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# A BILL FOR AN ACT

RELATING TO THE COUNTIES.

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

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

4 "PART . COUNTY-BASED LEGALIZATION OF MARIJUANA FOR NON-  
5 MEDICAL USE

6 §46-A Definitions. As used in this part, unless the  
7 context clearly requires otherwise:

8 "Adult" means an individual who is eighteen years of age or  
9 older.

10 "County" means a pilot county; provided that as used in  
11 this section and section 46-B, "county" means a county within  
12 the State.

13 "Delta-9 tetrahydrocannabinol" means the primary  
14 psychoactive component of marijuana.

15 "Legalize" means to authorize possession, sale, transfer,  
16 and use.



1 "Marijuana dispensary" means a person authorized by a pilot  
2 county to sell marijuana within the county.

3 "Minor" means an individual under the age of eighteen  
4 years.

5 "Ordinance" means one or more ordinances ordained by a  
6 pilot county to authorize within the county the possession,  
7 sale, transfer, and use of marijuana, subject to this part.

8 "Pilot county" means a county that authorizes within the  
9 county the possession, sale, transfer, and use of marijuana,  
10 subject to this part.

11 **§46-B General provisions.** (a) A county may enact an  
12 ordinance to authorize within the county the possession, sale,  
13 transfer, and use of marijuana; provided that the county fully  
14 complies with this part. A county that legalizes marijuana as  
15 authorized by this part shall also be known as a pilot county.

16 (b) This part shall not be construed to require any county  
17 to authorize within the county the possession, sale, transfer,  
18 or use of marijuana.

19 (c) This part shall prevail over any other state law or  
20 pilot county ordinance to the contrary.



1           **§46-C Marijuana dispensaries; delta-9 tetrahydrocannabinol**  
2 **levels.** (a) An ordinance shall establish procedures through  
3 which a person shall obtain approval to sell marijuana within  
4 the pilot county as a marijuana dispensary. The ordinance shall  
5 also establish requirements the for the operation of marijuana  
6 dispensaries.

7           (b) An ordinance shall prohibit any individual under the  
8 age of eighteen years from knowingly entering or remaining upon  
9 premises under the control of a marijuana dispensary.

10          (c) A pilot county may elect to automatically authorize  
11 any medical cannabis dispensary that is operating pursuant to  
12 chapter 329D to also operate as a marijuana dispensary within  
13 the county.

14          (d) The level of delta-9 tetrahydrocannabinol in the  
15 marijuana sold at any marijuana dispensary shall not exceed the  
16 level approved by the department of health.

17           **§46-D Limitations regarding persons; amounts.** A pilot  
18 county shall not authorize:

19           (1) Any minor to possess, sell, transfer, or use marijuana  
20                 in any amount;



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1           (2) Any adult, other than a person working for a marijuana  
2           dispensary, to possess more than three ounces of  
3           marijuana at any given time; and

4           (3) Any person to sell or transfer any amount of marijuana  
5           to a minor.

6           **§46-E Synthetic products prohibited.** Any ordinance shall  
7           prohibit synthetic delta-9 tetrahydrocannabinol products within  
8           the pilot county.

9           **§46-F Packaging; labeling; minors.** (a) An ordinance  
10          shall require marijuana that is sold within the pilot county to  
11          be sold in packaging that protects the marijuana from the  
12          elements and prevents tampering.

13          (b) An ordinance shall require accurate labeling on  
14          marijuana sold within the pilot county. Marijuana shall be  
15          deemed to be mislabeled if:

16           (1) Its labeling is false or misleading in any particular;

17           (2) It is offered for sale under the name of another type  
18           of product;

19           (3) Its container is so made, formed, or filled as to be  
20           misleading;

21           (4) It is missing a label containing:



1 (A) The name and place of business of the seller; and  
2 (B) An accurate statement of the quantity of the  
3 contents in terms of weight, measure, or  
4 numerical count;

5 (5) Any word, statement, or other information required by  
6 the ordinance or any rule adopted pursuant to chapter  
7 91 to appear on the label or labeling is not  
8 prominently placed thereon with such conspicuousness  
9 (as compared with other words, statements, designs, or  
10 devices, in the labeling) and in terms as to render it  
11 likely to be read and understood by the ordinary  
12 individual under customary conditions of purchase and  
13 use;

14 (6) It:

15 (A) Fails to meet a standard of quality specified by  
16 the ordinance and its quality falls below the  
17 standard unless its label bears, in the manner  
18 and form as the ordinance specifies, a statement  
19 that it falls below the standard; or

20 (B) Falls below the standard of fill of container  
21 imposed by the ordinance, unless its label bears,



1                   in the manner and form as the ordinance  
2                   specifies, a statement that it falls below the  
3                   standard; or

4           (7) The label purports the marijuana to be or is  
5           represented as for health or medical uses.

6           (c) An ordinance shall prohibit marijuana packaging or  
7 labeling that is designed to be attractive to minors.

8           **§46-G Limitation on transportation.** An ordinance may  
9 authorize marijuana dispensaries within the pilot county to  
10 transport marijuana outside the county; provided that federal  
11 law has authorized the transportation of marijuana over non-  
12 state waters.

13           **§46-H Poison control.** An ordinance shall establish a  
14 poison control center to assist persons who suffer from  
15 excessive intake of delta-9 tetrahydrocannabinol.

16           **§46-I Costs; reimbursement; criminal justice;**  
17 **incarceration; data monitoring.** Prior to effectuating any  
18 ordinance ordained pursuant to section 46-C, a pilot county  
19 shall enter into memoranda of understanding with:



- 1           (1) The judiciary to reimburse the judiciary for all costs  
2                    incurred by the judiciary for the adjudication of  
3                    marijuana offenses within the county;
- 4           (2) The department of public safety to reimburse the  
5                    department for all costs incurred by the department  
6                    for the incarceration of individuals who committed  
7                    marijuana offenses within the county;
- 8           (3) The department of health to reimburse the department  
9                    for all costs incurred by the department for the  
10                  purpose of data monitoring relating to the use of  
11                  marijuana within the county; and
- 12          (4) The department of the attorney general to reimburse  
13                  the department for all costs incurred by the  
14                  department for the prosecution of persons who sell  
15                  marijuana in the pilot county described in part        of  
16                  chapter without collecting and paying to the State the  
17                  tax imposed on the sale pursuant to chapter 237 and  
18                  the surcharge imposed pursuant to section 46-K.

19           **§46-J Law enforcement; budgets.** For every fiscal year  
20 after fiscal year 2021-2022, a pilot county shall approve an  
21 overall operating budget for its police department that is no



1 less than per cent higher than the overall operating  
2 budget for fiscal year 2021-2022.

3 **§46-K Pilot county surcharge on state tax.** (a) An  
4 ordinance shall establish a surcharge on the state taxes imposed  
5 pursuant to chapters 237 and 238 on the sale of marijuana within  
6 the pilot county. If established, the rate of the surcharge  
7 shall be per cent on the gross proceeds of sales of  
8 marijuana within the county.

9 (b) An ordinance shall prohibit selling marijuana without  
10 the collection and payment to the State of the tax imposed on  
11 the sale pursuant to chapter 237 and the surcharge imposed  
12 pursuant to this section.

13 (c) The pilot county shall notify the director of taxation  
14 of the adoption of the ordinance. No later than days after  
15 the director of taxation's receipt of the notification, the  
16 director shall levy, assess, collect, and otherwise administer  
17 the pilot county surcharge on state tax.

18 (d) A pilot county shall use moneys obtained from the  
19 surcharge for:





1 (1) The administration of ordinances ordained and rules  
2 adopted pursuant to chapter 91 for the purposes of  
3 this part; and

4 (2) Reimbursements required by section 46-I.

5 **§46-L Rules.** A pilot county may adopt rules necessary for  
6 the implementation of this part, subject to chapter 91."

7 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended  
8 by adding a new section to part I to be appropriately designated  
9 and to read as follows:

10 "§28- Pilot county surcharge; marijuana; prosecution.

11 Notwithstanding any law to the contrary, the department of the  
12 attorney general shall prosecute any person who sells marijuana  
13 in a pilot county described in part of chapter 46 without  
14 collecting and paying to the State the tax imposed on the sale  
15 pursuant to chapter 237 and the surcharge imposed pursuant to  
16 section 46-K."

17 SECTION 3. Chapter 321, Hawaii Revised Statutes, is  
18 amended by adding a new section to part I to be appropriately  
19 designated and to read as follows:

20 "§321- Data monitoring; marijuana; pilot counties. (a)

21 The department of health shall monitor the use of marijuana



1 within a pilot county that has legalized marijuana pursuant to  
2 part of chapter 46.

3 (b) The department of health shall submit a report of its  
4 findings and recommendations, including any proposed  
5 legislation, to the legislature no later than twenty days prior  
6 to the convening of each regular session."

7 SECTION 4. Chapter 329D, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§329D- Marijuana; sales; pilot counties. (a)  
11 Notwithstanding any provision of this chapter to the contrary, a  
12 medical cannabis dispensary operating pursuant to this chapter  
13 may also act as a marijuana dispensary as defined in section  
14 46-A, to the extent authorized by a pilot county that has  
15 legalized marijuana pursuant to part of chapter 46.

16 (b) The department shall not impose any penalty upon a  
17 medical cannabis dispensary solely based on the fact that it is  
18 also operating as a marijuana dispensary pursuant to part of  
19 chapter 46."



1 SECTION 5. Chapter 712, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4 "§712- County legalization of marijuana. (1) A person  
5 who possesses, sells, transfers, or uses marijuana within a  
6 pilot county that has legalized marijuana pursuant to part  
7 of chapter 46 shall not be deemed in violation of this part;  
8 provided that the person is in full compliance with the county  
9 ordinances and rules adopted pursuant to that part.

10 (2) This part shall not be enforceable in a pilot county  
11 that has legalized marijuana pursuant to part of chapter 46,  
12 unless the defendant is not in full compliance with the county  
13 ordinances and rules adopted pursuant to that part."

14 SECTION 6. Section 329D-15, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) No person shall intentionally or knowingly enter or  
17 remain upon the premises of a medical cannabis retail dispensing  
18 location unless the individual is:

19 (1) An individual licensee or registered employee of the  
20 dispensary;



- 1           (2) A qualifying patient, primary caregiver, qualifying  
2           out-of-state patient, or caregiver of a qualifying  
3           out-of-state patient;
- 4           (3) A government employee or official acting in the  
5           person's official capacity; or
- 6           (4) Previously included on a current department-approved  
7           list provided to the department by the licensee of  
8           those persons who are allowed into that dispensary's  
9           facilities for a specific purpose for that dispensary,  
10          including but not limited to construction,  
11          maintenance, repairs, legal counsel, providers of  
12          paratransit or other assistive services required by a  
13          qualifying patient to access a retail dispensary  
14          location, or investors; provided that:
  - 15           (A) The person has been individually approved by the  
16           department to be included on the list;
  - 17           (B) The person [~~is at least twenty one years of age~~],  
18           as verified by a valid government issued  
19           identification card[+]:
    - 20            (i) Is at least eighteen years of age, if the  
21            retail dispensing location is under the



- 1                   control of a dispensary that is also  
2                   authorized to sell marijuana within a pilot  
3                   county pursuant to part        of chapter 46;  
4                   or  
5           (ii) Is at least twenty-one years of age, if the  
6                   retail dispensing location is not as  
7                   described in clause (i);  
8           (C) The department has confirmed that the person has  
9                   no felony convictions;  
10           (D) The person is escorted by an individual licensee  
11                   or registered employee of the dispensary at all  
12                   times while in the dispensary facility;  
13           (E) The person is only permitted within those  
14                   portions of the dispensary facility as necessary  
15                   to fulfill the person's purpose for entering;  
16           (F) The person is only permitted within the  
17                   dispensary facility during the times and for the  
18                   duration necessary to fulfill the person's  
19                   purpose for entering;  
20           (G) The dispensary shall keep an accurate record of  
21                   each person's first and last name, date and times



1                   upon entering and exiting the dispensary  
2                   facility, purpose for entering, and the identity  
3                   of the escort; and

4                   (H) The approved list shall be effective for one year  
5                   from the date of the department approval."

6                   SECTION 7. Section 329D-16, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8                   "(a) No person shall intentionally or knowingly enter or  
9 remain upon the premises of a medical cannabis production center  
10 unless the person is:

11                   (1) An individual licensee or registered employee of the  
12                   production center;

13                   (2) A government employee or official acting in the  
14                   person's official capacity; or

15                   (3) Previously included on a current department-approved  
16                   list provided to the department by the licensee of  
17                   those persons who are allowed into that dispensary's  
18                   facilities for a specific purpose for that dispensary,  
19                   including but not limited to construction,  
20                   maintenance, repairs, legal counsel, or investors;  
21                   provided that:



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- 1 (A) The person has been individually approved by the
- 2 department to be included on the list;
- 3 (B) The person [~~is at least twenty one years of age~~],
- 4 as verified by a valid government issued
- 5 identification card[+]:
- 6 (i) Is at least eighteen years of age, if the
- 7 production center is under the control of a
- 8 dispensary that is also authorized to sell
- 9 marijuana within a pilot county pursuant to
- 10 part of chapter 46; or
- 11 (ii) Is at least twenty-one years of age, if the
- 12 production center is not as described in
- 13 clause (i);
- 14 (C) The department has confirmed that the person has
- 15 no felony convictions;
- 16 (D) The person is escorted by an individual licensee
- 17 or registered employee of the dispensary at all
- 18 times while in the dispensary facility;
- 19 (E) The person is only permitted within those
- 20 portions of the dispensary facility as necessary
- 21 to fulfill the person's purpose for entering;



1 (F) The person is only permitted within the  
2 dispensary facility during the times and for the  
3 duration necessary to fulfill the person's  
4 purpose for entering;

5 (G) The dispensary shall keep an accurate record of  
6 each person's identity, date and times upon  
7 entering and exiting the dispensary facility,  
8 purpose for entering, and the identity of the  
9 escort; and

10 (H) The approved list shall be effective for one year  
11 from the date of department approval."

12 SECTION 8. In codifying the new sections added by  
13 section 1 of this Act, the revisor of statutes shall substitute  
14 appropriate section numbers for the letters used in designating  
15 the new sections in this Act.

16 SECTION 9. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19 SECTION 10. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



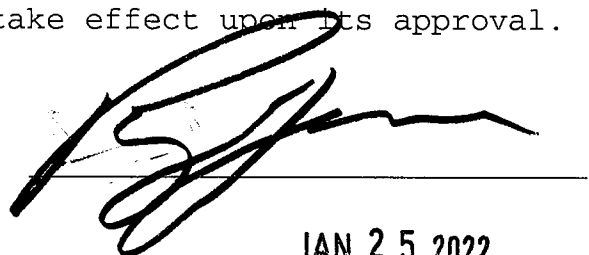


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1 SECTION 11. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be the name of the bill's sponsor.

JAN 25 2022



# H.B. NO. 2264

**Report Title:**

Non-medical Marijuana; Cannabis; Counties; Ordinances; Taxation

**Description:**

Authorizes the counties to adopt ordinances to legalize non-medical marijuana possession, sale, transfer, and use for adults, subject to certain conditions. Imposes a general excise tax surcharge on non-medical marijuana sold within those counties. Exempts persons from certain criminal offenses, provided they comply with county requirements.

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

