

JAN 23 2015

A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "~~§46-~~ Establishment of compassion centers. In addition
5 to the powers of the counties enumerated under section 46-1.5, a
6 county shall provide by ordinance adopted no later than July 1,
7 2016, for the establishment of one or more compassion centers in
8 accordance with section 329-A. Compassion centers may acquire,
9 possess, cultivate, deliver, transfer, transport, supply, or
10 dispense marijuana in connection with the medical use of
11 marijuana, as those terms are defined in section 329-121.
12 Compassion centers shall not be located within fifty miles of
13 each other and shall not be located within two miles of a
14 school."

15 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:



1 **"§237- Surcharge on general excise tax on marijuana**

2 **sales.** In addition to the amounts taxable under this chapter,
3 there shall be assessed, levied, and collected a surcharge on
4 general excise tax on the sale of marijuana by a compassion
5 center under section 329-A in the amount of \$30 per ounce of
6 sale; provided that the department of taxation shall deposit the
7 amount into the state general fund.

8 Any violation of general excise tax laws shall result in
9 the immediate rescission of the compassion center license, which
10 shall result in closure of the compassion center until the
11 violation is resolved."

12 SECTION 3. Chapter 329, Hawaii Revised Statutes, is
13 amended by adding two new sections to part IX to be
14 appropriately designated and to read as follows:

15 **"§329-A Compassion centers; establishment.** (a) A county
16 shall authorize by ordinance adopted no later than July 1, 2016,
17 the establishment of one or more compassion centers for the
18 legal distribution of marijuana. The purpose of a compassion
19 center shall be to sell marijuana or the marijuana plant, or
20 both, to qualifying patients and their primary caregivers;



1 provided that they are registered in compliance with section
2 329-123.

3 (b) A compassion center shall:

4 (1) Not violate section 712-1249.6;

5 (2) Not hire any convicted felon to work in a compassion
6 center;

7 (3) Register annually with the department of health; and

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

12 (c) Every ordinance enacted pursuant to subsection (a)
13 shall include, at minimum, the following requirements for the
14 establishment of a compassion center:

15 (1) That the sale of the marijuana or marijuana plant for
16 medical use be made only to qualifying patients or
17 their caregivers who are registered in compliance with
18 section 329-123;

19 (2) That the purchaser of the marijuana or marijuana plant
20 for medical use present to the dispenser at the time



1 of sale a photo identification issued by a government
2 agency, along with:

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

5 (B) Proof of registration required under section
6 329-123(c) in the case of a primary caregiver;
7 and

8 (3) That the compassion center make a record, to be kept
9 for not less than five years following the sale, of
10 every sale of marijuana or marijuana plant with the
11 name, address, and patient identification number of
12 the purchaser as it appears on the written
13 certification, the prescribing physician's name, and
14 other identifying information as may be required by
15 ordinance.

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

17 (1) County licensing and registration of compassion
18 centers; and

19 (2) Unannounced county inspections of the premises, amount
20 of marijuana or marijuana plants that may be stored on



1 the premises, and security measures to protect the
2 premises from burglary.

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

6 **§329-B Registration recognition of other jurisdictions.** A
7 person who is duly issued a medical marijuana registration
8 certificate or similar authorization from a jurisdiction outside
9 of this State shall be entitled to purchase marijuana for
10 medical use from a compassion center established pursuant to
11 section 329-A; provided that the person provides approved
12 government identification, verified information on the
13 prescribing physician, and temporary residence information."

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

17 **"§712- Legalization of marijuana activities of**
18 **compassion centers.** An owner or employee of a compassion center
19 that is established in accordance with and operating in
20 compliance with section 329-A shall be exempt from arrest,
21 prosecution, and criminal culpability under this part for



1 acquiring, possessing, cultivating, delivering, transferring,
2 transporting, supplying, or dispensing marijuana in connection
3 with the medical use of marijuana, as those terms are defined in
4 section 329-121."

5 SECTION 5. Section 237-24.3, Hawaii Revised Statutes, is
6 amended to read as follows:

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

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

19 (2) Amounts received by the manager, submanager, or board
20 of directors of:



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

(B) A nonprofit homeowners or community association incorporated in accordance with chapter 414D or any predecessor thereto and existing pursuant to covenants running with the land,

in reimbursement of sums paid for common expenses;

(3) Amounts received or accrued from:

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

(B) Tugboat services including pilotage fees performed within the State, and the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; and

(C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar



1 services; standby charges; and use of moorings
2 and running mooring lines;

3 (4) Amounts received by an employee benefit plan by way of
4 contributions, dividends, interest, and other income;
5 and amounts received by a nonprofit organization or
6 office, as payments for costs and expenses incurred
7 for the administration of an employee benefit plan;
8 provided that this exemption shall not apply to any
9 gross rental income or gross rental proceeds received
10 after June 30, 1994, as income from investments in
11 real property in this State; and provided further that
12 gross rental income or gross rental proceeds from
13 investments in real property received by an employee
14 benefit plan after June 30, 1994, under written
15 contracts executed prior to July 1, 1994, shall not be
16 taxed until the contracts are renegotiated, renewed,
17 or extended, or until after December 31, 1998,
18 whichever is earlier. For the purposes of this
19 paragraph, "employee benefit plan" means any plan as
20 defined in section 1002(3) of title 29 of the United
21 States Code, as amended;



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

8 (6) Amounts received by a hospital, infirmary, medical
9 clinic, health care facility, pharmacy, or a
10 practitioner licensed to administer the drug to an
11 individual for selling prescription drugs or
12 prosthetic devices to an individual; provided that
13 this paragraph shall not apply to any amounts received
14 for services provided in selling prescription drugs or
15 prosthetic devices[-]; provided further that this
16 paragraph shall not apply to any amounts received by
17 compassion centers established pursuant to section
18 46- for selling marijuana for medical use. As used
19 in this paragraph:

20 "Prescription drugs" are those drugs defined
21 under section 328-1 and dispensed by filling or



1 refilling a written or oral prescription by a
2 practitioner licensed under law to administer the drug
3 and sold by a licensed pharmacist under section 328-16
4 or practitioners licensed to administer drugs; and

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

17 (7) Taxes on transient accommodations imposed by chapter
18 237D and passed on and collected by operators holding
19 certificates of registration under that chapter;

20 (8) Amounts received as dues by an unincorporated
21 merchants association from its membership for



1 advertising media, promotional, and advertising costs
2 for the promotion of the association for the benefit
3 of its members as a whole and not for the benefit of
4 an individual member or group of members less than the
5 entire membership;

6 (9) Amounts received by a labor organization for real
7 property leased to:

8 (A) A labor organization; or

9 (B) A trust fund established by a labor organization
10 for the benefit of its members, families, and
11 dependents for medical or hospital care, pensions
12 on retirement or death of employees,
13 apprenticeship and training, and other membership
14 service programs.

15 As used in this paragraph, "labor organization" means
16 a labor organization exempt from federal income tax
17 under section 501(c)(5) of the Internal Revenue Code,
18 as amended;

19 (10) Amounts received from foreign diplomats and consular
20 officials who are holding cards issued or authorized



1 by the United States Department of State granting them
2 an exemption from state taxes; and

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

12 SECTION 6. In codifying the new sections added by section
13 3 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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

19 INTRODUCED BY:

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Pro & Con
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S.B. NO. 888

Report Title:

Counties; Compassion Centers

Description:

Requires each county to establish compassion centers for the dispensing of medical marijuana. Requires that compassion centers shall only provide service to qualifying patients and primary caregivers registered with the department of public safety (department of health beginning January 2, 2015). Makes compassion centers subject to the general excise tax by making inapplicable the exemption for amounts received from sales of prescription drugs or prosthetic devices. Imposes a general excise tax on marijuana sales. Imposes registration fee on compassion centers, to be shared with counties.

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

