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# A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

1 PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by  
3 adding a new chapter to title 19 to be appropriately designated  
4 and to read as follows:

5 "CHAPTER A

6 MARIJUANA

7 **§A-1 Definitions.** As used in this chapter:

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

12 "Department" means the department of health.

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

16 "Marijuana accessories" means any equipment, products, or  
17 materials of any kind which are used, intended for use, or



1 designed for use in planting, propagating, cultivating, growing,  
2 harvesting, composting, manufacturing, compounding, converting,  
3 producing, processing, preparing, testing, analyzing, packaging,  
4 repackaging, storing, containing, or vaporizing marijuana or for  
5 ingesting, inhaling, or otherwise introducing marijuana into the  
6 human body.

7 "Marijuana cultivation facility" means an entity licensed  
8 to cultivate, prepare, package, and sell marijuana to retail  
9 marijuana stores, to marijuana product manufacturing facilities,  
10 and to other marijuana cultivation facilities, but not to  
11 consumers.

12 "Marijuana establishment" means a marijuana cultivation  
13 facility, a marijuana testing facility, a marijuana product  
14 manufacturing facility, or a retail marijuana store.

15 "Marijuana product manufacturing facility" means an entity  
16 licensed to purchase marijuana; manufacture, prepare, and  
17 package marijuana products; and sell marijuana and marijuana  
18 products to other marijuana product manufacturing facilities and  
19 to retail marijuana stores, but not to consumers.

20 "Marijuana products" means concentrated marijuana products  
21 and marijuana products that comprise marijuana and other



1 ingredients and are intended for use or consumption, including  
2 but not limited to edible products, ointments, and tinctures.

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

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

10 "Unreasonably impracticable" means that the measures  
11 necessary to comply with regulations require such a high  
12 investment of risk, money, time, or any other resource or asset  
13 that the operation of a marijuana establishment is not worthy of  
14 being carried out in practice by a reasonably prudent  
15 businessperson.

16 **§A-2 Personal use of marijuana.** Notwithstanding any other  
17 state law to the contrary, the following acts shall neither be a  
18 criminal offense under Hawaii law nor a basis for seizure or  
19 forfeiture of assets under Hawaii law for persons twenty-one  
20 years of age or older:



- 1           (1) Possessing, using, displaying, purchasing, or  
2                   transporting marijuana accessories or one ounce or  
3                   less of marijuana;
- 4           (2) Possessing, growing, processing, or transporting up to  
5                   five marijuana plants and possession of the marijuana  
6                   produced by the plants on the premises where the  
7                   plants were grown; provided that the plants are grown  
8                   in a secured space, the plants are not grown openly or  
9                   publicly, and are not made available for sale;
- 10          (3) Transfer of one ounce or less of marijuana without  
11                   remuneration to a person who is twenty-one years of  
12                   age or older;
- 13          (4) Consumption of marijuana; provided that nothing in  
14                   this section shall permit consumption that is  
15                   conducted openly and publicly or in a manner that  
16                   endangers others; and
- 17          (5) Assisting another person who is twenty-one years of  
18                   age or older in any of the acts described in  
19                   paragraphs (1) through (4).

20           **§A-3 Lawful operation of marijuana-related facilities.**

21   Notwithstanding any other state law to the contrary, the



1 following acts shall neither be a criminal offense under Hawaii  
2 law nor a basis for seizure or forfeiture of assets under Hawaii  
3 law for persons twenty-one years of age or older:

4 (1) Manufacture, sale, purchase, or possession of  
5 marijuana accessories;

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

17 (3) Cultivating, harvesting, processing, packaging,  
18 transporting, displaying, or possessing marijuana;  
19 delivery or transfer of marijuana to a marijuana  
20 testing facility; selling marijuana to a marijuana  
21 cultivation facility, a marijuana product



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

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



1 owner, employee, or agent of a licensed marijuana  
2 product manufacturing facility;

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

10 (6) Leasing or otherwise allowing the use of property  
11 owned, occupied, or controlled by any person,  
12 corporation, or other entity for any of the activities  
13 described in paragraphs (1) through (5).

14 **§A-4 Regulation of marijuana.** (a) Not later than one  
15 hundred twenty days after the effective date of this Act, the  
16 department shall adopt rules pursuant to chapter 91 necessary to  
17 implement this chapter. The rules shall not prohibit the  
18 operation of marijuana establishments either expressly or by  
19 making operations unreasonably impracticable. The rules shall  
20 include:



- 1 (1) Procedures for the issuance, renewal, suspension, and  
2 revocation of a license to operate a marijuana  
3 establishment;
- 4 (2) A schedule of application, licensing, and renewal  
5 fees;
- 6 (3) Qualifications for a license that are directly and  
7 demonstrably related to the operation of a marijuana  
8 establishment;
- 9 (4) Security requirements for marijuana establishments;
- 10 (5) Requirements to prevent the sale or diversion of  
11 marijuana and marijuana products to persons under the  
12 age of twenty-one;
- 13 (6) Labeling requirements for marijuana and marijuana  
14 products sold or distributed by a marijuana  
15 establishment;
- 16 (7) Health and safety regulations and standards for the  
17 manufacture of marijuana products and the cultivation  
18 of marijuana;
- 19 (8) Restrictions on the advertising and display of  
20 marijuana and marijuana products; and



1           (9) Civil penalties not to exceed \$100 per violation for  
2                   any failure to comply with rules made pursuant to this  
3                   section.

4           (b) To ensure that individual privacy is protected,  
5 notwithstanding subsection (a), the department shall not require  
6 a consumer to provide a retail marijuana store with personal  
7 information other than government-issued identification to  
8 determine the consumer's age. A retail marijuana store shall  
9 not be required to acquire and record personal information about  
10 consumers other than information typically acquired in a  
11 financial transaction conducted at a retail liquor store.

12           (c) Each application for a license to operate a marijuana  
13 establishment shall be submitted to the department. The  
14 department shall:

15           (1) Begin accepting and processing applications by July 1,  
16                   2018;

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



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

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

5           **§A-5 Employers; driving; minors; control of property.**

6 Nothing in this part shall be construed to:

7           (1) Require an employer to permit or accommodate the use,  
8           consumption, possession, transfer, display,  
9           transportation, sale, or growing of marijuana in the  
10          workplace or to affect the ability of employers to  
11          have policies restricting the use of marijuana by  
12          employees;

13          (2) Allow driving under the influence of marijuana or  
14          driving while impaired by marijuana or to supersede  
15          any law relating to driving under the influence of  
16          marijuana or driving while impaired by marijuana, nor  
17          shall this part preclude the State from enacting laws  
18          and imposing penalties for driving under the influence  
19          of or while impaired by marijuana;

20          (3) Permit the transfer of marijuana, with or without  
21          remuneration, to a person under the age of twenty-one



1 or to allow a person under the age of twenty-one to  
2 purchase, possess, use, transport, grow, or consume  
3 marijuana; or

4 (4) Prohibit a person, employer, school, hospital,  
5 detention facility, corporation, or any other entity  
6 who occupies, owns, or controls property from  
7 prohibiting or otherwise regulating the possession,  
8 consumption, use, display, transfer, distribution,  
9 sale, transportation, or growing of marijuana on or in  
10 that property.

11 **SA-6 Medical marijuana provisions unaffected.** Nothing in  
12 this chapter shall limit any privileges or rights of a medical  
13 marijuana qualifying patient, primary caregiver, or registered  
14 entity as provided in chapter 329, part IX."

15 SECTION 2. Chapter 712, Hawaii Revised Statutes, is  
16 amended by adding a new section to part IV be appropriately  
17 designated and to read as follows:

18 "§712- Marijuana. The following acts shall be exempt  
19 from arrest, prosecution, and criminal culpability under this  
20 part:

21 (1) Any act permitted under section A-2; and



1        (2) Any act permitted under section A-3."

2        SECTION 3. Section 46-4, Hawaii Revised Statutes, is  
3 amended by amending subsection (f) to read as follows:

4        "(f) Neither this section nor any other law, county  
5 ordinance, or rule shall prohibit the use of land for medical  
6 marijuana production centers or medical marijuana dispensaries  
7 established and licensed pursuant to chapter 329D[+] or  
8 marijuana establishments established and licensed pursuant to  
9 chapter A; provided that the land is otherwise zoned for  
10 agriculture, manufacturing, or retail purposes."

11        SECTION 4. Section 235-2.4, Hawaii Revised Statutes, is  
12 amended by amending subsection (r) to read as follows:

13        "(r) Section 280E (with respect to expenditures in  
14 connection with the illegal sale of drugs) of the Internal  
15 Revenue Code shall be operative for the purposes of this  
16 chapter, except that section 280E shall not be operative with  
17 respect to the production and sale of [~~medical~~]:

18        (1) Medical marijuana and manufactured marijuana products  
19 by dispensaries licensed under chapter 329D and their  
20 subcontractors, as defined in section 329D-1[+]; and



1       (2) Marijuana and marijuana products by marijuana  
2       establishments licensed under chapter A."

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

5       "**§237-24.3 Additional amounts not taxable.** In addition to  
6 the amounts not taxable under section 237-24, this chapter shall  
7 not apply to:

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

17       (2) Amounts received by the manager, submanager, or board  
18       of directors of:

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



- 1 (B) A nonprofit homeowners or community association
- 2 incorporated in accordance with chapter 414D or
- 3 any predecessor thereto and existing pursuant to
- 4 covenants running with the land,
- 5 in reimbursement of sums paid for common expenses;
- 6 (3) Amounts received or accrued from:
  - 7 (A) The loading or unloading of cargo from ships,
  - 8 barges, vessels, or aircraft, whether or not the
  - 9 ships, barges, vessels, or aircraft travel
  - 10 between the State and other states or countries
  - 11 or between the islands of the State;
  - 12 (B) Tugboat services including pilotage fees
  - 13 performed within the State, and the towage of
  - 14 ships, barges, or vessels in and out of state
  - 15 harbors, or from one pier to another; and
  - 16 (C) The transportation of pilots or governmental
  - 17 officials to ships, barges, or vessels offshore;
  - 18 rigging gear; checking freight and similar
  - 19 services; standby charges; and use of moorings
  - 20 and running mooring lines;



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



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

6 (6) Amounts received by a hospital, infirmary, medical  
7 clinic, health care facility, pharmacy, or a  
8 practitioner licensed to administer the drug to an  
9 individual for selling prescription drugs or  
10 prosthetic devices to an individual; provided that  
11 this paragraph shall not apply to any amounts received  
12 for services provided in selling prescription drugs or  
13 prosthetic devices. As used in this paragraph:

14 "Prescription drugs" are those drugs defined  
15 under section 328-1 and dispensed by filling or  
16 refilling a written or oral prescription by a  
17 practitioner licensed under law to administer the drug  
18 and sold by a licensed pharmacist under section 328-16  
19 or practitioners licensed to administer drugs;  
20 provided that "prescription drugs" shall not include  
21 marijuana, marijuana products, or manufactured



1 marijuana products authorized pursuant to chapters 329  
2 [~~and~~], 329D, and A[+]; and[+]

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

15 (7) Taxes on transient accommodations imposed by chapter  
16 237D and passed on and collected by operators holding  
17 certificates of registration under that chapter;

18 (8) Amounts received as dues by an unincorporated  
19 merchants association from its membership for  
20 advertising media, promotional, and advertising costs  
21 for the promotion of the association for the benefit



1 of its members as a whole and not for the benefit of  
2 an individual member or group of members less than the  
3 entire membership;

4 (9) Amounts received by a labor organization for real  
5 property leased to:

6 (A) A labor organization; or

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

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

17 (10) Amounts received from foreign diplomats and consular  
18 officials who are holding cards issued or authorized  
19 by the United States Department of State granting them  
20 an exemption from state taxes; and



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

10 SECTION 6. Section 321-30.1, Hawaii Revised Statutes, is  
11 amended by amending its title and subsections (a) and (b) to  
12 read as follows:

13 **"§321-30.1 [~~Medical marijuana~~] Marijuana registry and**  
14 **regulation special fund; established.** (a) There is established  
15 within the state treasury the [~~medical~~] marijuana registry and  
16 regulation special fund. The fund shall be expended at the  
17 discretion of the director of health:

18 (1) To establish and regulate a system of medical  
19 marijuana dispensaries in the State;



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



1 and chapter A. There is established within the [~~medical~~]  
2 marijuana registry and regulation special fund:

3 (1) A medical marijuana registry program sub-account, into  
4 which shall be deposited all fees collected pursuant  
5 to subsection (c); [~~and~~]

6 (2) A medical marijuana dispensary program sub-account,  
7 into which shall be deposited all fees collected  
8 pursuant to section 329D-4[~~-~~]; and

9 (3) A marijuana establishment program sub-account, into  
10 which shall be deposited all fees collected pursuant  
11 to chapter A."

12 SECTION 7. Section 329-43.5, Hawaii Revised Statutes, is  
13 amended by amending subsection (e) to read as follows:

14 "(e) Subsections (a) and (b) shall not apply to a person  
15 who is authorized to:

16 (1) Acquire, possess, cultivate, use, distribute, or  
17 transport marijuana pursuant to the definition of  
18 "medical use" under section 329-121, while the person  
19 is facilitating the medical use of marijuana by a  
20 qualifying patient; [~~or~~]



- 1           (2) Dispense, manufacture, or produce marijuana or
- 2           manufactured marijuana products pursuant to and in
- 3           compliance with chapter 329D, while the person is
- 4           facilitating the medical use of marijuana by a
- 5           qualifying patient pursuant to part IX of chapter
- 6           329[-]; or
- 7           (3) Grow, process, possess, transfer, display, transport,
- 8           or use marijuana or marijuana products pursuant to and
- 9           in compliance with chapter A."

PART II

11           SECTION 8. The Hawaii Revised Statutes is amended by  
12 adding a new chapter to title 14 to be appropriately designated  
13 and to read as follows:

**"CHAPTER B**

**MARIJUANA TAX**

16           **§B-1 Definitions.** Wherever used in this chapter, unless  
17 the context otherwise requires:

18           "Dealer" means the holder of a medical marijuana production  
19 center license, a medical marijuana dispensary license, or a  
20 marijuana establishment license under chapter 329D or A.



1 "Manufactured marijuana product" shall have the same  
2 meaning as in section 329D-1.

3 "Marijuana" shall have the same meaning as in section 329-  
4 121.

5 "Marijuana establishment" shall have the same meaning as in  
6 section A-1.

7 "Marijuana products" shall have the same meaning as in  
8 section A-1.

9 "Medical marijuana dispensary" shall have the same meaning  
10 as in section 329D-1.

11 "Medical marijuana production center" shall have the same  
12 meaning as in section 329D-1.

13 "Permittee" means the holder of a permit provided for in  
14 section B-2.

15 "Person" means an individual, firm, corporation,  
16 partnership, association, or any form of business or legal  
17 entity.

18 "Sale" means any transfer of title or possession, or both,  
19 exchange, or barter, in any manner or by any means whatsoever,  
20 for a consideration.



1           **SB-2 Permit.** (a) It shall be unlawful for any dealer to  
2 sell marijuana, marijuana products, or manufactured marijuana  
3 products unless a permit has been issued to the dealer as  
4 hereinafter prescribed, and the permit is in full force and  
5 effect.

6           (b) The department of health shall certify to the  
7 department of taxation from time to time and within forty-eight  
8 hours after a license is issued pursuant to chapter A the name  
9 of every dealer, together with the dealer's place of business  
10 and the period covered by the dealer's license. The department  
11 of taxation thereupon shall issue its permit to that person for  
12 the period covered by the person's license upon the payment of a  
13 permit fee of \$           . The permit shall be issued by the  
14 department of taxation as of the date when the department of  
15 health issued the license.

16           (c) Any permit issued under this chapter shall not be  
17 assignable. The permit shall be conspicuously displayed on the  
18 premises of the permittee covered by the permit; it shall expire  
19 on June 30 next succeeding the date upon which it is issued,  
20 unless sooner suspended, surrendered, or revoked for cause by  
21 the department of taxation; and it shall be renewed annually



1 before July 1, upon fulfillment of all requirements as in the  
2 case of an original permit and the payment of a renewal fee of  
3 \$ . Whenever a permit is defaced, destroyed, or lost,  
4 or the licensed premises are relocated, the department of  
5 taxation may issue a duplicate permit to the permittee upon the  
6 payment of a fee of .

7 (d) The department of taxation may suspend, or, after  
8 hearing, revoke, any permit issued by it under this chapter  
9 whenever it finds that the permittee has failed to comply with  
10 this chapter, or any rule of the department adopted under this  
11 chapter. Upon suspending or revoking any permit, the department  
12 of taxation shall request the permittee to surrender to it  
13 immediately the permit, or any duplicate thereof issued to the  
14 permittee, and the permittee shall surrender the permit promptly  
15 to the department as requested. Whenever the department of  
16 taxation suspends a permit, it shall notify the permittee  
17 immediately and afford the permittee a hearing, if desired, and  
18 if a hearing has not already been afforded. After the hearing,  
19 the department of taxation shall either rescind its order of  
20 suspension, or good cause appearing therefor, shall continue the  
21 suspension or revoke the permit.



1           **§B-3 Cooperation between department of taxation and**  
2 **department of health.** (a) The department of taxation and the  
3 department of health, if the department of health exercises its  
4 authority under this chapter, shall cooperate in the enforcement  
5 of this chapter.

6           (b) The department of taxation shall notify the department  
7 of health of the name and address of every permittee whose  
8 permit has been revoked, and any license issued to the permittee  
9 under chapter 329D or A thereupon shall be deemed forfeited.

10           (c) The department of taxation may notify the department  
11 of health of the name and address of every person who has failed  
12 to file any return required, or to pay any tax prescribed, or to  
13 secure a permit, or to perform any other duty or act imposed  
14 under this chapter, and the department of health shall thereupon  
15 suspend any license which may have been issued to that person  
16 under chapter 329D or A until such time as the person complies  
17 with this chapter.

18           (d) The department of health, if it exercises its  
19 authority under this chapter, shall provide to the department of  
20 taxation the results of any examination the department of health  
21 has undertaken pursuant to section B-9 and, upon request, shall



1 furnish to the department of taxation any information in its  
2 possession relative to any person having a license issued by it,  
3 and its records shall be open to examination of the department  
4 of taxation.

5       **§B-4 Tax.** Every person engaged in the business of selling  
6 marijuana, marijuana products, or manufactured marijuana  
7 products shall pay an excise tax equal to               per cent of  
8 the gross proceeds of sales of marijuana, marijuana products,  
9 and manufactured marijuana products.

10       **§B-5 Return; form; contents.** Every taxpayer, on or before  
11 the twentieth day of each month, shall file with the department  
12 of taxation in the taxation district in which the taxpayer's  
13 business premises are located, or with the department in  
14 Honolulu, a return showing all sales of marijuana, marijuana  
15 products, and manufactured marijuana products defined in section  
16 B-1 and taxed under section B-4 made by the taxpayer during the  
17 preceding month, showing separately the amount of the nontaxable  
18 sales, and the amount of the taxable sales, and the tax payable  
19 thereon. The form of return shall be prescribed by the  
20 department and shall contain the information that it may deem  
21 necessary for the proper administration of this chapter.



1           **§B-6 Payment of tax; penalties.** (a) At the time of the  
2 filing of the return required under section B-5 and within the  
3 time prescribed therefor, each taxpayer shall pay to the  
4 department of taxation the tax imposed by this chapter, required  
5 to be shown by the return.

6           (b) Penalties and interest shall be added to and become a  
7 part of the tax, when and as provided by section 231-39.

8           **§B-7 Determination of tax, additional assessments, credit,**  
9 **and refunds.** (a) As soon as practicable after each return has  
10 been filed, the department of taxation shall cause the return to  
11 be examined and shall compute and determine the amount of the  
12 tax payable thereon.

13           (b) If it should appear upon the examination or thereafter  
14 within five years after the filing of the return, or at any time  
15 if no return has been filed, as a result of the examination or  
16 as a result of any examination of the records of the taxpayer or  
17 of any other inquiry or investigation, that the correct amount  
18 of the tax is greater than that shown on the return, or that any  
19 tax imposed by this chapter has not been paid, an assessment of  
20 the tax may be made in the manner provided in section 235-  
21 108(b). The amount of the tax for the period covered by the



1 assessment shall not be reduced below the amount determined by  
2 an assessment so made, except upon appeal or in a proceeding  
3 brought pursuant to section 40-35.

4 (c) If the taxpayer has paid or returned with respect to  
5 any month more than the amount determined to be the correct  
6 amount of tax for that month, the amount of the tax so returned  
7 and any assessment of tax made pursuant to the return may be  
8 reduced, and any overpayment of tax may be credited upon the tax  
9 imposed by this chapter, or at the election of the taxpayer, the  
10 taxpayer not being delinquent in the payment of any taxes owing  
11 to the State, may be refunded in the manner provided in section  
12 231-23(c); provided that no reduction of tax may be made when  
13 forbidden by subsection (b) or more than five years after the  
14 filing of the return.

15 **SB-8 Records to be kept.** (a) Every dealer shall keep a  
16 record of all sales of marijuana, marijuana products, and  
17 manufactured marijuana products defined in section B-1 and taxed  
18 under section B-4 made by the dealer, in the form that the  
19 department of taxation may prescribe. Every person holding a  
20 license under chapter 329D or A, shall keep a record of all  
21 purchases by the person of marijuana, marijuana products, and



1 manufactured marijuana products defined in section B-1 and taxed  
2 under section B-4, in the form that the department of taxation  
3 may prescribe. All the records shall be offered for inspection  
4 and examination at any time upon demand by the department of  
5 taxation or department of health and shall be preserved for a  
6 period of five years, except that the department of taxation may  
7 in writing consent to their destruction within the period or may  
8 require that they be kept longer.

9 The department of taxation may by rule require the dealer  
10 to keep any other records that it may deem necessary for the  
11 proper enforcement of this chapter.

12 (b) If any dealer or any other taxpayer fails to keep  
13 records from which a proper determination of the tax due under  
14 this chapter may be made, the department of taxation may fix the  
15 amount of tax for any period from the best information  
16 obtainable by it, and assess the tax as hereinbefore provided.

17 **§B-9 Inspection.** (a) The director of taxation, the  
18 director of health, or the duly authorized agent of either, may  
19 examine all records required to be kept under this chapter, and  
20 books, papers, and records of any person engaged in the sale of  
21 marijuana, marijuana products, or manufactured marijuana



1 products to verify the accuracy of the payment of the tax  
2 imposed by this chapter and other compliance with this chapter  
3 and rules adopted pursuant thereto. Every person in possession  
4 of the books, papers, and records and the person's agents and  
5 employees shall give the director of taxation, the director of  
6 health, or the duly authorized agent of either of them, the  
7 means, facilities, and opportunities for the examination.

8 (b) The authority granted to the director of health under  
9 this section shall not conflict with section 231-18 and shall  
10 not extend to the inspection of any documents not directly  
11 related to this chapter.

12 **§B-10 Tax in addition to other taxes.** The tax imposed by  
13 this chapter shall be in addition to any other tax imposed upon  
14 the business of selling marijuana, marijuana products, or  
15 manufactured marijuana products, or upon any of the  
16 transactions, acts, or activities taxed by this chapter.

17 **§B-11 Appeals.** Any person aggrieved by any assessment of  
18 the tax imposed by this chapter may appeal from the assessment  
19 in the manner and within the time and in all other respects as  
20 provided in the case of income tax appeals by section 235-114.



1 The hearing and disposition of the appeal, including the  
2 distribution of costs shall be as provided in chapter 232.

3       **§B-12 Other provisions applicable.** All of the provisions  
4 of chapters 235 and 237 not inconsistent with this chapter and  
5 that may appropriately be applied to the taxes, persons,  
6 circumstances, and situations involved in this chapter,  
7 including, without prejudice to the generality of the foregoing,  
8 provisions as to penalties and interest, provisions granting  
9 administrative powers to the director of taxation, and  
10 provisions for the assessment, levy, and collection of taxes,  
11 shall be applicable to the taxes imposed by this chapter, and to  
12 the assessment, levy, and collection thereof, except that  
13 returns, return information, or reports under this chapter and  
14 relating only to this chapter may be made known to the  
15 department of health by the department of taxation, if not in  
16 conflict with section 231-18.

17       **§B-13 Investigations; contempts; fees.** (a) The director  
18 of taxation, and any agent authorized by the director to conduct  
19 any inquiry, investigation, or hearing hereunder, shall have  
20 power to administer oaths and take testimony under oath relative  
21 to the matter of inquiry or investigation. At any hearing



1 ordered by the director, the director or the director's agent  
2 authorized to conduct the hearing may subpoena witnesses and  
3 require the production of books, papers, and documents pertinent  
4 to the inquiry. No witness under subpoena authorized to be  
5 issued by this section shall be excused from testifying or from  
6 producing books or papers on the ground that the testimony or  
7 the production of the books or other documentary evidence would  
8 tend to incriminate the witness, but the evidence or the books  
9 or papers so produced shall not be used in any criminal  
10 proceeding against the witness.

11 (b) If any person disobeys the process or, having appeared  
12 in obedience thereto, refuses to answer any pertinent question  
13 put to the person by the director of taxation or the director's  
14 authorized agent or to produce any books and papers pursuant  
15 thereto, the director or the agent may apply to the circuit  
16 court of the circuit wherein the taxpayer resides or wherein the  
17 transaction, act, or activity under investigation has occurred,  
18 or to any judge of the circuit court, setting forth the  
19 disobedience to process or refusal to answer, and the court or  
20 the judge shall cite the person to appear before the court or  
21 the judge to answer the question or to produce the books and



1 papers, and, upon the person's refusal to do so, shall commit  
2 the person to jail until the person shall testify, but not for a  
3 longer period than sixty days. Notwithstanding the serving of  
4 the term of commitment by any person, the director may proceed  
5 in all respects with the inquiry and examination as if the  
6 witness had not previously been called upon to testify.

7 (c) Officers who serve subpoenas issued by the director of  
8 taxation or under the director's authority and witnesses  
9 attending hearings conducted by the director hereunder shall  
10 receive like fees and compensation as officers and witnesses in  
11 the circuit courts of the State, to be paid on vouchers of the  
12 director, from any moneys available for litigation expenses of  
13 the department of taxation.

14 **§B-14 Administration by director; rules and regulations.**

15 (a) The administration of this chapter is vested in the  
16 director of taxation who may adopt and enforce rules for the  
17 enforcement and administration of this chapter.

18 (b) The rules shall be adopted by the director, subject to  
19 chapter 91.

20 **§B-15 Penalties.** (a) The penalties provided by this  
21 section shall apply to any person whether acting as principal,



1 agent, officer, or director, for oneself, itself, or for another  
2 person, and shall apply to each single violation, but shall not  
3 apply to any act the punishment for which is elsewhere  
4 prescribed by this chapter.

5 (b) Any dealer who sells marijuana, marijuana products, or  
6 manufactured marijuana products without a permit as required by  
7 this chapter shall be fined not more than \$ .

8 **SB-16 Disposition of revenues.** All moneys collected  
9 pursuant to this chapter shall be transmitted to the director of  
10 finance for deposit into the education special fund established  
11 under section 302A- ."

12 SECTION 9. Chapter 302A, Hawaii Revised Statutes, is  
13 amended by adding a new section to part V, subpart B, to be  
14 appropriately designated and to read as follows:

15 "§302A- Education special fund. (a) There is created  
16 in the treasury of the State the education special fund, into  
17 which shall be deposited the marijuana tax revenues designated  
18 in section B-16.

19 (b) Moneys in the education special fund shall be used  
20 solely for the support of early education and public schools."



1 PART III

2 SECTION 10. In codifying the new chapters added by  
3 sections 1 and 8 of this Act, the revisor of statutes shall  
4 substitute appropriate chapter numbers for the letters used in  
5 designating the new chapters in this Act.

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

9 SECTION 12. If any provision of this Act, or the  
10 application thereof to any person or circumstance, is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act that can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

15 SECTION 13. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 14. This Act shall take effect on July 1, 2017;  
18 provided that section 4 shall apply to taxable years beginning  
19 after December 31, 2016.

20

INTRODUCED BY:

  




*Richard Gray*

JAN 20 2017



# H.B. NO. 449

**Report Title:**

Marijuana; Legalization; Regulation; Taxation

**Description:**

Legalizes under state law the growing, processing, possession, transfer, and personal use of marijuana in a specified quantity to persons at least twenty-one years of age. Requires licensing to operate marijuana establishments. Specifies the application and non-application of the Internal Revenue Code to expenses related to the production and sale of marijuana and marijuana products for state income tax purposes. Specifies that amounts received for the sale of marijuana or marijuana products are not exempt from the state general excise tax. Establishes a tax on the sale of marijuana, marijuana products, and manufactured marijuana products. Establishes an education special fund, into which marijuana tax revenues are to be deposited.

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

