
A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1 SECTION 1. Chapter 329D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§329D- Tax revenues for medical marijuana registry and
5 regulation. Of the tax revenues received from medical marijuana
6 dispensaries pursuant to chapter 237, per cent shall be
7 deposited into the medical marijuana registry and regulation
8 special fund established by section 321-30.1, to be used for
9 public health and health purposes, including but not limited to
10 drug recognition expert training for law enforcement officers
11 and other public health education efforts."

12 SECTION 2. Section 237-13, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§237-13 Imposition of tax. There is hereby levied and
15 shall be assessed and collected annually privilege taxes against
16 persons on account of their business and other activities in the
17 State measured by the application of rates against values of



1 products, gross proceeds of sales, or gross income, whichever is
2 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), there is likewise hereby levied, and
12 shall be assessed and collected, a tax equivalent
13 to four per cent of the gross proceeds of sales
14 of the business; provided that, in the case of a
15 wholesaler, the tax shall be equal to one-half of
16 one per cent of the gross proceeds of sales of
17 the business; and provided further that insofar
18 as the sale of tangible personal property is a
19 wholesale sale under section 237-4(a)(8), the tax
20 shall be one-half of one per cent of the gross
21 proceeds. Upon every person engaging or



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

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



1 proceeds of sales, the gross proceeds shall be so
2 attributed.

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

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



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



- 1 imposed in this chapter for the privilege of
2 producing or selling those products.
- 3 (E) A taxpayer selling to a federal cost-plus
4 contractor may make the election provided for by
5 paragraph (3) (C), and in that case the tax shall
6 be computed pursuant to the election,
7 notwithstanding this paragraph or paragraph (1)
8 to the contrary.
- 9 (F) The department, by rule, may require that a
10 seller take from the purchaser of tangible
11 personal property a certificate, in a form
12 prescribed by the department, certifying that the
13 sale is a sale at wholesale; provided that:
- 14 (i) Any purchaser who furnishes a certificate
15 shall be obligated to pay to the seller,
16 upon demand, the amount of the additional
17 tax that is imposed upon the seller whenever
18 the sale in fact is not at wholesale; and
- 19 (ii) The absence of a certificate in itself shall
20 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 licensed medical marijuana dispensaries. Upon
21 every person engaged as a licensed medical marijuana



1 dispensary by the State pursuant to chapter 329D,
2 there is hereby levied and shall be assessed and
3 collected a tax equal to per cent of the gross
4 proceeds or gross income derived from sales on any
5 marijuana or manufactured marijuana product dispensed.

6 ~~[(9)]~~ (10) Tax on other business. Upon every person
7 engaging or continuing within the State in any
8 business, trade, activity, occupation, or calling not
9 included in the preceding paragraphs or any other
10 provisions of this chapter, there is likewise hereby
11 levied and shall be assessed and collected, a tax
12 equal to four per cent of the gross income thereof.
13 In addition, the rate prescribed by this paragraph
14 shall apply to a business taxable under one or more of
15 the preceding paragraphs or other provisions of this
16 chapter, as to any gross income thereof not taxed
17 thereunder as gross income or gross proceeds of sales
18 or by taxing an equivalent value of products, unless
19 specifically exempted."

20 SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) There is established within the state treasury the
2 medical marijuana registry and regulation special fund. The
3 fund shall be expended at the discretion of the director of
4 health:

- 5 (1) To establish and regulate a system of medical
6 marijuana dispensaries in the State;
- 7 (2) To offset the cost of the processing and issuance of
8 patient registry identification certificates and
9 primary caregiver registration certificates;
- 10 (3) To fund positions and operating costs authorized by
11 the legislature;
- 12 (4) To establish and manage a secure and confidential
13 database;
- 14 (5) To fund public education as required by
15 section 329D-26;
- 16 (6) To fund substance abuse prevention and education
17 programs; [~~and~~]
- 18 (7) For any other expenditure necessary, consistent with
19 this chapter and chapter 329D, to implement medical
20 marijuana registry and regulation programs[~~-~~]; and



1 (8) For public health and health purposes as specified in
2 section 329D- .

3 (b) The fund shall consist of all moneys derived from fees
4 collected pursuant to subsection (c) [~~and~~], section 329D-4 [-],
5 and section 329D- . There is established within the medical
6 marijuana registry and regulation special fund:

7 (1) A medical marijuana registry program sub-account, into
8 which shall be deposited all fees collected pursuant
9 to subsection (c); and

10 (2) A medical marijuana dispensary program sub-account,
11 into which shall be deposited all fees collected
12 pursuant to section 329D-4."

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

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2090.



Report Title:

Marijuana; GET; Special Fund

Description:

Amends provisions related to licensed medical marijuana dispensaries by imposing GET on a percentage of dispensaries gross proceeds or gross income and allocating a portion of GET revenues received from dispensaries to the Medical Marijuana Registry and Regulation Special Fund. (HB263 HD2)

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

