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# A BILL FOR AN ACT

RELATING TO CANNABIS.

**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 be appropriately designated and to read  
4 as follows:

5 "CHAPTER A

6 ADULT USE CANNABIS

7 PART I. GENERAL PROVISIONS

8 §A-1 Short title. This chapter may be cited as the Hawaii  
9 Adult Use Cannabis Law.

10 §A-2 Definitions. As used in this chapter, unless the  
11 context otherwise requires:

12 "Adult use" means use in accordance with part V of this  
13 chapter.

14 "Adult use cannabis cultivation site" means a location  
15 where cannabis is planted, grown, harvested, dried, cured,  
16 graded, or trimmed, or a location where any combination of those  
17 activities occurs.



1 "Adult use cannabis manufacturer" means a person that  
2 conducts the cultivation of adult use cannabis, or the  
3 production, preparation, propagation, or compounding of adult  
4 use cannabis or adult use manufactured cannabis products either  
5 directly or indirectly or by extraction methods, or  
6 independently by means of chemical synthesis, or by a  
7 combination of extraction and chemical synthesis at a fixed  
8 location that packages or repackages adult use cannabis or adult  
9 use manufactured cannabis products or labels or relabels its  
10 container.

11 "Adult use cannabis retail location" means an establishment  
12 where cannabis and manufactured cannabis products are made  
13 available for retail sale for adult use.

14 "Adult use cannabis retailer" means a person authorized to  
15 engage in the retail sale and delivery of cannabis or cannabis  
16 products to customers.

17 "Cannabis" means all parts of the plant *Cannabis sativa* L.,  
18 *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not;  
19 the seeds thereof; the resin, whether crude or purified,  
20 extracted from any part of the plant; and every compound,  
21 manufacture, salt, derivative, mixture, or preparation of the



1 plant, its seeds, or resin. "Cannabis" includes the separated  
2 resin, whether crude or purified, obtained from cannabis.  
3 "Cannabis" does not include the mature stalks of the plant;  
4 fiber produced from the stalks; oil or cake made from the seeds  
5 of the plant; any other compound, manufacture, salt, derivative,  
6 mixture, or preparation of the mature stalks (except the resin  
7 extracted therefrom), fiber, oil, or cake; the sterilized seed  
8 of the plant that is incapable of germination; or hemp as  
9 defined by section 328G-1.

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

19 "Commercial cannabis activity" includes the cultivation,  
20 possession, manufacture, distribution, processing, storing,  
21 laboratory testing, packaging, labeling, transportation,



1 delivery, or sale of cannabis and manufactured cannabis products  
2 as provided for in this chapter.

3 "Commission" means the Hawaii cannabis commission  
4 established under section A-11.

5 "Concentrated cannabis" means the separated resin, whether  
6 crude or purified, obtained from cannabis.

7 "Cultivation" means any activity involving the planting,  
8 growing, harvesting, drying, curing, grading, or trimming of  
9 cannabis.

10 "Department" means the department of commerce and consumer  
11 affairs.

12 "Distribution" means the procurement, sale, and transport  
13 of cannabis and manufactured cannabis products for adult use  
14 between licensees.

15 "Enclosed indoor facility" means a permanent, stationary  
16 structure with a solid floor, rigid exterior walls that encircle  
17 the entire structure on all sides, and a roof that protects the  
18 entire interior area from any exterior view and elements of  
19 weather. Nothing in this definition shall be construed to  
20 relieve a license applicant or license renewal applicant of the



1 duty to comply with all applicable building codes and  
2 regulations.

3 "Manufacture" means to compound, blend, extract, infuse, or  
4 otherwise make or prepare a manufactured cannabis product.

5 "Manufactured cannabis products" means cannabis that has  
6 undergone a process whereby the plant material has been  
7 transformed into a concentrate, including but not limited to  
8 concentrated cannabis, an edible or topical product containing  
9 cannabis, or concentrated cannabis and other ingredients.

10 **§A-3 Construction of the chapter.** Nothing in this chapter  
11 shall be construed to:

12 (1) Apply to any product containing cannabidiol that has  
13 been approved by the federal Food and Drug  
14 Administration that has either been placed on a  
15 schedule of the federal Controlled Substances Act  
16 other than Schedule I or has been exempted from one or  
17 more provisions of that act, and that is intended for  
18 prescribed use for the treatment of a medical  
19 condition;

20 (2) Apply to activity performed pursuant to a registration  
21 with the United States Drug Enforcement Administration



1           pursuant to title 21 Code of Federal Regulations part  
2           1318, as it read on January 19, 2021; provided that  
3           the person engaging in the activity provides the  
4           commission valid documentation of their registration  
5           with the United States Drug Enforcement Administration  
6           and the location where the activity will be performed  
7           prior to engaging in the activity;

8           (3) Affect the medical use of cannabis or limit any  
9           privileges or rights as provided in part IX of chapter  
10          329;

11          (4) Affect the regulation of medical cannabis dispensaries  
12          as provided in chapter 329D;

13          (5) Require an employer to permit or accommodate conduct  
14          otherwise allowed by this chapter in any workplace or  
15          on the employer's property;

16          (6) Prohibit an employer from disciplining an employee for  
17          violation of a workplace drug policy or for working  
18          while under the influence of cannabis;

19          (7) Prevent an employer from refusing to hire,  
20          discharging, disciplining, or otherwise taking an  
21          adverse employment action against a person with



- 1            respect to hire, tenure, terms, conditions, or  
2            privileges of employment because of that person's  
3            violation of a workplace drug policy or because that  
4            person was working while under the influence of  
5            cannabis;
- 6            (8)    Supersede any law relating to operating a vehicle  
7            under the influence of an intoxicant;
- 8            (9)    Permit the transfer of cannabis, with or without  
9            remuneration, to a minor or to allow a minor to  
10           purchase, possess, use, transport, grow, or consume  
11           cannabis; or
- 12           (10)   Require any person, corporation, or any other entity  
13           that occupies, owns, or controls real property to  
14           allow the consumption, cultivation, display, sale, or  
15           transfer of cannabis on or in that property; provided  
16           that in the case of the rental of a residential  
17           dwelling, a landlord shall not prohibit the possession  
18           of cannabis or the consumption of cannabis that is not  
19           inhaled, unless:
- 20           (A)    The tenant is not leasing the entire residential  
21           dwelling;



- 1 (B) The residence is incidental to detention or the
- 2 provision of medical, geriatric, educational,
- 3 counseling, religious, or similar service;
- 4 (C) The residence is a transitional housing facility;
- 5 or
- 6 (D) Failing to prohibit cannabis possession or
- 7 consumption would violate federal law or
- 8 regulations or cause the landlord to lose a
- 9 monetary or licensing-related benefit under
- 10 federal law or regulations.

11 **PART II. HAWAII CANNABIS COMMISSION**

12 **§A-11 Hawaii cannabis commission; members; compensation.**

- 13 (a) There is established a Hawaii cannabis commission within
- 14 the department of commerce and consumer affairs for
- 15 administrative purposes only.
- 16 (b) Notwithstanding section 26-34 to the contrary, the
- 17 commission shall consist of eight members who shall be residents
- 18 of the State and of which:
  - 19 (1) Two persons appointed by the governor;
  - 20 (2) One person appointed by the president of the senate;





- 1           (3) One person appointed by the speaker of the house of  
2           representatives; and
- 3           (4) Four persons, one each to be appointed by the  
4           respective mayors of the counties.
- 5           (c) Each member of the commission shall serve without pay.  
6 However, the actual and necessary traveling expenses incurred in  
7 connection with the performance of the member's official duties  
8 shall be paid by the department, upon the presentation of  
9 vouchers approved by the department.

10           **§A-12 Hawaii cannabis commission; powers and duties.** In  
11 addition to any other powers or duties authorized by law, the  
12 Hawaii cannabis commission may:

- 13           (1) Adopt, amend, or repeal rules, issue declaratory  
14           rulings or informal nonbinding interpretations, and  
15           conduct contested case proceedings pursuant to chapter  
16           91;
- 17           (2) Grant, deny, convert, forfeit, renew, reinstate, or  
18           restore licenses, including the issuance of  
19           conditional licenses;



- 1 (3) Revoke, suspend, or otherwise limit the license of any  
2 licensee for any violation of the provisions in this  
3 chapter or any rule or order of the commission;
- 4 (4) Develop requirements for licensure through this  
5 chapter or rules;
- 6 (5) Investigate and conduct hearings regarding any  
7 violation of this chapter and any rule or order of the  
8 commission;
- 9 (6) Create fact-finding committees which may make  
10 recommendations to the commission for its  
11 deliberations;
- 12 (7) Contract with qualified persons including  
13 investigators who may be exempt from chapter 76 and  
14 who shall assist the commission in exercising its  
15 powers and duties; and
- 16 (8) Subpoena witnesses and documents, administer oaths,  
17 and receive affidavits and oral testimony, including  
18 telephonic communications, and do any and all things  
19 necessary or incidental to the exercise of the  
20 commission's power and duties, including the authority



1 to conduct contested case proceedings under chapter  
2 91.

3 **SA-13 Revenues, fees, and fines.** (a) All revenues, fees,  
4 and fines collected pursuant to this chapter, except part V, and  
5 the rules adopted thereunder shall be deposited into the  
6 compliance resolution fund under section 26-9(o).

7 (b) All revenues and fines collected pursuant to part V of  
8 this chapter shall be deposited into the general fund.

9 **PART III. LICENSING**

10 **SA-21 License required; classification.** (a) No person  
11 shall engage in the business of an adult use cannabis  
12 manufacturer or adult use cannabis retailer, nor engage in the  
13 cultivation, manufacture, distribution, or sale of cannabis or  
14 manufactured cannabis products for adult use, unless the person  
15 is licensed pursuant to this chapter to engage in such business.

16 (b) The license classification pursuant to this chapter  
17 shall be as follows:

- 18 (1) Adult use cannabis manufacturer; and  
19 (2) Adult use cannabis retailer.

20 (c) All licenses issued under this chapter shall expire on  
21 December 31.



1 (d) A person may apply for and be issued more than one  
2 license under this chapter.

3 (e) Each applicant or licensee shall apply for, and if  
4 approved, shall obtain, a separate license for each location  
5 where it engages in commercial cannabis activity. An adult use  
6 cannabis retail location shall not be at the same location as an  
7 adult use cannabis cultivation site or location on which the  
8 manufacture of cannabis or manufactured cannabis products  
9 occurs.

10 (f) The commission shall offer no less  
11 than licenses in each county for each license  
12 category.

13 **§A-22 Application for licensure; penalty for false**  
14 **statement.** (a) Every application for a license or for the  
15 renewal of a license or for the transfer of a license shall be  
16 in writing, signed, and, except for the renewal of a license,  
17 verified by the oath of the applicant, or in the case of a  
18 corporation or unincorporated association by the proper officer  
19 or officers thereof, or if a partnership by a general partner  
20 thereof, or if a limited liability partnership by a partner  
21 thereof, or if a member-managed limited liability company by a



1 member thereof, or if a manager-managed limited liability  
2 company by a manager thereof, made before any official  
3 authorized by law to administer oaths, and shall be addressed to  
4 the commission, and set forth:

5 (1) The full name, age, and place of residence of the  
6 applicant; if a copartnership, the names, ages, and  
7 respective places of residence of all the partners; if  
8 a limited liability company, its full name and the  
9 names of all its members; if a corporation or joint-  
10 stock company, its full name and the names of its  
11 officers and directors, and the names of all  
12 stockholders owning twenty-five per cent or more of  
13 the outstanding capital stock; if a publicly-traded  
14 company, or an entity ultimately solely owned by a  
15 publicly-traded company, the names of the officers  
16 designated as the primary decision-makers regarding  
17 the purchase and sale of liquor; and if any other  
18 association of individuals, the names, ages, and  
19 respective places of residence of its officers and the  
20 number of its members;



1 (2) A particular description of the place or premises  
2 where the proposed license is to be exercised, so that  
3 the exact location and extent thereof may be clearly  
4 and definitely determined therefrom;

5 (3) The class of license applied for; and

6 (4) Any other matter or information pertinent to the  
7 subject matter which may be required by the rules of  
8 the commission.

9 (b) If any false statement is knowingly made in any  
10 application which is verified by oath, the applicant, and in the  
11 case of the application being made by a corporation, limited  
12 liability company, association, or club, the persons signing the  
13 application, shall be guilty of perjury, and shall be subject to  
14 the penalties prescribed by law for such offense. If any false  
15 statement is knowingly made in any application which is not  
16 verified by oath, the person or persons signing the application  
17 shall be guilty of a misdemeanor.

18 **§A-23 Criminal history record check.** (a) The commission  
19 may request a criminal history record check of an applicant for  
20 a license in accordance with section 846-2.7; provided that  
21 neither a criminal history record check nor compliance with this



1 section shall be required for the officers and directors of  
2 publicly-traded companies or entities ultimately solely owned by  
3 a publicly-traded company, who are not designated as primary  
4 decision-makers regarding the sale or purchase of cannabis or  
5 manufactured cannabis products. The criminal history record  
6 check, at a minimum, shall require the applicant to disclose  
7 whether:

8 (1) The applicant has been convicted in any jurisdiction  
9 of a crime that would tend to indicate the applicant  
10 may be unsuited for obtaining a license; and

11 (2) The judgment of conviction has not been vacated.

12 (b) For the purpose of this section, the criminal history  
13 disclosure made by the applicant may be verified by the  
14 commission by means of information obtained through the Hawaii  
15 criminal justice data center. The applicant shall provide the  
16 Hawaii criminal justice data center with personal identifying  
17 information which shall include but not be limited to the  
18 applicant's name, social security number, date of birth, and  
19 gender. This information shall be secured only for the purpose  
20 of conducting the criminal history record check authorized by  
21 this section.



- 1 (c) The applicant shall submit to the commission:
- 2 (1) A statement signed under penalty of law as to whether
- 3 the applicant has ever been convicted of a crime other
- 4 than a minor traffic violation;
- 5 (2) Written consent to request and obtain criminal history
- 6 record information for verification; and
- 7 (3) Permission to be fingerprinted.

8 (d) The commission shall obtain criminal history record

9 information through the Hawaii criminal justice data center on

10 the applicant. The information obtained shall be used

11 exclusively for the stated purpose for which it was obtained and

12 shall be subject to applicable federal laws and regulations

13 currently or hereafter in effect.

14 **SA-24 Application fee.** An application fee in such amount

15 as shall be established by the commission by rule pursuant to

16 chapter 91 shall be paid with any application for an initial

17 issuance of a license or for a transfer of a license; provided

18 that the fee shall be no more than \$250,000.

19 **SA-25 Reference to investigator.** Upon the filing of any

20 application the commission shall indorse thereon the date of

21 filing thereof. If no patent disqualification of the applicant





1 or certain valid objection to the granting of the application is  
2 apparent initially and if all requirements relative to the  
3 filing of the application appear to have been complied with, the  
4 application shall be referred to the investigator for  
5 investigation.

6 **§A-26 Report by investigator.** (a) On every application  
7 referred to the investigator under section A-25, the  
8 investigator shall report in writing to the commission and the  
9 report shall include:

- 10 (1) A description of the premises intended to become the  
11 licensed premises, and the equipment and surrounding  
12 conditions, including the relationship to surrounding  
13 residences which may share a common boundary or a  
14 common structure with the premises proposed for  
15 licensing;
- 16 (2) If the application is made by a person who has held a  
17 prior license for the same or any other premises  
18 within two years past, a statement as to the manner in  
19 which the premises have been operated and the business  
20 conducted under the previous license;



- 1           (3) The locality of any school, if any, within a distance  
2           of five hundred feet from the nearest point of the  
3           premises for which the license is asked to the nearest  
4           point of the school grounds;
- 5           (4) The number, position, and distance from the premises,  
6           in respect of which a license is applied for, of any  
7           other licensed premises of the same class in the  
8           neighborhood;
- 9           (5) The number of licenses of the same class already  
10          issued and being lawfully exercised within the county;
- 11          (6) Whether or not the applicant is for any reason  
12          disqualified by this chapter from obtaining or  
13          exercising a license; and whether or not the applicant  
14          has complied with all the requirements of this chapter  
15          relative to the making and filing of the applicant's  
16          application;
- 17          (7) For the next application for a license that was  
18          previously denied, refused, or withdrawn, evidence, to  
19          be provided by the applicant, of a substantial change  
20          in the circumstances that caused the previous denial,  
21          refusal, or withdrawal; and



1           (8) Any and all other matters and things, that in the  
2                    judgment of the investigator pertain to or affect the  
3                    matter of the application, or the issuance or the  
4                    exercise of the license for which the applicant  
5                    applied.

6           (b) A copy of the report shall be furnished to the  
7                    applicant not less than forty-eight hours before any hearing is  
8                    had upon the application. Upon written request, a copy of the  
9                    report shall be furnished to any requester.

10           (c) The applicant and any protester may challenge findings  
11                    contained in the investigator's report before or at any hearing  
12                    on the application.

13           **§A-27 Preliminary hearing; notice of public hearing.** (a)  
14                    Upon the filing of the investigator's report upon any  
15                    application the commission may hold a preliminary hearing and  
16                    upon such preliminary hearing it may deny the application. A  
17                    notice of preliminary hearing on a previously denied, refused,  
18                    or withdrawn application shall be given seven days before the  
19                    preliminary hearing to any person who submitted a written  
20                    request for notice.



1 (b) If no preliminary hearing is had or if the application  
2 is not denied upon a preliminary hearing, the commission shall  
3 fix a day for the public hearing of the application and shall  
4 give public notice of the hearing at least once in each of two  
5 consecutive weeks, in the county, the date of the hearing to be  
6 not less than forty-five days after the first notice. The  
7 notice shall require that all protests or objections against the  
8 issuance of the license applied for shall be filed with the  
9 commission at or before the time of hearing. Before giving the  
10 notice, the commission shall collect from the applicant the cost  
11 of giving the public notice or require a deposit to cover the  
12 same.

13 **§A-28 Protests.** Protests against the granting of a  
14 license may be filed by any person.

15 **§A-29 Hearing; rehearing.** (a) Upon the day of hearing,  
16 or any adjournment thereof, the commission shall consider the  
17 application and any protests and objections to the granting  
18 thereof, and hear the parties in interest. The commission shall  
19 accept all written or oral testimony for or against the  
20 application regardless of whether the application is denied,  
21 refused, or withdrawn. Within ninety days after the hearing, or



1 within one hundred twenty days thereafter if in its discretion  
2 the commission extends the ninety days to one hundred twenty  
3 days, and gives public notice of the same, the commission shall  
4 give its decision granting or refusing the application; provided  
5 that if there appears to be any disqualification under this  
6 chapter, the application shall be refused. Otherwise, the  
7 commission may in its discretion grant or refuse the same.

8 (b) The commission shall make available to the applicant  
9 and any protester for review before the public hearing, the  
10 protest list of those persons who filed a protest or objection  
11 to the application; provided that the applicant shall not use  
12 the protest list to attempt to influence in any way any  
13 protester to withdraw the protest or objection. All applicants  
14 and protesters may submit corrections, additions, and  
15 subtractions to the protest list at the public hearing. The  
16 commission shall rule on proposed corrections, additions, and  
17 subtractions and give reasons for the ruling.

18 (c) The commission may also, with like discretion:

19 (1) Grant a license to one person in preference to  
20 another, without reference to any priority in the  
21 order of filing of the applications; and



1           (2) Of its own motion, or on the suggestion of any member,  
2           or of the investigator, take notice of any matter or  
3           thing which in the opinion of a majority of its  
4           members would be a sufficient objection to the  
5           granting of a license; provided that if the objection  
6           is one to which the applicant should be given a  
7           reasonable time to answer, a continuance may be  
8           granted in the discretion of the commission;  
9           provided that in any case where any person affected by such  
10          decision petitions the commission for a rehearing of the  
11          application and on oath alleges facts and grounds for  
12          consideration which were not formerly presented or considered,  
13          or any other matter of fact which in the judgment of the  
14          commission seems sufficient to warrant a rehearing, such  
15          rehearing may be granted by the commission in its discretion  
16          upon the publication of notice of rehearing at least seven days  
17          before the date of the rehearing. When a rehearing is allowed  
18          notice shall be given to the applicant and to the applicant's  
19          opponents, by publication or otherwise as the commission shall  
20          direct.



1           **SA-30 Further application.** (a) If an applicant has at  
2 any time been denied or refused a license, no further  
3 application from the applicant pertaining to the same premises  
4 or building location shall be considered for one year from the  
5 denial or refusal.

6           (b) If an application pertaining to a particular premises  
7 or building location is denied, refused, or withdrawn, the next  
8 application from any applicant for that premises or building  
9 location shall include a report prepared by the applicant  
10 evidencing a substantial change in the circumstances that caused  
11 the previous denial, refusal, or withdrawal. The commission  
12 shall deny the application at the preliminary hearing unless the  
13 applicant submits evidence of a substantial change in the  
14 circumstances that previously caused the denial, refusal, or  
15 withdrawal of an application pertaining to that premises or  
16 building location.

17           **SA-31 Renewals.** (a) Other than for good cause, the  
18 renewal of an existing license shall be granted upon the filing  
19 of an application and the payment of the annual sales fee.

20           (b) The commission by rules adopted pursuant to chapter 91  
21 may assess an annual gross cannabis sales fee per licensee that



1 shall no more than half of one per cent of the licensee's gross  
2 sales.

3 (c) The commission, pursuant to section A-12, at the time  
4 of renewal or at any time, may revoke, suspend, or place  
5 conditions or restrictions on any license issued under this  
6 chapter for the purpose of preventing activities within the  
7 licensed premises or adjacent areas that are potentially  
8 injurious to the health, safety, and welfare of the public and  
9 neighborhood including but not limited to criminal activity,  
10 including assault, illegal drug dealing or illegal drug use, or  
11 prostitution, upon proper notice to the licensee, and a hearing  
12 before the commission pursuant to chapter 91.

13 **§A-32 Reduction or increase in area of licensed premises.**

14 The commission may, in its discretion, permit the reduction or  
15 the increase in the area of the licensed premises of any  
16 licensee without publication of notice at a public hearing;  
17 provided that, where an increase in premises may significantly  
18 impact the public, the commission may require hearings.  
19 Whenever any reduction or increase is permitted, the same shall  
20 be endorsed in some appropriate manner upon the license.





1           **SA-33 Transfer of licenses.** (a) No license issued under  
2 this chapter to an original applicant or to any transferee shall  
3 be transferable or be transferred within one year of the  
4 issuance or transfer, except for good cause shown to the  
5 satisfaction of the commission. A transfer of license shall be  
6 for the same class of license. No license issued under this  
7 chapter shall be transferable or be transferred except upon  
8 written application to the commission by the proposed  
9 transferee, and after prior inspection of the premises,  
10 reference to, and report by an inspector, and a public hearing  
11 held by the commission not less than fourteen days after one  
12 publication of notice thereof.

13           (b) Where a license is held by a partnership, the  
14 commission may, notwithstanding any other provision of this  
15 section, approve the transfer of the partnership interest,  
16 without publication of notice at a public hearing, to any  
17 remaining partner or partners, upon the death or withdrawal of a  
18 partner of the partnership, or to a trust of which the partner  
19 is the trustee.

20           (c) Where a license is held by a partnership, limited  
21 partnership, or limited liability partnership, the admission or



1 withdrawal of a partner, limited partner, or partner of a  
2 limited liability partnership shall not be deemed a transfer of  
3 the license; provided that the licensee shall, within thirty  
4 days from the date of the admission or withdrawal, so notify the  
5 commission in writing, stating the name of the partner, limited  
6 partner, or partner of a limited liability partnership who has  
7 been admitted or withdrawn, and any other information as may be  
8 required by the commission.

9 (d) Except as otherwise provided in this section, the same  
10 procedure shall be followed in regard to the transfer of a  
11 license as is prescribed by this chapter for obtaining a  
12 license.

13 (e) Upon the hearing, the commission shall consider the  
14 application and any objections to the granting thereof and hear  
15 the parties in interest. The commission shall inquire into the  
16 propriety of each transfer. The commission may approve a  
17 transfer or refuse to approve a transfer and the refusal by the  
18 commission to approve a transfer shall be final and conclusive,  
19 unless an appeal is taken as provided in chapter 91.

20 (f) If the licensee is a corporation or limited liability  
21 company, a change in ownership of any outstanding capital stock



1 or membership interest shall not be deemed a transfer of a  
2 license; provided that, in the case of a change in ownership of  
3 twenty-five per cent or more of the voting capital stock or  
4 membership interest or in the case of change in ownership of any  
5 number of shares of the stock or membership interest that  
6 results in the transferee thereof becoming the owner of twenty-  
7 five per cent or more of the outstanding voting capital stock or  
8 membership interest, the corporate or limited liability company  
9 licensee shall, within thirty days of the date of the transfer,  
10 apply for the approval of the transfer from the commission in  
11 writing. The corporate or limited liability company licensee,  
12 if not a publicly-traded company, or an entity ultimately solely  
13 owned by a publicly-traded company, shall, within thirty days  
14 from the date of election or admission of any officer, director,  
15 manager, or member, notify the commission in writing of the  
16 name, age, and place of residence of the officer, director,  
17 manager, or member, and any other information as may be required  
18 by the commission. A publicly-traded corporation or limited  
19 liability company, or a corporation or limited liability company  
20 ultimately solely owned by a publicly-traded company, shall,  
21 within thirty days from the date of election or admission of any



1 replacement of an officer, director, manager, or member  
2 designated as a primary decision-maker regarding the purchase  
3 and sale of cannabis and manufactured cannabis products, notify  
4 the commission in writing of the name, age, and place of  
5 residence of the officer, director, manager, or member.

6 (g) If a licensee closes out the business for which the  
7 license is held, during the term for which the license was  
8 issued, the licensee shall, within five days from the date of  
9 closing the same, give the commission written notice thereof and  
10 surrender the licensee's license for cancellation.

11 (h) The conversion of an entity into any other form of  
12 entity or the merger of any entity with any other entity shall  
13 not be deemed a transfer of the license; provided that the  
14 licensee, within thirty days of the conversion or merger, shall  
15 apply for and secure the approval of the commission without any  
16 requirement for publication of notice. The foregoing shall not  
17 preclude compliance with subsection (b) upon a change in any of  
18 the partners or with subsection (f) upon change of any  
19 shareholders, officers, directors, managers, or members of any  
20 entity occurring concurrently with a conversion or merger.



1 As used in this subsection, "entity" means a corporation,  
2 partnership, limited partnership, limited liability partnership,  
3 or limited liability company.

4 (i) The conversion of an entity into any other form of  
5 entity or the merger of any entity with any other entity shall  
6 not be deemed a transfer of the license; provided that the  
7 licensee, within thirty days of the conversion or merger, shall  
8 apply for and secure the approval of the commission without any  
9 requirement for publication of notice. The foregoing shall not  
10 preclude compliance with subsection (b) upon a change in any of  
11 the partners or with subsection (f) upon change of any  
12 shareholders, officers, directors, managers, or members of any  
13 entity occurring concurrently with a conversion or merger.

14 As used in this subsection, "entity" means a corporation,  
15 partnership, limited partnership, limited liability partnership,  
16 or limited liability company.

17 **§A-34 Fees.** (a) No applicant or licensee shall be  
18 granted a license pursuant to this chapter unless the  
19 appropriate fees have been paid.

20 (b) In addition to any fees specified in this chapter, the  
21 commission may establish additional fees by rules adopted



1 pursuant to chapter 91; provided that the additional fees are  
2 reasonable, necessary, and related to the commission's or  
3 department's administrative costs.

4 **PART IV. LICENSEE OPERATIONS AND TESTING**

5 **A. Generally**

6 **§A-41 Employment of persons under the age of twenty-one**  
7 **prohibited.** No person under the age of twenty-one shall be  
8 employed by a licensee.

9 **§A-42 Persons authorized to handle cannabis or**  
10 **manufactured cannabis products.** In all licensee facilities,  
11 only the licensee, if an individual; registered employees of the  
12 licensee; employees of a certified laboratory for testing  
13 purposes; state employees authorized by the director of commerce  
14 and consumer affairs; and law enforcement and other government  
15 officials acting in their official capacity shall be permitted  
16 to touch or handle any cannabis or manufactured cannabis  
17 products, except that a person twenty-one years of age or older  
18 may receive cannabis or manufactured cannabis products at an  
19 adult use cannabis retail location following completion of a  
20 sale.



1           **SA-43 Public view prohibited.** A licensee shall not  
2 display cannabis or manufactured cannabis products in windows or  
3 in public view.

4           **SA-44 Free samples prohibited.** No free samples of  
5 cannabis or manufactured cannabis products shall be provided at  
6 any time by a licensee.

7           **SA-45 Tracking system.** (a) The department shall  
8 establish, maintain, and control a computer software tracking  
9 system that shall have real time, twenty-four-hour access to the  
10 data of all licensees; provided that:

11           (1) The computer software tracking system shall collect  
12 data relating to:

13           (A) The total amount of cannabis in possession of all  
14 licensees from either seed or immature plant  
15 state, including all plants that are derived from  
16 cuttings or cloning, until the cannabis, cannabis  
17 plants, or manufactured cannabis products are  
18 sold or destroyed pursuant to section A-46;

19           (B) The total amount of manufactured cannabis product  
20 inventory, including the equivalent physical  
21 weight of cannabis that is used to manufacture



1 manufactured cannabis products, purchased by  
2 persons twenty-one years of age or older from all  
3 adult use cannabis retail locations in the State  
4 in any fifteen-day period;

5 (C) The amount of waste produced by each plant at  
6 harvest; and

7 (D) The transport of cannabis and manufactured  
8 cannabis products between licensees, including  
9 tracking identification issued by the tracking  
10 system, the identity of the person transporting  
11 the cannabis or manufactured cannabis products,  
12 and the make, model, and license number of the  
13 vehicle being used for the transport;

14 (2) The procurement of the computer software tracking  
15 system established pursuant to this subsection shall  
16 be exempt from chapter 103D; provided that:

17 (A) The department shall publicly solicit at least  
18 three proposals for the computer software  
19 tracking system; and





1 (B) The selection of the computer software tracking  
2 system shall be approved by the department and  
3 the chief information officer; and

4 (3) Notwithstanding any other provision of this subsection  
5 to the contrary, once the commission has authorized a  
6 licensee to commence sales of cannabis or manufactured  
7 cannabis products, if the department's computer  
8 software tracking system is inoperable or is not  
9 functioning properly, as an alternative to requiring  
10 licensees to temporarily cease operations, the  
11 commission may implement an alternate tracking system  
12 that will enable licensees to transact with each other  
13 and persons twenty-one years of age or older to  
14 purchase cannabis or manufactured cannabis products  
15 from a licensed adult use cannabis retail location on  
16 a temporary basis. The commission shall seek input  
17 regarding the alternate tracking system from  
18 licensees. The alternate tracking system may operate  
19 as follows:



1 (A) The commission may immediately notify all  
2 licensees that the computer software tracking  
3 system is inoperable; and

4 (B) Once the computer software tracking system is  
5 operational and functioning to meet the  
6 requirements of this subsection, the commission  
7 may notify all licensees, and the alternate  
8 tracking system in this subsection shall be  
9 discontinued.

10 (b) A licensee shall purchase, operate, and maintain a  
11 computer software tracking system that shall:

12 (1) Interface with the department's computer software  
13 tracking system established pursuant to subsection  
14 (a);

15 (2) Allow each licensee to submit to the department in  
16 real time, by automatic identification and data  
17 capture, all cannabis, cannabis plants, and  
18 manufactured cannabis product inventory in possession  
19 of that licensee from either seed or immature plant  
20 state, including all plants that are derived from  
21 cuttings or cloning, until the cannabis or



1 manufactured cannabis product is sold or destroyed  
2 pursuant to section A-46;

3 (3) Allow the licensed adult use cannabis retailer to  
4 submit to the department in real time for the total  
5 amount of cannabis and manufactured cannabis product  
6 purchased by a person twenty-one years of age or older  
7 from the adult use cannabis retailer's retail  
8 locations in the State in any fifteen-day period;  
9 provided that the software tracking system shall  
10 impose an automatic stopper in real time, which cannot  
11 be overridden, on any further purchases of cannabis or  
12 manufactured cannabis products, if the maximum  
13 allowable amount of cannabis has already been  
14 purchased for the applicable fifteen-day period;  
15 provided further that additional purchases shall not  
16 be permitted until the next applicable period; and

17 (4) Allow the licensee to submit all data required by this  
18 subsection to the department and permit the department  
19 to access the data if the department's computer  
20 software tracking system is not functioning properly



1           and sales are made pursuant to the alternate tracking  
2           system under subsection (a).

3           **§A-46 Standards.** In addition to any other rulemaking  
4 authority provided by law, the commission shall establish  
5 standards with respect to:

- 6           (1) Criteria and procedures for the consideration and  
7           selection, based on merit, of applications for  
8           licenses issued under this chapter;
- 9           (2) Specific requirements regarding annual audits and  
10          reports required from each licensee;
- 11          (3) Procedures for announced and unannounced inspections  
12          by the commission, department, or their agents of  
13          licensee facilities; provided that inspections for  
14          license renewals shall be unannounced;
- 15          (4) Security requirements for the operation of licensee  
16          facilities;
- 17          (5) Security requirements for the distribution of cannabis  
18          and manufactured cannabis products between licensees  
19          and between licensees and certified laboratories;
- 20          (6) Standards and criminal background checks to ensure the  
21          reputable and responsible character and fitness of all



- 1 license applicants, licensees, employees, and  
2 prospective employees of licensees;
- 3 (7) The training and certification of licensees and  
4 employees of licensees;
- 5 (8) Laboratory standards related to testing cannabis and  
6 manufactured cannabis products for content,  
7 contamination, and consistency;
- 8 (9) The safety of manufactured cannabis products;
- 9 (10) Licensee inventory controls to prevent the  
10 unauthorized diversion of cannabis or manufactured  
11 cannabis products or the sale of cannabis or  
12 manufactured cannabis products to persons in excess of  
13 the limits established by this chapter; provided that  
14 the controls, at a minimum, shall include:
- 15 (A) A computer software tracking system as specified  
16 in section A-45; and
- 17 (B) Product packaging standards sufficient to allow  
18 law enforcement personnel to reasonably determine  
19 the contents of an unopened package;
- 20 (11) The disposal or destruction of unwanted or unused  
21 cannabis and manufactured cannabis products;



- 1 (12) The enforcement of the following prohibitions against:  
2 (A) The sale or provision of cannabis or manufactured  
3 cannabis products to unauthorized persons;  
4 (B) The sale or provision of cannabis or manufactured  
5 cannabis products to a person twenty-one years of  
6 age or older in quantities that exceed limits  
7 established by this chapter; and  
8 (C) The distribution of cannabis or manufactured  
9 cannabis products, for free, on the premises of a  
10 licensee; and  
11 (13) The establishment of a range of penalties for  
12 violations of this chapter or rule adopted thereto.

13 **§A-47 Signage.** Signs placed outside of the place of  
14 business of a licensee shall not include the image of a cartoon  
15 character or other design intended to appeal to children.

16 **§A-48 Laboratory standards and testing.** (a) The  
17 commission, in consultation with the department of health, shall  
18 establish, and the department of health shall enforce, standards  
19 for laboratory-based testing of cannabis and manufactured  
20 cannabis products for content, contamination, and consistency;



1 provided that in establishing these standards, the commission  
2 shall:

3 (1) Review and take guidance from the testing programs and  
4 standards utilized in other jurisdictions;

5 (2) Consider the impact of the standards on the retail  
6 cost of the product;

7 (3) Review and take guidance from the testing programs and  
8 standards for pesticides under the regulations of the  
9 United States Environmental Protection Agency, and, at  
10 minimum, require testing for pesticides the commission  
11 determines are commonly used;

12 (4) For the testing for microbiological impurities,  
13 consider the benefits of organically grown cannabis  
14 that features the use of bacteria in lieu of  
15 pesticides; and

16 (5) Determine maximum levels of residual solvent and  
17 processing chemicals allowable for the safety of  
18 consumers and require testing for residual solvent and  
19 processing chemicals.



1 (b) The commission may certify laboratories that can test  
2 cannabis and manufactured cannabis products prior to the sale of  
3 cannabis and manufactured cannabis products.

4 (c) If a licensee obtains a laboratory result indicating  
5 that a sample of a batch of its cannabis or manufactured  
6 cannabis products does not meet the commission's standards for  
7 consumer safety, the licensee, at its own expense, may have the  
8 same sample or a different sample from the same batch retested  
9 by the same laboratory or a different laboratory. If a retest  
10 at a different laboratory yields a different result, the  
11 department of health shall determine which result controls  
12 whether the batch may be approved for sale or whether further  
13 testing shall be required. Any batch that does not meet the  
14 commission's standards for consumer safety and either:

- 15 (1) The licensee refuses to have the batch retested;  
16 (2) A retest by the same laboratory confirms that the  
17 batch fails to meet the commission's standards; or  
18 (3) A retest as ordered by the department of health  
19 confirms that the batch fails to meet the commission's  
20 standards,





1 shall be disposed of or destroyed in accordance with the  
2 standards established under section A-46.

3       **§A-49 Advertising and packaging.** (a) The commission  
4 shall establish standards regarding the advertising and  
5 packaging of cannabis and manufactured cannabis products;  
6 provided that the standards, at a minimum, shall require the use  
7 of packaging that:

- 8           (1) Is clearly labeled with the phrase "For adult use  
9           only."; and
- 10          (2) Contains information about the contents and potency of  
11          the product.

12          (b) All manufactured cannabis products shall be  
13 individually wrapped at the original point of manufacture.

14       **§A-50 Zoning.** (a) Licensees shall comply with all county  
15 zoning ordinances, rules, or regulations; provided that:

- 16           (1) An adult use cannabis cultivation site shall be  
17           permitted in any area in which agricultural production  
18           is permitted except as provided within this chapter;  
19           and



1 (2) No facility of a licensee shall be permitted within  
2 seven hundred fifty feet of the real property  
3 comprising a playground or school.

4 (b) As used in this section:

5 "Playground" means any public outdoor facility, including  
6 any parking lot appurtenant thereto, that is intended for  
7 recreation, with any portion thereof containing three or more  
8 separate apparatus intended for the recreation of children,  
9 including but not limited to sliding boards, swing sets, and  
10 teeterboards.

11 "School" means any public or private preschool,  
12 kindergarten, elementary, intermediate, middle, secondary, or  
13 high school.

14 **B. Cultivation**

15 **§A-61 Cultivation sites secure and hidden from public**  
16 **view.** All adult use cannabis cultivation sites shall be secure  
17 and hidden from public view and shall maintain twenty-four-hour  
18 security measures.

19 **§A-62 Cultivation site plant limitation.** An adult use  
20 cannabis cultivation site shall be limited to no more  
21 than cannabis plants per square foot.



1 For purposes of this section, "plant" means a cannabis  
2 plant that is greater than twelve vertical inches in height from  
3 where the base of the stalk emerges from the growth medium to  
4 the tallest point of the plant, or greater than twelve  
5 horizontal inches in width from the end of one branch to the end  
6 of another branch; provided that multiple stalks emanating from  
7 the same root ball or root system shall be considered part of  
8 the same single plant.

9 **C. Distribution**

10 **SA-71 Distribution.** (a) The commission shall establish  
11 minimum security and transportation safety requirements for the  
12 commercial distribution of cannabis and manufactured cannabis  
13 products. Transportation safety standards established by the  
14 department shall include but not be limited to minimum standards  
15 governing the types of vehicles in which cannabis and  
16 manufactured cannabis products may be distributed and minimum  
17 qualifications for persons eligible to operate such vehicles.

18 (b) The transportation of cannabis and manufactured  
19 cannabis products shall only be conducted by persons holding a  
20 license under this chapter or employees of those persons. The  
21 driver of a vehicle transporting or transferring cannabis or



1 manufactured cannabis products shall be directly employed by a  
2 licensee.

3 **D. Manufacturers**

4 **§A-81 Manufacturer facility operations.** All adult use  
5 cannabis manufacturer facilities that are not adult use cannabis  
6 cultivation sites shall be enclosed indoor facilities and shall  
7 maintain twenty-four-hour security measures, including but not  
8 limited to an alarm system, video monitoring and recording on  
9 the premises, and exterior lighting. Adult use cannabis  
10 manufacturer facilities that are not adult use cannabis  
11 cultivation sites shall remain locked at all times.

12 **§A-82 Manufacturing of manufactured cannabis products for**  
13 **adult use.** (a) Any adult use cannabis manufacturer licensed by  
14 the commission pursuant to this chapter shall be permitted to  
15 manufacture manufactured cannabis products; provided that the  
16 manufacturer shall also obtain any other state or county permits  
17 or licenses that may be necessary for a particular manufacturing  
18 activity.

19 (b) The commission shall establish health, safety, and  
20 sanitation standards regarding the manufacture of manufactured  
21 cannabis products.



1 (c) Adult use cannabis manufacturers shall calculate the  
2 equivalent physical weight of the cannabis that is used to  
3 manufacture the product and shall make the equivalency  
4 calculations available to the commission, department, and  
5 consumer of the manufactured cannabis product.

6 **E. Retailers**

7 **§A-91 Retail location operations.** All adult use cannabis  
8 retail locations shall be enclosed indoor facilities and shall  
9 maintain twenty-four-hour security measures, including but not  
10 limited to an alarm system, video monitoring and recording on  
11 the premises, and exterior lighting. Adult use cannabis retail  
12 locations shall remain locked at all times other than the  
13 location's business hours.

14 **§A-92 Consumption at retail locations prohibited.** The  
15 consumption of cannabis or manufactured cannabis products by  
16 persons twenty-years of age or older on the premises of an adult  
17 use retail location shall be prohibited.

18 **§A-93 Purchase limits.** A person twenty-one years of age  
19 or older shall be allowed to purchase no more than 28.5 grams of  
20 cannabis or eight grams of cannabis in the form of concentrated



1 cannabis, including as contained in manufactured cannabis  
2 products, per day.

3       **§A-94 Deliveries.** (a) Deliveries may only be made by a  
4 licensed adult use cannabis retailer.

5       (b) Before cannabis or a manufactured cannabis product  
6 leaves the licensed premises in a delivery vehicle, the licensed  
7 adult use cannabis retailer shall enter into the tracking system  
8 all information required by the department and shall update the  
9 information as required by the department.

10       (c) During delivery, the licensee shall maintain a copy of  
11 the delivery request and shall make it available upon request of  
12 the department and law enforcement officers.

13       (d) A customer requesting delivery shall maintain a  
14 physical or electronic copy of the delivery request and shall  
15 make it available upon request by the department and law  
16 enforcement officers.

17       (e) As used in this section, "delivery" means the  
18 commercial transfer of cannabis or cannabis products to a  
19 customer. "Delivery" includes the use by a retailer of any  
20 technology platform.

21                   **PART V. LAWFUL USE AND PROHIBITED ACTS**



1           **§A-101 Possession of cannabis by persons twenty-one years**  
2 **of age or older.** (a) Subject to the provisions of this part,  
3 but notwithstanding any other provision of law, it shall be  
4 lawful for persons twenty-one years of age or older, without a  
5 prescription, to:

- 6           (1) Possess, process, transport, purchase, obtain, or give  
7           away to persons twenty-one years of age or older  
8           without any compensation, not more than 28.5 grams of  
9           cannabis not in the form of concentrated cannabis;
- 10          (2) Possess, process, transport, purchase, obtain, or give  
11          away to persons twenty-one years of age or older  
12          without any compensation, not more than eight grams of  
13          cannabis in the form of concentrated cannabis,  
14          including as contained in manufactured cannabis  
15          products;
- 16          (3) Possess, plant, cultivate, harvest, dry, or process  
17          not more than ten living cannabis plants and possess  
18          the cannabis produced by the plants;
- 19          (4) Smoke or ingest cannabis or manufactured cannabis  
20          products; and



1 (5) Possess, transport, purchase, obtain, use,  
2 manufacture, or give away cannabis accessories to  
3 persons twenty-one years of age or older without any  
4 compensation.

5 (b) It is the intent of subsection (a) (5) to meet the  
6 requirements of title 21 United States Code section 863(f) by  
7 authorizing, under state law, any person in compliance with this  
8 section to manufacture, possess, or distribute cannabis  
9 accessories.

10 (c) Cannabis and manufactured cannabis products involved  
11 in any way with conduct deemed lawful by this section are not  
12 contraband nor subject to seizure, and no conduct deemed lawful  
13 by this section shall constitute the basis for detention,  
14 search, or arrest.

15 **SA-102 Limitation of personal cultivation of cannabis.**

16 Personal cultivation of cannabis, as authorized under section  
17 A-101(a) (3), shall be subject to the following restrictions:

18 (1) The living plants and any cannabis produced by the  
19 plants in excess of 28.5 grams are kept within the  
20 person's private residence, or upon the grounds of  
21 that private residence, are in a locked space, and are





1 not visible by normal unaided vision from a public  
2 place;

3 (2) Not more than ten living plants may be planted,  
4 cultivated, harvested, dried, or processed within a  
5 single private residence, or upon the grounds of that  
6 private residence, at one time;

7 (3) A condominium association may limit or prohibit the  
8 cultivation of cannabis within units through its  
9 bylaws or house rules; and

10 (4) A planned community association may limit or prohibit  
11 the cultivation of cannabis outdoors through its  
12 bylaws or rules.

13 **§A-103 Limitation of smoking, ingesting, possession, and**  
14 **manufacture of cannabis.** (a) Section A-101 shall not permit a  
15 person to:

16 (1) Smoke cannabis or manufactured cannabis products in an  
17 area where smoking is prohibited under chapter 328J;

18 (2) Smoke or ingest cannabis or manufactured cannabis  
19 products in a public place;

20 (3) Possess an open container or open package of cannabis  
21 or manufactured cannabis products while driving,



1 operating, or riding in the passenger seat or  
2 compartment of a motor vehicle, boat, vessel,  
3 aircraft, or other vehicle used for transportation;

4 (4) Manufacture concentrated cannabis using a volatile  
5 solvent, unless done in accordance with a license  
6 under this chapter;

7 (5) Smoke or ingest cannabis or manufacture cannabis  
8 products while driving, operating a motor vehicle,  
9 boat, vessel, aircraft, or other vehicle used for  
10 transportation; or

11 (6) Smoke or ingest cannabis or manufactured cannabis  
12 products while riding in the passenger seat or  
13 compartment of a motor vehicle, boat, vessel,  
14 aircraft, or other vehicle used for transportation.

15 (b) For purposes of this section:

16 "Smoke" or "smoking" means inhaling, exhaling, burning, or  
17 carrying any lighted or heated cannabis or manufactured cannabis  
18 product intended for inhalation, whether natural or synthetic,  
19 in any manner or in any form. "Smoking" includes the use of an  
20 electronic smoking device that creates an aerosol or vapor, in  
21 any manner or in any form, or the use of any oral smoking device



1 for the purpose of circumventing the prohibition of smoking in a  
2 place.

3 "Volatile solvent" means a solvent that is or produces a  
4 flammable gas or vapor that, when present in the air in  
5 sufficient quantities, will create explosive or ignitable  
6 mixtures.

7 **PART VI. MISCELLANEOUS PROVISIONS**

8 **§A-111 Remedies and penalties cumulative.** Unless  
9 otherwise expressly provided, the remedies or penalties provided  
10 by this chapter are cumulative to each other and to the remedies  
11 or penalties available under all other laws of this State.

12 **§A-112 Severability.** If any provision of this chapter or  
13 the application thereof to any person or circumstance is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the chapter which can be given effect without  
16 the invalid provision or application, and to this end the  
17 provisions of this chapter are severable."

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



1        "§329-        Relation to chapter A.    This part shall not  
2    affect cannabis and manufactured cannabis products for adult use  
3    as authorized under chapter A."

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

7            "§329D-        Relation to chapter A.    Nothing in this chapter  
8    shall be construed to affect the regulation of adult-use  
9    cannabis licensees as provided in chapter A."

10           SECTION 4. Section 26-9, Hawaii Revised Statutes, is  
11    amended by amending subsection (c) to read as follows:

12            "(c) The board of acupuncture, board of public  
13    accountancy, board of barbering and cosmetology, boxing  
14    commission, Hawaii cannabis commission, Hawaii board of  
15    chiropractic, contractors license board, board of dentistry,  
16    board of electricians and plumbers, elevator mechanics licensing  
17    board, board of professional engineers, architects, surveyors,  
18    and landscape architects, board of massage therapy, Hawaii  
19    medical board, motor vehicle industry licensing board, motor  
20    vehicle repair industry board, board of naturopathic medicine,  
21    board of nursing, Hawaii board of optometry, pest control board,



1 board of pharmacy, board of physical therapy, board of  
2 psychology, board of private detectives and guards, real estate  
3 commission, Hawaii board of veterinary medicine, board of speech  
4 pathology and audiology, and any board, commission, program, or  
5 entity created pursuant to or specified by statute in  
6 furtherance of the purpose of this section including but not  
7 limited to section 26H-4, or chapters 484, 514B, and 514E shall  
8 be placed within the department of commerce and consumer affairs  
9 for administrative purposes.

10 The public utilities commission shall be placed, for  
11 administrative purposes only, within the department of commerce  
12 and consumer affairs. Notwithstanding [~~section 26-9(e),~~  
13 subsections (e), (f), (g), (h), (j), (k), (l), (m), (n), (p),  
14 (q), (r), and (s), and except as permitted by sections 269-2 and  
15 269-3, the department of commerce and consumer affairs shall not  
16 direct or exert authority over the day-to-day operations or  
17 functions of the commission."

18 SECTION 5. Section 46-4, Hawaii Revised Statutes, is  
19 amended by amending subsection (f) to read as follows:

20 "(f) Neither this section nor any other law, county  
21 ordinance, or rule shall prohibit the use of land for [~~medical~~]:



- 1        (1) Medical cannabis production centers or medical  
2                    cannabis dispensaries established and licensed  
3                    pursuant to chapter 329D; or  
4        (2) Adult use cannabis manufacturers or adult use cannabis  
5                    retailers established and licensed pursuant to chapter  
6                    A;  
7 provided that the land is otherwise zoned for agriculture,  
8 manufacturing, or retail purposes."

9            SECTION 6. Section 329-43.5, Hawaii Revised Statutes, is  
10 amended by amending subsection (e) to read as follows:

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

- 13            (1) Acquire, possess, cultivate, use, distribute, or  
14                    transport cannabis pursuant to the definition of  
15                    "medical use" under section 329-121, while the person  
16                    is facilitating the medical use of cannabis by a  
17                    qualifying patient; [~~or~~]  
18            (2) Dispense, manufacture, or produce cannabis or  
19                    manufactured cannabis products pursuant to and in  
20                    compliance with chapter 329D, while the person is  
21                    facilitating the medical use of cannabis by a



1           qualifying patient pursuant to part IX of chapter  
2           329[-]; or  
3           (3) Possess, process, transport, cultivate, harvest, dry,  
4           or manufacture cannabis or manufactured cannabis  
5           products, or any other act authorized, pursuant to and  
6           in compliance with chapter A."

7           SECTION 7. Section 712-1240.1, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§712-1240.1 Defense to promoting.** (1) It is a defense  
10 to prosecution for any offense defined in this part that the  
11 person who possessed or distributed the dangerous, harmful, or  
12 detrimental drug did so under authority of law as a  
13 practitioner, as an ultimate user of the drug pursuant to a  
14 lawful prescription, or as a person otherwise authorized by law.

15           (2) It is an affirmative defense to prosecution for any  
16 marijuana-related offense defined in this part that the person  
17 who possessed or distributed the marijuana was authorized to  
18 possess or distribute the marijuana for medical purposes  
19 pursuant to part IX of chapter 329.

20           (3) It is an affirmative defense to prosecution for any  
21 marijuana-related offense defined in this part that the person



1 who possessed or distributed the marijuana was authorized to  
2 possess or distribute the marijuana pursuant to chapter A."

3 SECTION 8. Section 846-2.7, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Criminal history record checks may be conducted by:

6 (1) The department of health or its designee on operators  
7 of adult foster homes for individuals with  
8 developmental disabilities or developmental  
9 disabilities domiciliary homes and their employees, as  
10 provided by section 321-15.2;

11 (2) The department of health or its designee on  
12 prospective employees, persons seeking to serve as  
13 providers, or subcontractors in positions that place  
14 them in direct contact with clients when providing  
15 non-witnessed direct mental health or health care  
16 services as provided by section 321-171.5;

17 (3) The department of health or its designee on all  
18 applicants for licensure or certification for,  
19 operators for, prospective employees, adult  
20 volunteers, and all adults, except adults in care, at  
21 healthcare facilities as defined in section 321-15.2;





- 1           (4) The department of education on employees, prospective  
2           employees, and teacher trainees in any public school  
3           in positions that necessitate close proximity to  
4           children as provided by section 302A-601.5;
- 5           (5) The counties on employees and prospective employees  
6           who may be in positions that place them in close  
7           proximity to children in recreation or child care  
8           programs and services;
- 9           (6) The county liquor commissions on applicants for liquor  
10          licenses as provided by section 281-53.5;
- 11          (7) The county liquor commissions on employees and  
12          prospective employees involved in liquor  
13          administration, law enforcement, and liquor control  
14          investigations;
- 15          (8) The department of human services on operators and  
16          employees of child caring institutions, child placing  
17          organizations, and foster boarding homes as provided  
18          by section 346-17;
- 19          (9) The department of human services on prospective  
20          adoptive parents as established under section  
21          346-19.7;



- 1       (10) The department of human services or its designee on  
2            applicants to operate child care facilities, household  
3            members of the applicant, prospective employees of the  
4            applicant, and new employees and household members of  
5            the provider after registration or licensure as  
6            provided by section 346-154, and persons subject to  
7            section 346-152.5;
- 8       (11) The department of human services on persons exempt  
9            pursuant to section 346-152 to be eligible to provide  
10           child care and receive child care subsidies as  
11           provided by section 346-152.5;
- 12       (12) The department of health on operators and employees of  
13           home and community-based case management agencies and  
14           operators and other adults, except for adults in care,  
15           residing in community care foster family homes as  
16           provided by section 321-15.2;
- 17       (13) The department of human services on staff members of  
18           the Hawaii youth correctional facility as provided by  
19           section 352-5.5;
- 20       (14) The department of human services on employees,  
21           prospective employees, and volunteers of contracted



1 providers and subcontractors in positions that place  
2 them in close proximity to youth when providing  
3 services on behalf of the office or the Hawaii youth  
4 correctional facility as provided by section 352D-4.3;  
5 (15) The judiciary on employees and applicants at detention  
6 and shelter facilities as provided by section 571-34;  
7 (16) The department of public safety on employees and  
8 prospective employees who are directly involved with  
9 the treatment and care of persons committed to a  
10 correctional facility or who possess police powers  
11 including the power of arrest as provided by section  
12 353C-5;  
13 (17) The board of private detectives and guards on  
14 applicants for private detective or private guard  
15 licensure as provided by section 463-9;  
16 (18) Private schools and designated organizations on  
17 employees and prospective employees who may be in  
18 positions that necessitate close proximity to  
19 children; provided that private schools and designated  
20 organizations receive only indications of the states



- 1 from which the national criminal history record  
2 information was provided pursuant to section 302C-1;
- 3 (19) The public library system on employees and prospective  
4 employees whose positions place them in close  
5 proximity to children as provided by section  
6 302A-601.5;
- 7 (20) The State or any of its branches, political  
8 subdivisions, or agencies on applicants and employees  
9 holding a position that has the same type of contact  
10 with children, vulnerable adults, or persons committed  
11 to a correctional facility as other public employees  
12 who hold positions that are authorized by law to  
13 require criminal history record checks as a condition  
14 of employment as provided by section 78-2.7;
- 15 (21) The department of health on licensed adult day care  
16 center operators, employees, new employees,  
17 subcontracted service providers and their employees,  
18 and adult volunteers as provided by section 321-15.2;
- 19 (22) The department of human services on purchase of  
20 service contracted and subcontracted service providers  
21 and their employees serving clients of the adult



- 1 protective and community services branch, as provided  
2 by section 346-97;
- 3 (23) The department of human services on foster grandparent  
4 program, senior companion program, and respite  
5 companion program participants as provided by section  
6 346-97;
- 7 (24) The department of human services on contracted and  
8 subcontracted service providers and their current and  
9 prospective employees that provide home and community-  
10 based services under section 1915(c) of the Social  
11 Security Act, title 42 United States Code section  
12 1396n(c), or under any other applicable section or  
13 sections of the Social Security Act for the purposes  
14 of providing home and community-based services, as  
15 provided by section 346-97;
- 16 (25) The department of commerce and consumer affairs on  
17 proposed directors and executive officers of a bank,  
18 savings bank, savings and loan association, trust  
19 company, and depository financial services loan  
20 company as provided by section 412:3-201;



- 1 (26) The department of commerce and consumer affairs on  
2 proposed directors and executive officers of a  
3 nondepository financial services loan company as  
4 provided by section 412:3-301;
- 5 (27) The department of commerce and consumer affairs on the  
6 original chartering applicants and proposed executive  
7 officers of a credit union as provided by section  
8 412:10-103;
- 9 (28) The department of commerce and consumer affairs on:
- 10 (A) Each principal of every non-corporate applicant  
11 for a money transmitter license;
- 12 (B) Each person who upon approval of an application  
13 by a corporate applicant for a money transmitter  
14 license will be a principal of the licensee; and
- 15 (C) Each person who upon approval of an application  
16 requesting approval of a proposed change in  
17 control of licensee will be a principal of the  
18 licensee,
- 19 as provided by sections 489D-9 and 489D-15;



- 1 (29) The department of commerce and consumer affairs on  
2 applicants for licensure and persons licensed under  
3 title 24;
- 4 (30) The Hawaii health systems corporation on:
- 5 (A) Employees;
- 6 (B) Applicants seeking employment;
- 7 (C) Current or prospective members of the corporation  
8 board or regional system board; or
- 9 (D) Current or prospective volunteers, providers, or  
10 contractors,
- 11 in any of the corporation's health facilities as  
12 provided by section 323F-5.5;
- 13 (31) The department of commerce and consumer affairs on:
- 14 (A) An applicant for a mortgage loan originator  
15 license, or license renewal; and
- 16 (B) Each control person, executive officer, director,  
17 general partner, and managing member of an  
18 applicant for a mortgage loan originator company  
19 license or license renewal,  
20 as provided by chapter 454F;



- 1 (32) The state public charter school commission or public  
2 charter schools on employees, teacher trainees,  
3 prospective employees, and prospective teacher  
4 trainees in any public charter school for any position  
5 that places them in close proximity to children, as  
6 provided in section 302D-33;
- 7 (33) The counties on prospective employees who work with  
8 children, vulnerable adults, or senior citizens in  
9 community-based programs;
- 10 (34) The counties on prospective employees for fire  
11 department positions that involve contact with  
12 children or vulnerable adults;
- 13 (35) The counties on prospective employees for emergency  
14 medical services positions that involve contact with  
15 children or vulnerable adults;
- 16 (36) The counties on prospective employees for emergency  
17 management positions and community volunteers whose  
18 responsibilities involve planning and executing  
19 homeland security measures including viewing,  
20 handling, and engaging in law enforcement or





1 classified meetings and assisting vulnerable citizens  
2 during emergencies or crises;

3 (37) The State and counties on employees, prospective  
4 employees, volunteers, and contractors whose position  
5 responsibilities require unescorted access to secured  
6 areas and equipment related to a traffic management  
7 center;

8 (38) The State and counties on employees and prospective  
9 employees whose positions involve the handling or use  
10 of firearms for other than law enforcement purposes;

11 (39) The State and counties on current and prospective  
12 systems analysts and others involved in an agency's  
13 information technology operation whose position  
14 responsibilities provide them with access to  
15 proprietary, confidential, or sensitive information;

16 (40) The department of commerce and consumer affairs on:  
17 (A) Applicants for real estate appraiser licensure or  
18 certification as provided by chapter 466K;  
19 (B) Each person who owns more than ten per cent of an  
20 appraisal management company who is applying for



- 1 registration as an appraisal management company,  
2 as provided by section 466L-7; and
- 3 (C) Each of the controlling persons of an applicant  
4 for registration as an appraisal management  
5 company, as provided by section 466L-7;
- 6 (41) The department of health or its designee on all  
7 license applicants, licensees, employees, contractors,  
8 and prospective employees of medical cannabis  
9 dispensaries, and individuals permitted to enter and  
10 remain in medical cannabis dispensary facilities as  
11 provided under sections 329D-15(a)(4) and  
12 329D-16(a)(3);
- 13 (42) The department of commerce and consumer affairs on  
14 applicants for nurse licensure or license renewal,  
15 reactivation, or restoration as provided by sections  
16 457-7, 457-8, 457-8.5, and 457-9;
- 17 (43) The county police departments on applicants for  
18 permits to acquire firearms pursuant to section 134-2  
19 and on individuals registering their firearms pursuant  
20 to section 134-3;
- 21 (44) The department of commerce and consumer affairs on:



1 (A) Each of the controlling persons of the applicant  
2 for licensure as an escrow depository, and each  
3 of the officers, directors, and principals who  
4 will be in charge of the escrow depository's  
5 activities upon licensure; and

6 (B) Each of the controlling persons of an applicant  
7 for proposed change in control of an escrow  
8 depository licensee, and each of the officers,  
9 directors, and principals who will be in charge  
10 of the licensee's activities upon approval of the  
11 application,

12 as provided by chapter 449;

13 (45) The department of taxation on current or prospective  
14 employees or contractors who have access to federal  
15 tax information in order to comply with requirements  
16 of federal law, regulation, or procedure, as provided  
17 by section 231-1.6;

18 (46) The department of labor and industrial relations on  
19 current or prospective employees or contractors who  
20 have access to federal tax information in order to



1           comply with requirements of federal law, regulation,  
2           or procedure, as provided by section 383-110;

3       (47)   The department of human services on current or  
4           prospective employees or contractors who have access  
5           to federal tax information in order to comply with  
6           requirements of federal law, regulation, or procedure,  
7           as provided by section 346-2.5;

8       (48)   The child support enforcement agency on current or  
9           prospective employees or contractors who have access  
10          to federal tax information in order to comply with  
11          federal law, regulation, or procedure, as provided by  
12          section 576D-11.5;

13       (49)   The department of the attorney general on current or  
14          prospective employees or employees or agents of  
15          contractors who have access to federal tax information  
16          to comply with requirements of federal law,  
17          regulation, or procedure, as provided by section  
18          28-17;

19       [+] (50) [+]   The department of commerce and consumer affairs  
20          on each control person, executive officer, director,  
21          general partner, and managing member of an installment



1 loan licensee, or an applicant for an installment loan  
2 license, as provided in chapter 480J;

3 ~~[(1)]~~ The University of Hawaii on current and  
4 prospective employees and contractors whose duties  
5 include ensuring the security of campus facilities and  
6 persons; ~~[and]~~

7 (52) The department of commerce and consumer affairs on an  
8 applicant for an adult use cannabis manufacturer or  
9 adult use cannabis retailer license, as provided in  
10 chapter A; and

11 ~~[(52)]~~ (53) Any other organization, entity, or the  
12 State, its branches, political subdivisions, or  
13 agencies as may be authorized by state law."

14 SECTION 9. Act 278, Session Laws of Hawaii 2022, is  
15 amended by amending section 28 to read as follows:

16 "SECTION 28. Section 846-2.7, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) Criminal history record checks may be conducted by:

19 (1) The department of health or its designee on operators  
20 of adult foster homes for individuals with  
21 developmental disabilities or developmental



- 1 disabilities domiciliary homes and their employees, as  
2 provided by section 321-15.2;
- 3 (2) The department of health or its designee on  
4 prospective employees, persons seeking to serve as  
5 providers, or subcontractors in positions that place  
6 them in direct contact with clients when providing  
7 non-witnessed direct mental health or health care  
8 services as provided by section 321-171.5;
- 9 (3) The department of health or its designee on all  
10 applicants for licensure or certification for,  
11 operators for, prospective employees, adult  
12 volunteers, and all adults, except adults in care, at  
13 healthcare facilities as defined in section 321-15.2;
- 14 (4) The department of education on employees, prospective  
15 employees, and teacher trainees in any public school  
16 in positions that necessitate close proximity to  
17 children as provided by section 302A-601.5;
- 18 (5) The counties on employees and prospective employees  
19 who may be in positions that place them in close  
20 proximity to children in recreation or child care  
21 programs and services;



- 1           (6)    The county liquor commissions on applicants for liquor  
2                    licenses as provided by section 281-53.5;
- 3           (7)    The county liquor commissions on employees and  
4                    prospective employees involved in liquor  
5                    administration, law enforcement, and liquor control  
6                    investigations;
- 7           (8)    The department of human services on operators and  
8                    employees of child caring institutions, child placing  
9                    organizations, and foster boarding homes as provided  
10                  by section 346-17;
- 11          (9)    The department of human services on prospective  
12                  adoptive parents as established under section 346-19.7;
- 13          (10)   The department of human services or its designee on  
14                  applicants to operate child care facilities, household  
15                  members of the applicant, prospective employees of the  
16                  applicant, and new employees and household members of  
17                  the provider after registration or licensure as  
18                  provided by section 346-154, and persons subject to  
19                  section 346-152.5;
- 20          (11)   The department of human services on persons exempt  
21                  pursuant to section 346-152 to be eligible to provide



- 1 child care and receive child care subsidies as  
2 provided by section 346-152.5;
- 3 (12) The department of health on operators and employees of  
4 home and community-based case management agencies and  
5 operators and other adults, except for adults in care,  
6 residing in community care foster family homes as  
7 provided by section 321-15.2;
- 8 (13) The department of human services on staff members of  
9 the Hawaii youth correctional facility as provided by  
10 section 352-5.5;
- 11 (14) The department of human services on employees,  
12 prospective employees, and volunteers of contracted  
13 providers and subcontractors in positions that place  
14 them in close proximity to youth when providing  
15 services on behalf of the office or the Hawaii youth  
16 correctional facility as provided by section 352D-4.3;
- 17 (15) The judiciary on employees and applicants at detention  
18 and shelter facilities as provided by section 571-34;
- 19 (16) The department of corrections and rehabilitation on  
20 employees and prospective employees who are directly  
21 involved with the treatment and care of persons





1 committed to a correctional facility as provided by  
2 section 353-D and the department of law enforcement on  
3 employees and prospective employees whose duties  
4 involve or may involve the exercise of police powers  
5 including the power of arrest as provided by section  
6 353C-5;

7 (17) The board of private detectives and guards on  
8 applicants for private detective or private guard  
9 licensure as provided by section 463-9;

10 (18) Private schools and designated organizations on  
11 employees and prospective employees who may be in  
12 positions that necessitate close proximity to  
13 children; provided that private schools and designated  
14 organizations receive only indications of the states  
15 from which the national criminal history record  
16 information was provided pursuant to section 302C-1;

17 (19) The public library system on employees and prospective  
18 employees whose positions place them in close  
19 proximity to children as provided by section 302A-  
20 601.5;



- 1           (20) The State or any of its branches, political  
2                   subdivisions, or agencies on applicants and employees  
3                   holding a position that has the same type of contact  
4                   with children, vulnerable adults, or persons committed  
5                   to a correctional facility as other public employees  
6                   who hold positions that are authorized by law to  
7                   require criminal history record checks as a condition  
8                   of employment as provided by section 78-2.7;
- 9           (21) The department of health on licensed adult day care  
10                   center operators, employees, new employees,  
11                   subcontracted service providers and their employees,  
12                   and adult volunteers as provided by section 321-15.2;
- 13           (22) The department of human services on purchase of  
14                   service contracted and subcontracted service providers  
15                   and their employees serving clients of the adult  
16                   protective and community services branch, as provided  
17                   by section 346-97;
- 18           (23) The department of human services on foster grandparent  
19                   program, senior companion program, and respite  
20                   companion program participants as provided by section  
21                   346-97;



- 1           (24) The department of human services on contracted and  
2                   subcontracted service providers and their current and  
3                   prospective employees that provide home and  
4                   community-based services under section 1915(c) of the  
5                   Social Security Act, title 42 United States Code  
6                   section 1396n(c), or under any other applicable  
7                   section or sections of the Social Security Act for the  
8                   purposes of providing home and community-based  
9                   services, as provided by section 346-97;
- 10          (25) The department of commerce and consumer affairs on  
11                   proposed directors and executive officers of a bank,  
12                   savings bank, savings and loan association, trust  
13                   company, and depository financial services loan  
14                   company as provided by section 412:3-201;
- 15          (26) The department of commerce and consumer affairs on  
16                   proposed directors and executive officers of a  
17                   nondepository financial services loan company as  
18                   provided by section 412:3-301;
- 19          (27) The department of commerce and consumer affairs on the  
20                   original chartering applicants and proposed executive



- 1           officers of a credit union as provided by section  
2           412:10-103;
- 3       (28) The department of commerce and consumer affairs on:
- 4           (A) Each principal of every non-corporate applicant  
5                 for a money transmitter license;
- 6           (B) Each person who upon approval of an application  
7                 by a corporate applicant for a money transmitter  
8                 license will be a principal of the licensee; and
- 9           (C) Each person who upon approval of an application  
10                 requesting approval of a proposed change in  
11                 control of licensee will be a principal of the  
12                 licensee,
- 13           as provided by sections 489D-9 and 489D-15;
- 14       (29) The department of commerce and consumer affairs on  
15           applicants for licensure and persons licensed under  
16           title 24;
- 17       (30) The Hawaii health systems corporation on:
- 18           (A) Employees;
- 19           (B) Applicants seeking employment;
- 20           (C) Current or prospective members of the corporation  
21                 board or regional system board; or



- 1 (D) Current or prospective volunteers, providers, or  
2 contractors,  
3 in any of the corporation's health facilities as  
4 provided by section 323F-5.5;
- 5 (31) The department of commerce and consumer affairs on:  
6 (A) An applicant for a mortgage loan originator  
7 license, or license renewal; and  
8 (B) Each control person, executive officer, director,  
9 general partner, and managing member of an  
10 applicant for a mortgage loan originator company  
11 license or license renewal,  
12 as provided by chapter 454F;
- 13 (32) The state public charter school commission or public  
14 charter schools on employees, teacher trainees,  
15 prospective employees, and prospective teacher  
16 trainees in any public charter school for any position  
17 that places them in close proximity to children, as  
18 provided in section 302D-33;
- 19 (33) The counties on prospective employees who work with  
20 children, vulnerable adults, or senior citizens in  
21 community-based programs;



- 1       (34) The counties on prospective employees for fire  
2           department positions that involve contact with  
3           children or vulnerable adults;
- 4       (35) The counties on prospective employees for emergency  
5           medical services positions that involve contact with  
6           children or vulnerable adults;
- 7       (36) The counties on prospective employees for emergency  
8           management positions and community volunteers whose  
9           responsibilities involve planning and executing  
10          homeland security measures including viewing,  
11          handling, and engaging in law enforcement or  
12          classified meetings and assisting vulnerable citizens  
13          during emergencies or crises;
- 14      (37) The State and counties on employees, prospective  
15          employees, volunteers, and contractors whose position  
16          responsibilities require unescorted access to secured  
17          areas and equipment related to a traffic management  
18          center;
- 19      (38) The State and counties on employees and prospective  
20          employees whose positions involve the handling or use  
21          of firearms for other than law enforcement purposes;



- 1 (39) The State and counties on current and prospective  
2 systems analysts and others involved in an agency's  
3 information technology operation whose position  
4 responsibilities provide them with access to  
5 proprietary, confidential, or sensitive information;
- 6 (40) The department of commerce and consumer affairs on:  
7 (A) Applicants for real estate appraiser licensure or  
8 certification as provided by chapter 466K;  
9 (B) Each person who owns more than ten per cent of an  
10 appraisal management company who is applying for  
11 registration as an appraisal management company,  
12 as provided by section 466L-7; and  
13 (C) Each of the controlling persons of an applicant  
14 for registration as an appraisal management  
15 company, as provided by section 466L-7;
- 16 (41) The department of health or its designee on all  
17 license applicants, licensees, employees, contractors,  
18 and prospective employees of medical cannabis  
19 dispensaries, and individuals permitted to enter and  
20 remain in medical cannabis dispensary facilities as



- 1 provided under sections 329D-15(a)(4) and 329D-
- 2 16(a)(3);
- 3 (42) The department of commerce and consumer affairs on
- 4 applicants for nurse licensure or license renewal,
- 5 reactivation, or restoration as provided by sections
- 6 457-7, 457-8, 457-8.5, and 457-9;
- 7 (43) The county police departments on applicants for
- 8 permits to acquire firearms pursuant to section 134-2
- 9 and on individuals registering their firearms pursuant
- 10 to section 134-3;
- 11 (44) The department of commerce and consumer affairs on:
- 12 (A) Each of the controlling persons of the applicant
- 13 for licensure as an escrow depository, and each
- 14 of the officers, directors, and principals who
- 15 will be in charge of the escrow depository's
- 16 activities upon licensure; and
- 17 (B) Each of the controlling persons of an applicant
- 18 for proposed change in control of an escrow
- 19 depository licensee, and each of the officers,
- 20 directors, and principals who will be in charge





1                   of the licensee's activities upon approval of the  
2                   application,  
3                   as provided by chapter 449;  
4       (45)   The department of taxation on current or prospective  
5                   employees or contractors who have access to federal  
6                   tax information in order to comply with requirements  
7                   of federal law, regulation, or procedure, as provided  
8                   by section 231-1.6;  
9       (46)   The department of labor and industrial relations on  
10                  current or prospective employees or contractors who  
11                  have access to federal tax information in order to  
12                  comply with requirements of federal law, regulation,  
13                  or procedure, as provided by section 383-110;  
14       (47)   The department of human services on current or  
15                  prospective employees or contractors who have access  
16                  to federal tax information in order to comply with  
17                  requirements of federal law, regulation, or procedure,  
18                  as provided by section 346-2.5;  
19       (48)   The child support enforcement agency on current or  
20                  prospective employees or contractors who have access  
21                  to federal tax information in order to comply with



- 1 federal law, regulation, or procedure, as provided by  
2 section 576D-11.5;
- 3 (49) The department of the attorney general on current or  
4 prospective employees or employees or agents of  
5 contractors who have access to federal tax information  
6 to comply with requirements of federal law,  
7 regulation, or procedure, as provided by section 28-  
8 17;
- 9 (50) The department of commerce and consumer affairs on  
10 each control person, executive officer, director,  
11 general partner, and managing member of an installment  
12 loan licensee, or an applicant for an installment loan  
13 license, as provided in chapter 480J;
- 14 (51) The University of Hawaii on current and prospective  
15 employees and contractors whose duties include  
16 ensuring the security of campus facilities and  
17 persons; ~~and~~
- 18 (52) The department of commerce and consumer affairs on an  
19 applicant for an adult use cannabis manufacturer or  
20 adult use cannabis retailer license, as provided in  
21 chapter A; and



1        [~~52~~] (53) Any other organization, entity, or the State,  
2                    its branches, political subdivisions, or agencies as  
3                    may be authorized by state law."

4            SECTION 10. The Hawaii cannabis commission shall grant  
5 licenses established under section 1 of this Act to any existing  
6 medical cannabis dispensary licensed under chapter 329D, Hawaii  
7 Revised Statutes, that applies and pays the applicable fees for  
8 a license.

9            SECTION 11. The Hawaii cannabis commission may adopt  
10 interim rules to carry out the purposes of this part without  
11 regard to chapter 91 or 201M, Hawaii Revised Statutes; provided  
12 that the interim rules shall be effective for no more than one  
13 year after their adoption.

14           SECTION 12. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$                    or so  
16 much thereof as may be necessary for fiscal year 2023-2024 to be  
17 deposited into the compliance resolution fund.

18           SECTION 13. There is appropriated out of the compliance  
19 resolution fund the sum of \$                    or so much thereof as may  
20 be necessary for fiscal year 2023-2024 for the purposes of  
21 effectuating this part.



1 The sum appropriated shall be expended by the department of  
2 commerce and consumer affairs for the purposes of this Act.

3 PART II

4 SECTION 14. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to title 14 to be appropriately designated  
6 and to read as follows:

7 "CHAPTER B

8 ADULT USE CANNABIS TAX LAW

9 **§B-1 Definitions.** As used in this chapter, unless the  
10 context otherwise requires:

11 "Adult use cannabis retailer" or "retailer" means an adult  
12 use cannabis retailer licensed under the Hawaii adult use  
13 cannabis law.

14 "Cannabis" shall have the same meaning as that term is  
15 defined in chapter A.

16 "Hawaii adult use cannabis law" means chapter A.

17 "Manufactured cannabis products" shall have the same  
18 meaning as that term is defined in chapter A.

19 **§B-2 Permit.** (a) It shall be unlawful for any adult use  
20 cannabis retailer to sell cannabis or manufactured cannabis  
21 products pursuant to the Hawaii adult use cannabis law unless a



1 permit has been issued to the retailer as hereinafter  
2 prescribed, and such permit is in full force and effect.

3 (b) The Hawaii cannabis commission shall certify to the  
4 department of taxation from time to time and within forty-eight  
5 hours after such license is issued the name of every retailer,  
6 together with the retailer's place of business, and the period  
7 covered by the retailer's license. The department of taxation  
8 thereupon shall issue its permit to such person for the period  
9 covered by the person's license upon the payment of a permit fee  
10 of \$ . The permit shall be valid for the retailer to  
11 which it was issued. The permit shall be issued by the  
12 department of taxation as of the date when the Hawaii cannabis  
13 commission issued the license.

14 (c) Any permit issued under this chapter shall not be  
15 assignable; it shall be conspicuously displayed on the licensed  
16 premises of the permittee; it shall expire on the date the  
17 retailer's license under chapter A is set to expire, unless  
18 sooner suspended, surrendered, or revoked for cause by the  
19 department; and it shall be renewed annually, upon fulfillment  
20 of all requirements as in the case of an original permit and the  
21 payment of a renewal fee of \$ . Whenever a permit is



1 defaced, destroyed, or lost, or the licensed premises are  
2 relocated, the department may issue a duplicate permit to the  
3 permittee upon the payment of a fee of \$ .

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

18 **§B-3 Cooperation between department of taxation,**  
19 **department of commerce and consumer affairs, and Hawaii cannabis**  
20 **commission.** The department of taxation, department of commerce



1 and consumer affairs, and Hawaii cannabis commission shall  
2 cooperate in the enforcement of this chapter.

3 The department of taxation shall notify the department of  
4 commerce and consumer affairs and Hawaii cannabis commission of  
5 the name and address of every permittee whose permit has been  
6 revoked, and any license issued to the permittee under the  
7 Hawaii adult use cannabis law shall be deemed forfeited.

8 The department of taxation may notify the department of  
9 commerce and consumer affairs and Hawaii cannabis commission of  
10 the name and address of every person who has failed to file any  
11 return required, or to pay any tax prescribed, or to secure a  
12 permit, or to perform any other duty or act imposed under this  
13 chapter, and the Hawaii cannabis commission shall thereupon  
14 suspend any license that may have been issued to any such person  
15 under the Hawaii adult use cannabis law until such time as such  
16 person complies with this chapter.

17 The Hawaii cannabis commission shall provide to the  
18 department of taxation the results of any examination the  
19 commission has undertaken pursuant to section B-10 and shall,  
20 upon request, furnish to the department of taxation any  
21 information in its possession relative to any person having a



1 license issued by it, and its records shall be open to  
2 examination to the department of taxation.

3 **SB-4 Tax.** Upon every person engaging or continuing in the  
4 business of selling cannabis or manufactured cannabis products  
5 at retail for adult use, there is hereby levied, and shall be  
6 assessed and collected, a tax equivalent to two and one-half per  
7 cent of the gross proceeds of sales of the business.

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

19 **SB-6 Payment of tax; penalties.** At the time of the filing  
20 of the return required under section B-5 and within the time  
21 prescribed therefor, each taxpayer shall pay to the department





1 of taxation the tax imposed by this chapter, required to be  
2 shown by the return.

3 Penalties and interest shall be added to and become a part  
4 of the tax, when and as provided by section 231-39.

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

10 (b) If it should appear upon such examination or  
11 thereafter within five years after the filing of the return, or  
12 at any time if no return has been filed, as a result of such  
13 examination or as a result of any examination of the records of  
14 the taxpayer or of any other inquiry or investigation, that the  
15 correct amount of the tax is greater than that shown on the  
16 return, or that any tax imposed by the chapter has not been  
17 paid, an assessment of such tax may be made in the manner  
18 provided in section 235-108(b). The amount of the tax for the  
19 period covered by the assessment shall not be reduced below the  
20 amount determined by an assessment so made, except upon appeal  
21 or in a proceeding brought pursuant to section 40-35.



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

12 **§B-8 Disposition of revenues.** All moneys collected  
13 pursuant to this chapter shall be paid into the state treasury  
14 as state realizations, to be kept and accounted for as provided  
15 by law.

16 **§B-9 Records to be kept.** (a) Every retailer shall keep a  
17 record of all sales of adult use cannabis and adult use  
18 manufactured cannabis products made by the retailer, in such  
19 form as the department of taxation may prescribe. All such  
20 records shall be offered for inspection and examination at any  
21 time upon demand by the department of taxation, department of



1 commerce and consumer affairs, or Hawaii cannabis commission and  
2 shall be preserved for a period of five years; provided that the  
3 department of taxation may in writing consent to their  
4 destruction within such period or may require that they be kept  
5 longer.

6 The department of taxation may by rule require the retailer  
7 to keep such other records as it may deem necessary for the  
8 proper enforcement of this chapter.

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

14 **§B-10 Inspection.** The director of taxation, director of  
15 commerce and consumer affairs, Hawaii cannabis commission, or  
16 the duly authorized agent of either director may examine all  
17 records required to be kept under this chapter, and books,  
18 papers, and records of any person engaged in the sale of adult  
19 use cannabis and adult use manufactured cannabis products at  
20 retail to verify the accuracy of the payment of the tax imposed  
21 by this chapter and other compliance with this chapter and



1 regulations adopted pursuant thereto. Every person in  
2 possession of such books, papers, and records and the person's  
3 agents and employees shall give the directors or the duly  
4 authorized agent of either of them, the means, facilities, and  
5 opportunities for such examination.

6 The authority granted to the director of commerce and  
7 consumer affairs and Hawaii cannabis commission under this  
8 section shall not conflict with section 231-18 and shall not  
9 extend to the inspection of any documents not directly related  
10 to this chapter.

11 **§B-11 Tax in addition to other taxes.** The tax imposed by  
12 this chapter shall be in addition to any other tax imposed upon  
13 the business of selling adult use cannabis and adult use  
14 manufactured cannabis products or upon any of the transactions,  
15 acts, or activities taxed by this chapter.

16 **§B-12 Appeals.** Any person aggrieved by any assessment of  
17 the tax imposed by this chapter may appeal from the assessment  
18 in the manner and within the time and in all other respects as  
19 provided in the case of income tax appeals by section 235-114.  
20 The hearing and disposition of the appeal, including the  
21 distribution of costs shall be as provided in chapter 232.



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

16           **SB-14 Investigations; contempt; fees.** (a) The director  
17 of taxation, and any agent authorized by the director to conduct  
18 any inquiry, investigation, or hearing hereunder, shall have  
19 power to administer oaths and take testimony under oath relative  
20 to the matter of inquiry or investigation. At any hearing  
21 ordered by the director, the director or the director's agent



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

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



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

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

13 **§B-15 Administration by director; rules and regulations.**

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

17 The director shall adopt rules pursuant to chapter 91.

18 **§B-16 Penalties.** (a) The penalties provided by this  
19 section shall apply to any person whether acting as principal,  
20 agent, officer, or director, for oneself, itself, or for another  
21 person, and shall apply to each single violation, but shall not



1 apply to any act the punishment for which is elsewhere  
2 prescribed by this chapter.

3 (b) Any person or retailer who sells adult use cannabis or  
4 adult use manufactured cannabis products at retail without a  
5 permit as required by this chapter shall be fined not more than  
6 \$1,000."

7 SECTION 15. Section 235-2.4, Hawaii Revised Statutes, is  
8 amended by amending subsection (v) to read as follows:

9 "(v) Section 280E (with respect to expenditures in  
10 connection with the illegal sale of drugs) of the Internal  
11 Revenue Code shall be operative for the purposes of this  
12 chapter, except that section 280E shall not be operative with  
13 respect to ~~the~~ the:

14 (1) The production and sale of medical cannabis and  
15 manufactured cannabis products by dispensaries  
16 licensed under chapter 329D and their subcontractors,  
17 as defined in section 329D-1[-];

18 (2) The cultivation, distribution, manufacture, and sale  
19 of cannabis and manufactured cannabis products for  
20 adult use by persons licensed under chapter A."





1 SECTION 16. Section 237-24, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§237-24 Amounts not taxable.** This chapter shall not  
4 apply to the following amounts:

- 5 (1) Amounts received under life insurance policies and  
6 contracts paid by reason of the death of the insured;
- 7 (2) Amounts received (other than amounts paid by reason of  
8 death of the insured) under life insurance, endowment,  
9 or annuity contracts, either during the term or at  
10 maturity or upon surrender of the contract;
- 11 (3) Amounts received under any accident insurance or  
12 health insurance policy or contract or under workers'  
13 compensation acts or employers' liability acts, as  
14 compensation for personal injuries, death, or  
15 sickness, including also the amount of any damages or  
16 other compensation received, whether as a result of  
17 action or by private agreement between the parties on  
18 account of the personal injuries, death, or sickness;
- 19 (4) The value of all property of every kind and sort  
20 acquired by gift, bequest, or devise, and the value of  
21 all property acquired by descent or inheritance;



- 1 (5) Amounts received by any person as compensatory damages  
2 for any tort injury to the person, or to the person's  
3 character reputation, or received as compensatory  
4 damages for any tort injury to or destruction of  
5 property, whether as the result of action or by  
6 private agreement between the parties (provided that  
7 amounts received as punitive damages for tort injury  
8 or breach of contract injury shall be included in  
9 gross income);
- 10 (6) Amounts received as salaries or wages for services  
11 rendered by an employee to an employer;
- 12 (7) Amounts received as alimony and other similar payments  
13 and settlements;
- 14 (8) Amounts collected by distributors as fuel taxes on  
15 "liquid fuel" imposed by chapter 243, and the amounts  
16 collected by such distributors as a fuel tax imposed  
17 by any Act of the Congress of the United States;
- 18 (9) Taxes on liquor imposed by chapter 244D on dealers  
19 holding permits under that chapter;
- 20 (10) The amounts of taxes on cigarettes and tobacco  
21 products imposed by chapter 245 on wholesalers or



- 1 dealers holding licenses under that chapter and  
2 selling the products at wholesale;
- 3 (11) Federal excise taxes imposed on articles sold at  
4 retail and collected from the purchasers thereof and  
5 paid to the federal government by the retailer;
- 6 (12) The amounts of federal taxes under chapter 37 of the  
7 Internal Revenue Code, or similar federal taxes,  
8 imposed on sugar manufactured in the State, paid by  
9 the manufacturer to the federal government;
- 10 (13) An amount up to, but not in excess of, \$2,000 a year  
11 of gross income received by any blind, deaf, or  
12 totally disabled person engaging, or continuing, in  
13 any business, trade, activity, occupation, or calling  
14 within the State; a corporation all of whose  
15 outstanding shares are owned by an individual or  
16 individuals who are blind, deaf, or totally disabled;  
17 a general, limited, or limited liability partnership,  
18 all of whose partners are blind, deaf, or totally  
19 disabled; or a limited liability company, all of whose  
20 members are blind, deaf, or totally disabled;



- 1           (14) Amounts received by a producer of sugarcane from the  
2                            manufacturer to whom the producer sells the sugarcane,  
3                            where:
- 4                    (A) The producer is an independent cane farmer, so  
5                            classed by the Secretary of Agriculture under the  
6                            Sugar Act of 1948 (61 Stat. 922, chapter 519) as  
7                            the Act may be amended or supplemented;
- 8                    (B) The value or gross proceeds of sale of the sugar,  
9                            and other products manufactured from the  
10                           sugarcane, is included in the measure of the tax  
11                           levied on the manufacturer under section 237-  
12                           13(1) or (2);
- 13                   (C) The producer's gross proceeds of sales are  
14                           dependent upon the actual value of the products  
15                           manufactured therefrom or the average value of  
16                           all similar products manufactured by the  
17                           manufacturer; and
- 18                   (D) The producer's gross proceeds of sales are  
19                           reduced by reason of the tax on the value or sale  
20                           of the manufactured products;



- 1           (15) Money paid by the State or eleemosynary child-placing  
2                   organizations to foster parents for their care of  
3                   children in foster homes;
- 4           (16) Amounts received by a cooperative housing corporation  
5                   from its shareholders in reimbursement of funds paid  
6                   by such corporation for lease rental, real property  
7                   taxes, and other expenses of operating and maintaining  
8                   the cooperative land and improvements; provided that  
9                   such a cooperative corporation is a corporation:
- 10           (A) Having one and only one class of stock  
11                   outstanding;
- 12           (B) Each of the stockholders of which is entitled  
13                   solely by reason of the stockholder's ownership  
14                   of stock in the corporation, to occupy for  
15                   dwelling purposes a house, or an apartment in a  
16                   building owned or leased by the corporation; and
- 17           (C) No stockholder of which is entitled (either  
18                   conditionally or unconditionally) to receive any  
19                   distribution not out of earnings and profits of  
20                   the corporation except in a complete or partial  
21                   liquidation of the corporation; [~~and~~]



1 (17) Amounts received by a contractor of the Patient-  
2 Centered Community Care program that is established by  
3 the United States Department of Veterans Affairs  
4 pursuant to title 38 United States Code section 8153,  
5 as amended, for the actual costs or advancements to  
6 third party health care providers pursuant to a  
7 contract with the United States[-]; and

8 (18) Taxes on cannabis and manufactured cannabis products  
9 imposed by chapter B on adult use cannabis retail  
10 locations holding permits under that chapter."

11 PART III

12 SECTION 17. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 18. This Act shall take effect on July 1, 2023.

15 INTRODUCED BY:

*Curt Inoué*

**JAN 25 2023**



# H.B. NO. 1428

**Report Title:**

Adult Use Cannabis; Hawaii Cannabis Commission; Taxation;  
Appropriation

**Description:**

Legalizes, regulates, and taxes cannabis and manufactured cannabis products for adult use. Establishes the Hawaii cannabis commission to oversee the regulation of adult use cannabis manufacturers and retailers. Appropriates funds.

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

