
A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 SECTION 1. The legislature finds that attitudes regarding
2 the recreational use of marijuana have shifted significantly
3 over the past decade. Hawaii no longer has an absolute ban on
4 marijuana use: the State established a medical marijuana program
5 in 2000 and the program's administration has been successful;
6 more recently, the State created a medical marijuana dispensary
7 system, which will soon be underway. Other jurisdictions have
8 also begun to relax prohibitions on marijuana; to date,
9 recreational marijuana use has been legalized in Colorado,
10 Washington, Alaska, Oregon, and the District of Columbia.

11 The legislature further finds that allowing personal use of
12 a limited quantity of marijuana by persons who are twenty-one
13 years of age or older, and taxing marijuana in a manner similar
14 to alcohol, would ease the current strain on law enforcement
15 resources, as well as provide an additional revenue source. Law
16 enforcement resources could be redirected to more serious
17 threats to public safety such as violent offenders, and income



1 from black market enterprises could be redirected to legitimate
2 businesses and new employers who will furnish tax revenues to
3 the State.

4 The purpose of this Act is to promote the interest of
5 health and public safety by regulating marijuana in a manner
6 similar to alcohol such that:

- 7 (1) Individuals must submit proof of age before purchasing
8 marijuana;
- 9 (2) Selling, distributing, or transferring marijuana to
10 minors and other individuals under the age of twenty-
11 one remains illegal;
- 12 (3) Driving under the influence of marijuana remains
13 illegal;
- 14 (4) Legitimate, taxpaying businesses, and not criminal
15 actors, will conduct sales of marijuana; and
- 16 (5) Marijuana will be labeled and subject to additional
17 requirements to ensure that consumers are informed and
18 protected.

19 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
20 amended by adding a new part to be appropriately designated and
21 to read as follows:



1 "PART . PERSONAL USE OF MARIJUANA

2 §329-A Definitions. As used in this part, unless the
3 context otherwise requires:

4 "Consumer" means a person twenty-one years of age or older
5 who purchases marijuana or marijuana products for personal use
6 by persons twenty-one years of age or older, but not for resale
7 to others.

8 "Department" means the department of taxation.

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

17 "Marijuana cultivation facility" means an entity licensed
18 to cultivate, prepare, and package marijuana and sell marijuana
19 to retail marijuana stores, marijuana product manufacturing
20 facilities, and other marijuana cultivation facilities, but not
21 to consumers.



1 "Marijuana establishment" means a marijuana cultivation
2 facility, a marijuana testing facility, a marijuana product
3 manufacturing facility, or a retail marijuana store.

4 "Marijuana product manufacturing facility" means an entity
5 licensed to purchase marijuana; manufacture, prepare, and
6 package marijuana products; and sell marijuana and marijuana
7 products to other marijuana product manufacturing facilities and
8 to retail marijuana stores, but not to consumers.

9 "Marijuana products" means concentrated marijuana products
10 and marijuana products that consist of marijuana and other
11 ingredients and are intended for use or consumption, including
12 edible products, ointments, and tinctures.

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

15 "Retail marijuana store" means an entity licensed to
16 purchase marijuana from marijuana cultivation facilities and
17 marijuana and marijuana products from marijuana product
18 manufacturing facilities and to sell marijuana and marijuana
19 products to consumers.

20 **§329-B Personal use of marijuana.** Notwithstanding any
21 other provision of law, the following acts shall be lawful and



1 shall not be an offense or a basis for seizure or forfeiture of
2 assets for persons twenty-one years of age or older:

- 3 (1) Possessing, using, displaying, purchasing, or
4 transporting marijuana accessories or one ounce or
5 less of marijuana;
- 6 (2) Possessing, growing, processing, or transporting no
7 more than five marijuana plants, and possession of the
8 marijuana produced by the plants on the premises where
9 the plants were grown, provided that the growing takes
10 place in a secured space, is not conducted openly or
11 publicly, and is not made available for sale;
- 12 (3) Transfer of one ounce or less of marijuana without
13 remuneration to a person who is twenty-one years of
14 age or older;
- 15 (4) Consumption of marijuana, provided that nothing in
16 this section shall permit consumption that is
17 conducted openly and publicly or in a manner that
18 endangers others; and
- 19 (5) Assisting another person who is twenty-one years of
20 age or older in committing any of the acts described
21 in this section.



1 §329-C Lawful operation of marijuana establishments.

2 Notwithstanding any other provision of law, the following acts
3 shall be lawful and shall not be an offense or a basis for
4 seizure or forfeiture of assets for persons twenty-one years of
5 age or older:

6 (1) Manufacture, possession, or purchase of marijuana
7 accessories or the sale of marijuana accessories to a
8 person who is twenty-one years of age or older;

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

20 (3) Cultivating, harvesting, processing, packaging,
21 transporting, displaying, or possessing marijuana;



1 delivery or transfer of marijuana to a marijuana
2 testing facility; selling marijuana to a marijuana
3 cultivation facility, a marijuana product
4 manufacturing facility, or a retail marijuana store;
5 or the purchase of marijuana from a marijuana
6 cultivation facility, if the person conducting the
7 activities described in this paragraph has obtained a
8 current, valid license to operate a marijuana
9 cultivation facility or is acting in the person's
10 capacity as an owner, employee, or agent of a licensed
11 marijuana cultivation facility;

12 (4) Packaging, processing, transporting, manufacturing,
13 displaying, or possessing marijuana or marijuana
14 products; delivery or transfer of marijuana or
15 marijuana products to a marijuana testing facility;
16 selling marijuana or marijuana products to a retail
17 marijuana store or a marijuana product manufacturing
18 facility; the purchase of marijuana from a marijuana
19 cultivation facility; or the purchase of marijuana or
20 marijuana products from a marijuana product
21 manufacturing facility, if the person conducting the



1 activities described in this paragraph has obtained a
2 current, valid license to operate a marijuana product
3 manufacturing facility or is acting in the person's
4 capacity as an owner, employee, or agent of a licensed
5 marijuana product manufacturing facility;

6 (5) Possessing, cultivating, processing, repackaging,
7 storing, transporting, displaying, transferring, or
8 delivering marijuana or marijuana products if the
9 person has obtained a current, valid license to
10 operate a marijuana testing facility or is acting in
11 the person's capacity as an owner, employee, or agent
12 of a licensed marijuana testing facility; and

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

17 **§329-D Department rules; marijuana establishments. (a)**
18 Not later than one hundred twenty days after the effective date
19 of this part, the department shall adopt rules under chapter 91
20 necessary to implement this part. The rules shall not prohibit
21 the operation of marijuana establishments, either expressly or



1 through rules that make their operation unreasonably
2 impracticable. As used in this subsection, "unreasonably
3 impracticable" means that the measures necessary to comply with
4 this part require such a high investment of risk, money, time,
5 or any other resource or asset that the operation of a marijuana
6 establishment is not worthy of being carried out in practice by
7 a reasonably prudent businessperson. The rules shall include:

8 (1) Procedures for the issuance, renewal, suspension, and
9 revocation of a license to operate a marijuana
10 establishment;

11 (2) A schedule of application, licensing, and renewal
12 fees;

13 (3) Qualifications for licensure that are directly and
14 demonstrably related to the operation of a marijuana
15 establishment;

16 (4) Security requirements for marijuana establishments;

17 (5) Requirements to prevent the sale or diversion of
18 marijuana and marijuana products to persons under the
19 age of twenty-one;



1 (6) Labeling requirements for marijuana and marijuana
2 products sold or distributed by a marijuana
3 establishment;

4 (7) Health and safety requirements and standards for the
5 manufacture of marijuana products and the cultivation
6 of marijuana;

7 (8) Restrictions on the advertising and display of
8 marijuana and marijuana products; and

9 (9) Civil penalties for the failure to comply with any
10 rule adopted pursuant to this section.

11 (b) For the purpose of ensuring that individual privacy is
12 protected, notwithstanding subsection (a), the department shall
13 not require a consumer to provide a retail marijuana store with
14 personal information other than government-issued identification
15 to determine the consumer's age, and a retail marijuana store
16 shall not be required to acquire and record personal information
17 about consumers other than information typically acquired in a
18 financial transaction conducted at a retail liquor store.

19 §329-E Taxation of marijuana transactions. (a) There
20 shall be an excise tax at a rate of fifteen per cent to be
21 levied upon the proceeds of marijuana sold or otherwise



1 transferred by a marijuana cultivation facility to a marijuana
2 product manufacturing facility or to a retail marijuana store.

3 (b) The department shall establish procedures for the
4 collection of all taxes levied under this section.

5 **§329-F Marijuana establishments; licenses; procedures.**

6 Each application for an annual license to operate a marijuana
7 establishment shall be submitted to the department. The
8 department shall:

9 (1) Begin accepting and processing applications by July 1,
10 2018;

11 (2) Issue an annual license to the applicant between
12 forty-five and ninety days after receipt of an
13 application unless the department finds the applicant
14 is not in compliance with rules adopted pursuant to
15 section 329-D; and

16 (3) Upon denial of an application, notify the applicant in
17 writing of the specific reason for its denial.

18 **§329-G Employers; driving; minors; control of property.**

19 Nothing in this part shall be construed to:

20 (1) Require an employer to permit or accommodate the use,
21 consumption, possession, transfer, display,



1 transportation, sale, or growing of marijuana in the
2 workplace or to affect the ability of employers to
3 have policies restricting the use of marijuana by
4 employees;

5 (2) Supersede any law relating to driving under the
6 influence of marijuana or driving while impaired by
7 marijuana;

8 (3) Permit the transfer of marijuana, with or without
9 remuneration, to a person under the age of twenty-one
10 or to allow a person under the age of twenty-one to
11 purchase, possess, use, transport, grow, or consume
12 marijuana; or

13 (4) Prohibit a person, employer, school, hospital,
14 detention facility, corporation, or any other entity
15 who occupies, owns, or controls property from
16 prohibiting or otherwise regulating the possession,
17 consumption, use, display, transfer, distribution,
18 sale, transportation, or growing of marijuana on or in
19 that property.

20 §329-H Medical use of marijuana unaffected. Nothing in
21 this part shall be construed to limit any privileges or rights



1 of a medical marijuana qualifying patient, primary caregiver, or
2 registered entity as provided in part IX of this chapter.

3 §329-I Severability; conflicting provisions. All
4 provisions of this part are severable and, except where
5 otherwise indicated, shall supersede conflicting state
6 statutory, local charter, ordinance, or resolution, and other
7 state and local provisions."

8 SECTION 3. Section 712-1240.1, Hawaii Revised Statutes, is
9 amended by amending subsection (2) to read as follows:

10 "(2) It is an affirmative defense to prosecution for any
11 marijuana-related offense defined in this part that the person
12 who possessed or distributed the marijuana was authorized to
13 possess or distribute the marijuana for medical purposes
14 pursuant to part IX of chapter 329 [-] or acted in accordance
15 with part of that chapter."

16 SECTION 4. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.



H.B. NO. 206

1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2017.

7

INTRODUCED BY: _____



By Request

JAN 19 2017



H.B. NO. 105

Report Title:

Personal Use of Marijuana; Licenses to Cultivate, Manufacture, Test, or Sell Marijuana

Description:

Authorizes persons 21 years of age or older to consume or possess limited amounts of marijuana for personal use. Provides for the licensing of marijuana cultivation facilities, product manufacturing facilities, safety testing facilities, and retail stores. Applies an excise tax on transactions between marijuana establishments.

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