
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 the State has
2 limited resources in its attempts to prevent and reduce problem
3 drug use, and that these limited resources should be directed
4 towards the drugs that pose the greatest threat to Hawaii, like
5 methamphetamine, or the recent nationwide epidemic of
6 prescription opioid abuse.

7 The legislature further finds that multiple states have
8 legalized the use and possession of small amounts of marijuana
9 for persons aged twenty-one and above, and regulated and taxed
10 the sale of marijuana. States such as Colorado have seen
11 significant increases in tax revenue as a result taxing the sale
12 of marijuana. Allowing the use or possession of small amounts
13 of marijuana by those who are at least twenty-one years old in a
14 manner similar to the way alcohol is regulated and taxed could
15 allow the State to focus its drug prevention and reduction
16 resources to drugs other than marijuana and add significant
17 revenues to the general fund.



1 The purpose of this Act is to legalize, regulate, and tax
2 the use of small amounts of marijuana by those who are at least
3 twenty-one years old.

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

7 **"PART . PERSONAL USE OF MARIJUANA**

8 **§329-A Definitions.** As used in this chapter:

9 "Consumer" means a person twenty-one years of age or older
10 who purchases marijuana or marijuana products for personal use
11 from persons twenty-one years of age or older, but not for
12 resale to others.

13 "Department" means the department of taxation.

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



1 "Marijuana cultivation facility" means an entity licensed
2 to cultivate, prepare, package, and sell marijuana to retail
3 marijuana stores, to marijuana product manufacturing facilities,
4 and to other marijuana cultivation facilities, but not to
5 consumers.

6 "Marijuana establishment" means a marijuana cultivation
7 facility, a marijuana testing facility, a marijuana product
8 manufacturing facility, or a retail marijuana store.

9 "Marijuana product manufacturing facility" means an entity
10 licensed to purchase marijuana; manufacture, prepare, and
11 package marijuana products; and sell marijuana and marijuana
12 products to other marijuana product manufacturing facilities and
13 to retail marijuana stores, but not to consumers.

14 "Marijuana products" means concentrated marijuana products
15 and marijuana products that are comprised of marijuana and other
16 ingredients and are intended for use or consumption, including
17 but not limited to edible products, ointments, and tinctures.

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

20 "Retail marijuana store" means an entity licensed to
21 purchase marijuana from marijuana cultivation facilities,



1 purchase marijuana and marijuana products from marijuana product
2 manufacturing facilities, and sell marijuana and marijuana
3 products to consumers.

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

10 **§329-B Personal use of marijuana.** Notwithstanding any
11 state law to the contrary, the following acts shall neither be a
12 criminal offense under Hawaii law nor a basis for seizure or
13 forfeiture of assets under Hawaii law for persons twenty-one
14 years of age or older:

15 (1) Possessing, using, displaying, purchasing, or
16 transporting marijuana accessories or one ounce or
17 less of marijuana;

18 (2) Possessing, growing, processing, or transporting up to
19 seven marijuana plants and possession of the marijuana
20 produced by the plants on the premises where the
21 plants were grown; provided that the plants are grown



1 in a secured space, the plants are not grown openly or
2 publicly, and are not made available for sale;

3 (3) Transfer of one ounce or less of marijuana without
4 remuneration to a person who is twenty-one years of
5 age or older;

6 (4) Consumption of marijuana; provided that nothing in
7 this section shall permit consumption that is
8 conducted openly and publicly or in a manner that
9 endangers others; and

10 (5) Assisting another person who is twenty-one years of
11 age or older in any of the acts described in
12 paragraphs (1) through (4).

13 **§329-C Lawful operation of marijuana-related facilities.**

14 Notwithstanding any state law to the contrary, the following
15 acts shall neither be a criminal offense under Hawaii law nor a
16 basis for seizure or forfeiture of assets under Hawaii law for
17 persons twenty-one years of age or older:

18 (1) Manufacture, sale, purchase, or possession of
19 marijuana accessories;

20 (2) Possessing, displaying, or transporting marijuana or
21 marijuana products; purchase of marijuana from a



1 marijuana cultivation facility; purchase of marijuana
2 or marijuana products from a marijuana product
3 manufacturing facility; or sale of marijuana or
4 marijuana products to consumers if the person
5 conducting the activities described in this paragraph
6 holds a valid license to operate a retail marijuana
7 store or is acting in the person's capacity as an
8 owner, employee, or agent of a licensed retail
9 marijuana store;

- 10 (3) Cultivating, harvesting, processing, packaging,
11 transporting, displaying, or possessing marijuana;
12 delivery or transfer of marijuana to a marijuana
13 testing facility; selling marijuana to a marijuana
14 cultivation facility, a marijuana product
15 manufacturing facility, or a retail marijuana store;
16 or the purchase of marijuana from a marijuana
17 cultivation facility, if the person conducting the
18 activities described in this paragraph holds a valid
19 license to operate a marijuana cultivation facility or
20 is acting in the person's capacity as an owner,



1 employee, or agent of a licensed marijuana cultivation
2 facility;

3 (4) Packaging, processing, transporting, manufacturing,
4 displaying, or possessing marijuana or marijuana
5 products; delivery or transfer of marijuana or
6 marijuana products to a marijuana testing facility;
7 selling marijuana or marijuana products to a retail
8 marijuana store or a marijuana product manufacturing
9 facility; purchase of marijuana from a marijuana
10 cultivation facility; or purchase of marijuana or
11 marijuana products from a marijuana product
12 manufacturing facility, if the person conducting the
13 activities described in this paragraph holds a valid
14 license to operate a marijuana product manufacturing
15 facility or is acting in the person's capacity as an
16 owner, employee, or agent of a licensed marijuana
17 product manufacturing facility;

18 (5) Possessing, cultivating, processing, repackaging,
19 storing, transporting, displaying, transferring, or
20 delivering marijuana or marijuana products if the
21 person holds a valid license to operate a marijuana



1 testing facility or is acting in the person's capacity
2 as owner, employee, or agent of a licensed marijuana
3 testing facility; and

4 (6) Leasing or otherwise allowing the use of property
5 owned, occupied, or controlled by any person,
6 corporation, or other entity for any of the activities
7 conducted in accordance with paragraphs (1) through
8 (5).

9 **§329-D Regulation of marijuana.** (a) Not later than
10 October 29, 2017, the department shall adopt rules, pursuant to
11 chapter 91, necessary for the implementation of this chapter.
12 The rules shall not prohibit the operation of marijuana
13 establishments either expressly or by making operations
14 unreasonably impracticable. The rules shall include:

15 (1) Procedures for the issuance, renewal, suspension, and
16 revocation of a license to operate a marijuana
17 establishment;

18 (2) A schedule of application, licensing, and renewal
19 fees;



- 1 (3) Qualifications for a license that are directly and
2 demonstrably related to the operation of a marijuana
3 establishment;
- 4 (4) Security requirements for marijuana establishments;
- 5 (5) Requirements to prevent the sale or diversion of
6 marijuana and marijuana products to persons under the
7 age of twenty-one;
- 8 (6) Labeling requirements for marijuana and marijuana
9 products sold or distributed by a marijuana
10 establishment;
- 11 (7) Health and safety regulations and standards for the
12 manufacture of marijuana products and the cultivation
13 of marijuana;
- 14 (8) Restrictions on the advertising and display of
15 marijuana and marijuana products; and
- 16 (9) Civil penalties not to exceed \$100 per violation for
17 any failure to comply with rules made pursuant to this
18 section.
- 19 (b) To ensure that individual privacy is protected,
20 notwithstanding subsection (a), the department shall not require
21 a consumer to provide a retail marijuana store with personal



1 information other than government-issued identification to
2 determine the consumer's age. A retail marijuana store shall
3 not be required to acquire and record personal information about
4 consumers other than information typically acquired in a
5 financial transaction conducted at a retail liquor store.

6 (c) A marijuana establishment shall be subject to payment
7 of income taxes on gross receipts under chapter 235 and payment
8 of excise taxes under chapter 237 for each transaction conducted
9 by the marijuana establishment.

10 (d) All revenue derived from the taxation of marijuana
11 shall be deposited in the general fund of the State and expended
12 as provided by section 237-13(9).

13 (e) The department shall establish rules pursuant to
14 chapter 91 for the collection and expenditure of all taxes
15 levied.

16 (f) Each application for a license to operate a marijuana
17 establishment shall be submitted to the department. The
18 department shall:

19 (1) Begin accepting and processing applications by July 1,
20 2018;



1 (2) Issue a license to the applicant within ninety days of
2 receipt of an application unless the department finds
3 the applicant is not in compliance with rules adopted
4 pursuant to subsection (a); and

5 (3) Upon denial of an application, notify the applicant in
6 writing of the reason or reasons for its denial.

7 No license issued by the department pursuant to this section
8 shall be valid for more than one year.

9 **§329-E Effect on other laws.** (a) Nothing in this chapter
10 shall require an employer to permit or accommodate the use,
11 consumption, possession, transfer, display, transportation,
12 sale, or growing of marijuana in the workplace or to affect any
13 employer policy restricting the use of marijuana by employees.

14 (b) Nothing in this chapter shall be construed to permit
15 driving under the influence of marijuana or driving while
16 impaired by marijuana or to supersede statutory laws related to
17 driving under the influence of marijuana or driving while
18 impaired by marijuana, nor shall this chapter prevent the State
19 from enacting and imposing criminal penalties for driving under
20 the influence of or while impaired by marijuana.



1 (c) Nothing in this chapter shall be construed to permit
2 the transfer of marijuana, with or without remuneration, to a
3 person under the age of twenty-one or to allow a person under
4 the age of twenty-one to purchase, possess, use, transport,
5 grow, or consume marijuana.

6 (d) Nothing in this chapter shall prohibit a person,
7 employer, school, hospital, detention facility, corporation, or
8 any other entity who occupies, owns, or controls a property from
9 prohibiting or otherwise regulating the possession, consumption,
10 use, display, transfer, distribution, sale, transportation, or
11 growing of marijuana on or in that property.

12 **§329-F Medical marijuana provisions unaffected.** Nothing
13 in this chapter shall limit any privileges or rights of a
14 medical marijuana qualifying patient, primary caregiver, or
15 registered entity as provided in chapter 329, part IX."

16 SECTION 3. Section 237-13, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§237-13 Imposition of tax.** (a) There is hereby levied
19 and shall be assessed and collected annually privilege taxes
20 against persons on account of their business and other
21 activities in the State measured by the application of rates



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

3 (1) Tax on manufacturers.

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



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

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



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

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

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



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

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

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



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

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

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



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

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



1 Acts of Congress, there may be attributed gross
2 proceeds of sales, the gross proceeds shall be so
3 attributed.

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

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



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



1 the State shall be required to pay the tax
2 imposed in this chapter for the privilege of
3 producing or selling those products.

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

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

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

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



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

3 (3) Tax upon contractors.

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

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

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

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

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



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

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

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

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



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

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



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



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

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

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



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

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

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

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

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



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

7 (6) Tax on service business.

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

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



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

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

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

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



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

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



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



1 (ii) Gross receipts from mobile
2 telecommunications services that are subject
3 to the tax imposed by chapter 239;

4 (iii) Gross receipts from mobile
5 telecommunications services taxed under
6 section 237-13.8; and

7 (iv) Gross receipts of a home service provider
8 acting as a serving carrier providing mobile
9 telecommunications services to another home
10 service provider's customer.

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

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



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



1 marijuana products, there is likewise hereby levied,
2 and shall be assessed and collected, a tax equivalent
3 to _____ per cent of the gross proceeds of sales of
4 the business; provided that, in the case of a
5 wholesaler, the tax shall be equal to _____ per cent
6 of the gross proceeds of sales of the business. All
7 revenue collected under this section shall be
8 deposited in the general fund of the State; provided
9 that not less than:

10 (A) _____ per cent of the revenue collected under this
11 paragraph shall be expended for drug abuse
12 prevention programs;

13 (B) _____ per cent shall be expended for public
14 security programs; and

15 (C) _____ per cent shall be expended for
16 administrative expenses of the department of
17 taxation for purposes of implementing this
18 section.

19 [+9] (10) Tax on other business. Upon every person
20 engaging or continuing within the State in any
21 business, trade, activity, occupation, or calling not



1 included in the preceding paragraphs or any other
2 provisions of this chapter, there is likewise hereby
3 levied and shall be assessed and collected, a tax
4 equal to four per cent of the gross income thereof.
5 In addition, the rate prescribed by this paragraph
6 shall apply to a business taxable under one or more of
7 the preceding paragraphs or other provisions of this
8 chapter, as to any gross income thereof not taxed
9 thereunder as gross income or gross proceeds of sales
10 or by taxing an equivalent value of products, unless
11 specifically exempted.

12 (b) Definitions. As used in this section:

13 "Marijuana" includes "marijuana", as defined in section
14 329-1, and "marijuana concentrate", as defined in section 712-
15 1240.

16 "Marijuana products" means concentrated marijuana products
17 and marijuana products that comprise marijuana and other
18 ingredients and are intended for use or consumption, including
19 edible products, ointments, and tinctures."

20 SECTION 4. Section 712-1240.1, Hawaii Revised Statutes, is
21 amended by amending subsection (2) to read as follows:



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

7 SECTION 5. In codifying the new sections added by section
 8 2 of this Act, the revisor of statutes shall substitute
 9 appropriate section numbers for the letters used in designating
 10 the new sections in this Act.

11 SECTION 6. This Act does not affect rights and duties that
 12 matured, penalties that were incurred, and proceedings that were
 13 begun before its effective date.

14 SECTION 7. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect on July 1, 2017.
 17

INTRODUCED BY:

Lynn DeCristo

Guthrie Thelen

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Chris Todd



Richard L. ...

...

...

John M. ...

JAN 25 2017



H.B. NO. 1464

Report Title:

Marijuana; Legalization; Taxation

Description:

Authorizes persons 21 years of age or older to consume or possess limited amounts of marijuana for personal use. Provides for and requires the licensing of marijuana cultivation facilities, product manufacturing facilities, safety testing facilities, and retail stores. Subjects marijuana 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.

