary, the  
13 following acts are permitted and shall not constitute a criminal  
14 offense or be the basis for search, seizure, or forfeiture of  
15 assets of a person age twenty-one years or older:

16 (1) Manufacturing, possessing, or purchasing cannabis  
17 accessories or selling cannabis accessories to a  
18 person who is twenty-one years of age or older;

19 (2) Possessing, displaying, or transporting cannabis or  
20 cannabis products; purchasing cannabis from a cannabis  
21 cultivation facility; purchasing cannabis or cannabis





1 products from a cannabis product manufacturing  
2 facility; or selling cannabis or cannabis products to  
3 consumers; provided that the person conducting the  
4 activities described in this paragraph has obtained a  
5 current, valid license to operate a retail cannabis  
6 store or is acting in the capacity of an owner,  
7 employee, or agent of a licensed retail cannabis  
8 store;

9 (3) Cultivating, harvesting, processing, packaging,  
10 transporting, displaying, or possessing cannabis;  
11 delivering or transferring cannabis to a cannabis  
12 testing facility; selling cannabis to a cannabis  
13 cultivation facility, cannabis product manufacturing  
14 facility, or retail cannabis store; or purchasing  
15 cannabis from a cannabis cultivation facility;  
16 provided that the person conducting the activities  
17 described in this paragraph has obtained a current,  
18 valid license to operate a cannabis cultivation  
19 facility or is acting in the capacity of an owner,  
20 employee, or agent of a licensed cannabis cultivation  
21 facility;



- 1           (4) Packaging, processing, transporting, manufacturing,  
2           displaying, or possessing cannabis or cannabis  
3           products; delivering or transferring cannabis or  
4           cannabis products to a cannabis testing facility;  
5           selling cannabis or cannabis products to a retail  
6           cannabis store or cannabis product manufacturing  
7           facility; purchasing cannabis from a cannabis  
8           cultivation facility; or purchasing cannabis or  
9           cannabis products from a cannabis product  
10          manufacturing facility; provided that the person  
11          conducting the activities described in this paragraph  
12          has obtained a current, valid license to operate a  
13          cannabis product manufacturing facility or is acting  
14          in the capacity as an owner, employee, or agent of a  
15          licensed cannabis product manufacturing facility;
- 16          (5) Possessing, processing, repackaging, storing,  
17          transporting, displaying, transferring, or delivering  
18          cannabis or cannabis products; provided that the  
19          person has obtained a current, valid license to  
20          operate a cannabis testing facility or is acting in



1 the capacity as an owner, employee, or agent of a  
2 licensed cannabis testing facility; and

3 (6) Leasing or otherwise allowing the use of property  
4 owned, occupied, or controlled by any person,  
5 corporation, or other entity for any of the activities  
6 conducted lawfully in accordance with this section.

7 § -4 Regulation of cannabis; rules. (a) No later than  
8 July 1, 2020, the department shall adopt rules, pursuant to  
9 chapter 91, necessary for implementation of this chapter. The  
10 rules shall not require such a high investment of risk, money,  
11 time, or any other resource or asset that the operation of a  
12 cannabis establishment is not worthy of being carried out in  
13 practice by a reasonably prudent business person. The rules  
14 shall include:

15 (1) Procedures for the application, issuance, renewal,  
16 suspension, and revocation of a license to operate a  
17 cannabis establishment; provided that any license to  
18 be issued shall be issued no later than ninety days  
19 after receipt of an application;

20 (2) A schedule of application, licensing, and renewal  
21 fees; provided that application fees shall not exceed



- 1           \$5,000, adjusted annually for inflation, unless the  
2           department determines a greater fee is necessary to  
3           carry out its responsibilities under this section;
- 4           (3) Qualifications for licensure that are directly and  
5           demonstrably related to the operation of a cannabis  
6           establishment;
- 7           (4) Security requirements for the premises of cannabis  
8           establishments;
- 9           (5) Requirements to prevent the sale or diversion of  
10          cannabis and cannabis products to persons under the  
11          age of twenty-one;
- 12          (6) Labeling requirements for cannabis and cannabis  
13          products sold or distributed by a cannabis  
14          establishment;
- 15          (7) Health and safety regulations and standards for the  
16          manufacture of cannabis products and the cultivation  
17          of cannabis;
- 18          (8) Restrictions on the advertising and display of  
19          cannabis and cannabis products; and
- 20          (9) Civil penalties for the failure to comply with rules  
21          adopted pursuant to this section.



1 (b) In order to ensure that individual privacy is  
2 protected, the department shall not require a consumer to  
3 provide a retail cannabis store with personal information other  
4 than government-issued identification to determine the  
5 consumer's age. A retail cannabis store shall not be required  
6 to acquire and record personal information about consumers.

7 (c) If an application for a license under this section is  
8 denied, the applicant shall be notified in writing of the  
9 specific reason for the denial. The applicant may be entitled  
10 to resubmit the application at any time after denial of the  
11 initial application.

12 § -5 Effect on employers. This chapter shall not be  
13 construed to:

- 14 (1) Require an employer to permit or accommodate the use,  
15 consumption, possession, transfer, display, transport,  
16 sale, or growing of cannabis in the workplace; or  
17 (2) Affect the ability of an employer to have policies  
18 restricting the use of cannabis by employees.

19 § -6 Effect on intoxicated driving laws. This chapter  
20 shall not be construed as a defense, exemption, or immunity from  
21 chapter 291E.



## H.B. NO. 708

1           **§ -7 Effect on medical cannabis law.** This chapter shall  
2 not be construed to affect medical use of cannabis as provided  
3 in chapter 329 and shall not be deemed to expand the medical use  
4 of cannabis beyond the uses provided in chapter 329.

5           **§ -8 Effect on medical cannabis dispensary law.** This  
6 chapter shall not be construed to affect the dispensing of  
7 medical cannabis as provided in chapter 329D and shall not be  
8 deemed to expand the dispensing of medical cannabis beyond the  
9 uses provided in chapter 329D.

10          **§ -9 Effect on property rights.** This chapter shall not  
11 be construed to prohibit a person, employer, school, hospital,  
12 detention facility, corporation, or any other entity who  
13 occupies, owns, or controls a property from prohibiting or  
14 otherwise regulating the possession, consumption, use, display,  
15 transfer, distribution, sale, transportation, or growing of  
16 cannabis on or in that property.

17          **§ -10 Taxes.** A cannabis establishment shall be subject  
18 to payment of income taxes on gross receipts under chapter 235  
19 and payment of excise taxes under chapter 237 for each  
20 transaction conducted by the cannabis establishment."



1 SECTION 3. 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- Legalization of marijuana. The following acts  
5 shall be exempt from arrest, prosecution, and criminal  
6 culpability under this part:

- 7 (a) Any act permitted under section -2;
- 8 (b) Any act permitted under section -3; and
- 9 (c) An act of any person who is appropriately and  
10 currently licensed if the act requires a license under  
11 chapter ."

12 SECTION 4. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15 SECTION 5. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

17

INTRODUCED BY:

*[Signature]*

*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*

*[Signature]*  
*[Signature]*  
*[Signature]*



# H.B. NO. 708

**Report Title:**

Cannabis; Legalization

**Description:**

Legalizes the personal use, possession, and sale of cannabis in a specified quantity. Requires licensing to operate cannabis establishments. Subjects cannabis 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.*

