
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 legal history of cannabis or marijuana in
3 the United States primarily addresses the regulation of cannabis
4 for medical use, and secondarily the use of cannabis for
5 personal or recreational purposes. By the mid-1930s cannabis
6 was regulated as a drug in every state, including thirty-five
7 states that adopted the Uniform State Narcotic Drug Act which
8 was subsequently replaced in 1970 with the federal Uniform
9 Controlled Substances Act, which classifies marijuana and
10 tetrahydrocannabinol as schedule I controlled substances.

11 Notwithstanding the prospect of federal prosecution,
12 several states, including Hawaii, have enacted medical cannabis
13 laws. Chapter 329, part IX, Hawaii Revised Statutes, was
14 enacted to create a medical use of cannabis exemption from
15 criminal sanctions. Other jurisdictions—specifically, Alabama,
16 Alaska, Arizona, Arkansas, California, Colorado, Connecticut,
17 Delaware, District of Columbia, Florida, Illinois, Louisiana,



1 Maine, Maryland, Massachusetts, Michigan, Minnesota,
2 Mississippi, Missouri, Montana, Nevada, New Hampshire, New
3 Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma,
4 Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont,
5 Virginia, Washington, and West Virginia—also allow the use of
6 cannabis for medicinal purposes. Furthermore, chapter 329D,
7 Hawaii Revised Statutes, was enacted to establish medical
8 cannabis dispensaries that were authorized to operate beginning
9 in July 2016. As Hawaii expands its medical cannabis program
10 through the use of highly regulated and monitored dispensaries,
11 more patients are anticipated to consider medical cannabis as a
12 viable treatment, knowing that the medicine will be regulated
13 and tested.

14 In addition to medicinal cannabis laws, some states have
15 decriminalized cannabis: Alaska, Arizona, California, Colorado,
16 Connecticut, Delaware, District of Columbia, Illinois, Maine,
17 Maryland, Massachusetts, Michigan, Minnesota, Mississippi,
18 Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey,
19 New Mexico, New York, North Carolina, North Dakota, Ohio,
20 Oregon, Rhode Island, Vermont, Virginia, and Washington. In
21 2019, Hawaii enacted Act 273, which decriminalized the



1 possession of cannabis in the amount of three grams or less. In
2 each of these states, cannabis users no longer face arrest or
3 jail time for the possession or use of cannabis in an amount
4 permitted by statute. Most places that have decriminalized
5 possession of small amounts of cannabis have replaced
6 incarceration or criminal charges with civil fines,
7 confiscation, drug education, or drug treatment, or have made
8 various cannabis offenses the lowest priority for law
9 enforcement.

10 The legislature further finds that the legalization of
11 cannabis for personal or recreational use is a natural, logical,
12 and reasonable outgrowth of the current science of cannabis and
13 attitude toward cannabis. In 2012, voters in Colorado and
14 Washington voted to legalize and regulate the production,
15 possession, and distribution of cannabis for persons aged
16 twenty-one and older. Following Colorado and Washington's lead,
17 Alaska, Arizona, California, Connecticut, District of Columbia,
18 Illinois, Maine, Maryland, Massachusetts, Michigan, Missouri,
19 Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island,
20 Vermont, and Virginia also legalized small amounts of cannabis
21 for adult recreational use.



1 States that have legalized cannabis use have increased
2 their tax collections. For example, Colorado collected
3 \$67,594,323 from medical and retail cannabis taxes and fees
4 during the first year of retail cannabis sales in 2014,
5 \$302,458,426 during the 2019 calendar year, and a total of
6 \$2,321,115,468 in revenues as of November 2022. Most industry
7 experts estimate that New Jersey and Arizona will be billion-
8 dollar markets in a few years.

9 The legislature further finds that the virus known as SARS-
10 CoV-2 causes a disease named coronavirus disease 2019
11 (COVID-19), which spread globally and was declared a pandemic by
12 the World Health Organization on March 11, 2020. Upon reaching
13 Hawaii's shores, the COVID-19 outbreak disrupted the economy,
14 resulting in an estimated \$2,300,000,000 budget shortfall as of
15 August 2020. While the State has since seen revenues bounce
16 back, an additional source of revenue is necessary to allow the
17 State to continue to meet its strategic goals, including the
18 provision of quality early learning and preschool programs for
19 Hawaii's children. The legislature further finds that cannabis
20 cultivation and sales hold potential for economic development,
21 increased tax revenues, and reduction in crime.



1 The purpose of this Act is to:
2 (1) Provide for the legalization, regulation, and taxation
3 of responsible, adult-use cannabis;
4 (2) Exempt sales of cannabis and manufactured cannabis
5 products for medical use from the general excise tax;
6 and
7 (3) Provide that qualifying out-of-state patients have the
8 same rights and privileges as qualifying patients with
9 respect to medical cannabis.

10 PART II

11 SECTION 2. The purpose of this part is to authorize
12 responsible, adult-use cannabis in the State and to provide for
13 its regulation.

14 SECTION 3. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 "CHAPTER A

18 RESPONSIBLE, ADULT-USE CANNABIS

19 PART I. GENERAL PROVISIONS

20 **SA-1 Short title.** This chapter may be cited as the Hawaii
21 Responsible, Adult-Use Cannabis Law.



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

3 "Authority" means the Hawaii cannabis authority established
4 under section A-11.

5 "Cannabis" means all parts of the plant *Cannabis sativa* L.,
6 *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not;
7 the seeds thereof; the resin, whether crude or purified,
8 extracted from any part of the plant; and every compound,
9 manufacture, salt, derivative, mixture, or preparation of the
10 plant, its seeds, or resin. "Cannabis" includes the separated
11 resin, whether crude or purified, obtained from cannabis.

12 "Cannabis" does not include the mature stalks of the plant;
13 fiber produced from the stalks; oil or cake made from the seeds
14 of the plant; any other compound, manufacture, salt, derivative,
15 mixture, or preparation of the mature stalks (except the resin
16 extracted therefrom), fiber, oil, or cake; the sterilized seed
17 of the plant that is incapable of germination; or hemp as
18 defined by section 328G-1.

19 "Cannabis accessories" means any equipment, products or
20 materials of any kind which are used, intended for use, or
21 designed for use in planting, propagating, cultivating, growing,



1 harvesting, manufacturing, compounding, converting, producing,
2 processing, preparing, testing, analyzing, packaging,
3 repackaging, storing, smoking, vaporizing, or containing
4 cannabis, or for ingesting, inhaling, or otherwise introducing
5 cannabis or manufactured cannabis products into or onto the
6 human body.

7 "Commercial cannabis activity" includes the cultivation,
8 possession, manufacture, distribution, processing, storing,
9 laboratory testing, packaging, labeling, transportation,
10 delivery, or sale of cannabis and manufactured cannabis products
11 as provided for in this chapter.

12 "Concentrated cannabis" means the separated resin, whether
13 crude or purified, obtained from cannabis.

14 "Cultivation" means any activity involving the planting,
15 growing, harvesting, drying, curing, grading, or trimming of
16 cannabis.

17 "Department" means the department of health.

18 "Enclosed indoor facility" means a permanent, stationary
19 structure with a solid floor, rigid exterior walls that encircle
20 the entire structure on all sides, and a roof that protects the
21 entire interior area from any exterior view and elements of



1 weather. Nothing in this definition shall be construed to
2 relieve a license applicant or license renewal applicant of the
3 duty to comply with all applicable building codes and
4 regulations.

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

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

12 "Responsible, adult use" means use in accordance with part
13 VI of this chapter.

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

18 "Responsible, adult-use cannabis distributor" means a
19 person that procures, sells, and transports responsible, adult-
20 use cannabis and responsible, adult-use manufactured cannabis
21 products between persons licensed under this chapter.



1 "Responsible, adult-use cannabis manufacturer" means a
2 person that conducts the production, preparation, propagation,
3 or compounding of responsible, adult-use cannabis or
4 responsible, 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 responsible, adult-use
9 cannabis or responsible, adult-use manufactured cannabis
10 products or labels or relabels its container.

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

14 **§A-3 Cannabidiol products; application of chapter.** This
15 chapter shall not apply to any product containing cannabidiol
16 that has been approved by the federal Food and Drug
17 Administration that has either been placed on a schedule of the
18 federal Controlled Substances Act other than Schedule I or has
19 been exempted from one or more provisions of that act, and that
20 is intended for prescribed use for the treatment of a medical
21 condition.



1 **§A-4 Construction of the chapter.** Nothing in this chapter
2 shall be construed to:

3 (1) Affect the medical use of cannabis or limit any
4 privileges or rights as provided in part IX of chapter
5 329;

6 (2) Affect the regulation of medical cannabis dispensaries
7 as provided in chapter 329D;

8 (3) Require an employer to permit or accommodate conduct
9 otherwise allowed by this chapter in any workplace or
10 on the employer's property;

11 (4) Prohibit an employer from disciplining an employee for
12 violation of a workplace drug policy or for working
13 while under the influence of cannabis;

14 (5) Prevent an employer from refusing to hire,
15 discharging, disciplining, or otherwise taking an
16 adverse employment action against a person with
17 respect to hire, tenure, terms, conditions, or
18 privileges of employment because of that person's
19 violation of a workplace drug policy or because that
20 person was working while under the influence of
21 cannabis;



- 1 (6) Supersede any law relating to operating a vehicle
2 under the influence of an intoxicant;
- 3 (7) Permit the transfer of cannabis, with or without
4 remuneration, to a minor or to allow a minor to
5 purchase, possess, use, transport, grow, or consume
6 cannabis; or
- 7 (8) Require any person, corporation, or any other entity
8 that occupies, owns, or controls real property to
9 allow the consumption, cultivation, display, sale, or
10 transfer of cannabis on or in that property; provided
11 that in the case of the rental of a residential
12 dwelling, a landlord shall not prohibit the possession
13 of cannabis or the consumption of cannabis that is not
14 inhaled, unless:
- 15 (A) The tenant is not leasing the entire residential
16 dwelling;
- 17 (B) The residence is incidental to detention or the
18 provision of medical, geriatric, educational,
19 counseling, religious, or similar service;
- 20 (C) The residence is a transitional housing facility;
21 or



1 (D) Failing to prohibit cannabis possession or
2 consumption would violate federal law or
3 regulations or cause the landlord to lose a
4 monetary or licensing-related benefit under
5 federal law or regulations.

6 **PART II. ADMINISTRATION**

7 **§A-11 Hawaii cannabis authority; members; qualifications;**
8 **compensation.** (a) There is established a Hawaii cannabis
9 authority within the department of health for administrative
10 purposes only.

11 (b) Notwithstanding section 26-34 to the contrary, the
12 authority shall consist of nine members who shall be residents
13 of the State and of which:

- 14 (1) One person from the public health sector to be
15 appointed by the director of health;
- 16 (2) One person actively engaged in the cannabis industry
17 to be appointed by the director of commerce and
18 consumer affairs;
- 19 (3) One person to be appointed by the chairperson of the
20 civil rights commission;



- 1 (4) One person to be appointed by the chairperson of the
2 commission on the status of women;
- 3 (5) One person to be appointed by the chairperson of the
4 board of trustees of the office of Hawaiian affairs;
- 5 (6) One person from a nonprofit advocacy organization that
6 focuses on cannabis decriminalization or correctional
7 justice reform to be appointed by the governor;
- 8 (7) One person from the public appointed by the governor;
9 and
- 10 (8) Two persons from the public, one each to be appointed
11 by the speaker of the house of representatives and
12 president of the senate.
- 13 The member representing the public health sector or public, or
14 the member's immediate family member, may not have a financial
15 interest in the cannabis industry or liquor industry. No person
16 who has served as a commissioner on a county liquor commission
17 shall be eligible to sit as a member of the authority until at
18 least five years have expired between the person's termination
19 from service as a commissioner on a county liquor commission and
20 the person's appointment to the authority.

21 For purposes of this subsection:



1 "Cannabis industry" means a business or profession related
2 to cannabis in which the person is lawfully engaged and that is
3 in compliance with the provisions of state law, including this
4 chapter and rules adopted under this chapter.

5 "Financial interest" means holding directly or indirectly,
6 a legal or equitable interest in the operation of a business
7 licensed under this chapter.

8 "Immediate family member" means a spouse, child, or parent.

9 "Public health sector" means a state, federal, or local
10 entity that works to ensure the health and safety of persons and
11 communities through education, policymaking, treatment, and
12 prevention of injury and disease, and promotion of wellness.

13 (c) Each member of the authority shall serve without pay.
14 However, the actual and necessary traveling expenses incurred in
15 connection with the performance of the member's official duties
16 shall be paid by the department, upon the presentation of
17 vouchers approved by the department.

18 **§A-12 Hawaii cannabis authority; organization.** (a) The
19 authority shall elect one member as chairperson and one member
20 as vice-chairperson annually. In the absence of both the



1 chairperson and the vice-chairperson to preside at a meeting,
2 the members present shall select a chair pro tem.

3 (b) The authority shall meet not less than quarterly at a
4 time and place determined by the authority.

5 (c) The majority of the members shall constitute a quorum.
6 The concurrence of a majority of the members shall be necessary
7 to make any action taken by the authority valid. The authority
8 shall conduct its meetings in accordance with chapters 91 and
9 92.

10 **SA-13 Hawaii cannabis authority; powers and duties.** In
11 addition to any other powers or duties authorized by law, the
12 Hawaii cannabis authority 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 authority;
- 4 (4) Develop requirements for licensure through rules in
5 accordance with section A-22;
- 6 (5) Establish fees in accordance with section A-24;
- 7 (6) Investigate and conduct hearings regarding any
8 violation of this chapter and any rule or order of the
9 authority;
- 10 (7) Create fact-finding committees which may make
11 recommendations to the authority for its
12 deliberations;
- 13 (8) Contract with qualified persons including
14 investigators who may be exempt from chapter 76 and
15 who shall assist the authority in exercising its
16 powers and duties; and
- 17 (9) Subpoena witnesses and documents, administer oaths,
18 and receive affidavits and oral testimony, including
19 telephonic communications, and do any and all things
20 necessary or incidental to the exercise of the
21 authority's power and duties, including the authority



1 to conduct contested case proceedings under chapter
2 91.

3 **§A-14 Delegation of authority.** (a) The authority shall
4 delegate to the department the authority to receive, arbitrate,
5 investigate, and prosecute any complaint against a licensee.

6 (b) The authority may delegate to the director of health
7 any of its powers or duties as it deems reasonable and proper.
8 The delegation of powers and duties by the authority shall be
9 made in accordance with the procedures set forth in section A-
10 12(c); provided that the authority shall not delegate its
11 discretionary functions resulting in a final decision, including
12 but not limited to the following:

- 13 (1) Adopting, amending, or repealing rules;
- 14 (2) Ordering disciplinary action against a licensee,
15 including the revocation, suspension, or imposition of
16 conditions or fines; provided that summary suspensions
17 may be delegated; and
- 18 (3) Granting, denying, or otherwise conditioning license
19 applications.

20 **§A-15 Hawaii cannabis authority special fund.** (a) There
21 is established within the state treasury the Hawaii cannabis



1 authority special fund. The special fund shall be administered
2 by the department and the moneys in the special fund shall be
3 expended for the purposes of this chapter.

4 (b) The special fund shall consist of all revenues, fees,
5 and fines collected pursuant to this chapter, except part VI,
6 and the rules adopted thereunder.

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

9 **SA-16 Rules.** The authority may adopt rules pursuant to
10 chapter 91 to effectuate this chapter and to carry out its
11 purpose of protecting the health, safety, and welfare of
12 consumers. The enumeration of specific matters which may
13 properly be made the subject of rules shall not be construed to
14 limit the authority's broad general power to make all rules
15 necessary to fully effectuate the purpose of this chapter.

16 **PART III. LICENSING**

17 **A. General Licensing Provisions**

18 **SA-21 License required; classification.** (a) No person
19 shall engage in the business of a responsible, adult-use
20 cannabis cultivator; responsible, adult-use cannabis
21 distributor; responsible, adult-use cannabis manufacturer; or



1 responsible, adult-use cannabis retailer, nor engage in the
2 cultivation, manufacture, distribution, or sale of cannabis or
3 manufactured cannabis products for responsible, adult use,
4 unless the person is licensed pursuant to this chapter to engage
5 in such business.

6 (b) The license classification pursuant to this chapter
7 shall be as follows:

- 8 (1) Responsible, adult-use cannabis cultivator;
- 9 (2) Responsible, adult-use cannabis distributor;
- 10 (3) Responsible, adult-use cannabis manufacturer; and
- 11 (4) Responsible, adult-use cannabis retailer.

12 (c) All licenses issued under this chapter shall expire on
13 December 31.

14 (d) A person may apply for and be issued more than one
15 license under this chapter, but shall not be issued more than
16 one license in a class.

17 (e) Each applicant or licensee shall apply for, and if
18 approved, shall obtain, a separate license for each location
19 where it engages in commercial responsible, adult-use cannabis
20 activity.



1 (f) The authority shall adopt rules limiting the number of
2 licenses that may be issued based on market need.

3 **SA-22 Qualifications for licensure.** The authority shall
4 determine by rules adopted pursuant to chapter 91 the
5 qualifications necessary for licensure.

6 **SA-23 Transfer of license.** (a) A transfer of a license
7 shall be for the same class of license.

8 (b) No license issued under this chapter shall be
9 transferable or be transferred except upon written application
10 to the department by the proposed transferee and approval by the
11 department.

12 **SA-24 Fees.** (a) No applicant or licensee shall be
13 granted a license pursuant to this chapter unless the
14 appropriate fees have been paid.

15 (b) The authority shall establish the amount for all fees
16 and expenses by rules adopted pursuant to chapter 91, except as
17 provided under section A-32. The fees to be established by the
18 authority may include but not be limited to an application fee,
19 filing fee, license fee, renewal fee, and other reasonable and
20 necessary fees related to the authority's and department's
21 administrative costs.



1 **B. Social Equity in the Cannabis Industry**

2 **§A-31 Definitions.** As used in this subpart, unless the
3 context otherwise requires:

4 "Disproportionately impacted area" means a census tract or
5 comparable geographic area that has a poverty rate of at least
6 twenty per cent according to the latest federal decennial
7 census.

8 "Member of an impacted family" means an individual who has
9 a parent, legal guardian, child, spouse, or dependent, or was a
10 dependent of an individual who, prior to the effective date of
11 this chapter, was arrested for, convicted of, or adjudicated
12 delinquent for any offense that is eligible for expungement
13 under section 706- .

14 "Qualified social equity applicant" means a social equity
15 applicant who has been awarded a conditional license under this
16 subpart to operate as a responsible, adult-use cannabis
17 cultivator; responsible, adult-use cannabis distributor;
18 responsible, adult-use cannabis manufacturer; or responsible,
19 adult-use cannabis retailer.

20 "Social equity applicant" means an applicant that is a
21 resident of the State that meets one of the following criteria:



- 1 (1) An applicant with at least fifty-one per cent
2 ownership and control by one or more individuals who
3 have resided for at least five of the preceding ten
4 years in a disproportionately impacted area;
- 5 (2) An applicant with at least fifty-one per cent
6 ownership and control by one or more individuals who:
7 (A) Have been arrested for, convicted of, or
8 adjudicated delinquent for any offense that is
9 eligible for expungement under section 706- ;
10 or
11 (B) Is a member of an impacted family; or
- 12 (3) For applicants with a minimum of ten full-time
13 employees, an applicant with at least fifty-one per
14 cent of current employees who:
15 (A) Currently reside in a disproportionately impacted
16 area; or
17 (B) Have been arrested for, convicted of, or
18 adjudicated delinquent for any offense that is
19 eligible for expungement under section 706- or
20 member of an impacted family.



1 Nothing in this subpart shall be construed to preempt or limit
2 the duties of any employer under section 378-2.5. Nothing in
3 this chapter shall permit an employer to require an employee to
4 disclose sealed or expunged offenses, unless otherwise required
5 by law.

6 **§A-32 Loans and grants to social equity applicants.** (a)

7 The authority and department shall establish grant and loan
8 programs for the purposes of providing financial assistance,
9 loans, grants, and technical assistance to social equity
10 applicants.

11 (b) The authority and department shall have the power to:

12 (1) Provide cannabis social equity grants and loans to
13 assist qualified social equity applicants in gaining
14 entry to, and successfully operating in, the State's
15 regulated cannabis marketplace;

16 (2) Enter into agreements that set forth terms and
17 conditions of the financial assistance, accept funds
18 or grants, and engage in cooperation with private
19 entities and agencies of the State or local government
20 to carry out the purposes of this section;



- 1 (3) Fix, determine, charge, and collect any premiums,
2 fees, charges, costs and expenses, including
3 application fees, commitment fees, program fees,
4 financing charges, or publication fees in connection
5 with its activities under this section;
- 6 (4) Provide staff, administration, and related support
7 required to administer this section;
- 8 (5) Take whatever actions are necessary or appropriate to
9 protect the State's interest in the event of
10 bankruptcy, default, foreclosure, or noncompliance
11 with the terms and conditions of financial assistance
12 provided under this section, including the ability to
13 recapture funds if the recipient is found to be
14 noncompliant with the terms and conditions of the
15 financial assistance agreement;
- 16 (6) Establish application, notification, contract, and
17 other forms, procedures, or rules deemed necessary and
18 appropriate; and
- 19 (7) Utilize vendors or contract work to carry out the
20 purposes of this subpart.
- 21 (c) Loans made under this section:



- 1 (1) Shall only be made if, in the authority's and
2 department's judgments, the project furthers the goals
3 set forth in this chapter; and
- 4 (2) Shall be in such principal amount and form and contain
5 such terms and provisions with respect to security,
6 insurance, reporting, delinquency charges, default
7 remedies, and other matters as the authority and
8 department shall determine appropriate to protect the
9 public interest and to be consistent with the purposes
10 of this section. The terms and provisions may be less
11 than required for similar loans not covered by this
12 section.
- 13 (d) Grants made under this section shall be awarded on a
14 competitive and annual basis. Grants made under this section
15 shall further and promote the goals of this chapter, including
16 promotion of social equity applicants, job training and
17 workforce development, and technical assistance to social equity
18 applicants.
- 19 (e) The department shall submit an annual report to the
20 governor and the legislature no later than twenty days prior to
21 the convening of each regular session. The report shall detail



1 the outcomes and effectiveness of this section, including the
2 following:

- 3 (1) The number of persons or businesses receiving
4 financial assistance under this section;
- 5 (2) The amount in financial assistance awarded in the
6 aggregate, in addition to the amount of loans made
7 that are outstanding and the amount of grants awarded;
- 8 (3) The location of the project engaged in by the person
9 or business; and
- 10 (4) If applicable, the number of new jobs and other forms
11 of economic output created as a result of the
12 financial assistance.

13 (f) The authority and department shall include engagement
14 with individuals with limited English proficiency as part of its
15 outreach provided or targeted to attract and support social
16 equity applicants.

17 (g) The authority shall make available to the public its
18 rubric for determining eligibility.

19 **SA-33 Fee waivers.** (a) For social equity applicants, the
20 authority shall waive fifty per cent of any nonrefundable
21 license application fees; any nonrefundable fees associated with



1 purchasing a license to operate a business licensed under this
2 chapter; and any surety bond or other financial requirements for
3 the first five years of the applicant's operations; provided
4 that the social equity applicant meets the following
5 qualifications at the time the payment is due:

6 (1) The applicant, including all individuals and entities
7 with ten per cent or greater ownership and all parent
8 companies, subsidiaries, and affiliates, has less than
9 a total of \$750,000 of income in the previous calendar
10 year; and

11 (2) The applicant, including all individuals and entities
12 with ten per cent or greater ownership and all parent
13 companies, subsidiaries, and affiliates, has no more
14 than two other licenses under this chapter.

15 (b) The authority and department may require social equity
16 applicants to attest that they meet the requirements for a fee
17 waiver as provided in subsection (a) and to provide evidence of
18 annual total income in the previous calendar year.

19 (c) If the authority or department determines that an
20 applicant who applied as a social equity applicant is not
21 eligible for such status, the applicant shall be provided an



1 additional ten days to provide alternative evidence that the
2 applicant qualifies as a social equity applicant.
3 Alternatively, the applicant may pay the remainder of the waived
4 fee and be considered as a non-social equity applicant. If the
5 applicant cannot do either, then the authority may keep the
6 initial application fee and the application shall not be
7 considered.

8 **SA-34 Reporting to the authority and department.**

9 Beginning January 1, 2025, and on January 1 of every year
10 thereafter, or upon request by the authority or the department,
11 each person licensed under this chapter shall report to the
12 authority and the department, on a form to be provided by the
13 department, information that will allow it to assess the extent
14 of diversity in the responsible, adult-use cannabis industry and
15 methods for reducing or eliminating any identified barriers to
16 entry, including access to capital. The information to be
17 collected shall be designed to identify the following:

- 18 (1) The number and percentage of licenses provided to
19 social equity applicants and to businesses owned by
20 minorities, women, veterans, and people with
21 disabilities;



- 1 (2) The total number and percentage of employees in the
- 2 responsible, adult-use cannabis industry who meet the
- 3 definition of social equity applicant or who are
- 4 minorities, women, veterans, or people with
- 5 disabilities; and
- 6 (3) Recommendations on reducing or eliminating any
- 7 identified barriers to entry, including access to
- 8 capital, in the responsible, adult-use cannabis
- 9 industry.

PART IV. LICENSEE OPERATIONS AND TESTING

A. Generally

12 **§A-41 Employment of persons under the age of twenty-one**

13 **prohibited.** No person under the age of twenty-one shall be

14 employed by a responsible, adult-use cannabis cultivator;

15 responsible, adult-use cannabis distributor; responsible, adult-

16 use cannabis manufacturer; or responsible, adult-use cannabis

17 retailer.

18 **§A-42 Persons authorized to handle cannabis or**

19 **manufactured cannabis products.** In all licensee facilities,

20 only the licensee, if an individual; registered employees of the

21 licensee; employees of a certified laboratory for testing



1 purposes; state employees authorized by the director of health;
2 and law enforcement and other government officials acting in
3 their official capacity shall be permitted to touch or handle
4 any cannabis or manufactured cannabis products, except that a
5 person twenty-one years of age or older may receive cannabis or
6 manufactured cannabis products at a responsible, adult-use
7 cannabis retail location following completion of a sale.

8 **SA-43 Public view prohibited.** A licensee shall not
9 display cannabis or manufactured cannabis products in windows or
10 in public view.

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

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

18 (1) The computer software tracking system shall collect
19 data relating to:

20 (A) The total amount of cannabis in possession of all
21 licensees from either seed or immature plant



1 state, including all plants that are derived from
2 cuttings or cloning, until the cannabis, cannabis
3 plants, or manufactured cannabis products are
4 sold or destroyed pursuant to section A-46;

5 (B) The total amount of manufactured cannabis product
6 inventory, including the equivalent physical
7 weight of cannabis that is used to manufacture
8 manufactured cannabis products, purchased by
9 persons twenty-one years of age or older from all
10 responsible, adult-use cannabis retail locations
11 in the State in any fifteen-day period;

12 (C) The amount of waste produced by each plant at
13 harvest; and

14 (D) The transport of cannabis and manufactured
15 cannabis products between licensees, including
16 tracking identification issued by the tracking
17 system, the identity of the person transporting
18 the cannabis or manufactured cannabis products,
19 and the make, model, and license number of the
20 vehicle being used for the transport;



1 (2) The procurement of the computer software tracking
2 system established pursuant to this subsection shall
3 be exempt from chapter 103D; provided that:
4 (A) The department shall publicly solicit at least
5 three proposals for the computer software
6 tracking system; and
7 (B) The selection of the computer software tracking
8 system shall be approved by the department and
9 the chief information officer; and
10 (3) Notwithstanding any other provision of this subsection
11 to the contrary, once the authority has authorized a
12 licensee to commence sales of cannabis or manufactured
13 cannabis products, if the department's computer
14 software tracking system is inoperable or is not
15 functioning properly, as an alternative to requiring
16 licensees to temporarily cease operations, the
17 authority may implement an alternate tracking system
18 that will enable licensees to transact with each other
19 and persons twenty-one years of age or older to
20 purchase cannabis or manufactured cannabis products
21 from a licensed responsible, adult-use cannabis retail



1 location on a temporary basis. The authority shall
2 seek input regarding the alternate tracking system
3 from licensees. The alternate tracking system may
4 operate as follows:

5 (A) The authority may immediately notify all
6 licensees that the computer software tracking
7 system is inoperable; and

8 (B) Once the computer software tracking system is
9 operational and functioning to meet the
10 requirements of this subsection, the authority
11 may notify all licensees, and the alternate
12 tracking system in this subsection shall be
13 discontinued.

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

16 (1) Interface with the department's computer software
17 tracking system established pursuant to subsection
18 (a);

19 (2) Allow each licensee to submit to the department in
20 real time, by automatic identification and data
21 capture, all cannabis, cannabis plants, and



1 manufactured cannabis product inventory in possession
2 of that licensee from either seed or immature plant
3 state, including all plants that are derived from
4 cuttings or cloning, until the cannabis or
5 manufactured cannabis product is sold or destroyed
6 pursuant to section A-46;

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



1 (4) Allow the licensee to submit all data required by this
2 subsection to the department and permit the department
3 to access the data if the department's computer
4 software tracking system is not functioning properly
5 and sales are made pursuant to the alternate tracking
6 system under subsection (a).

7 **§A-46 Standards.** In addition to any other rulemaking
8 authority provided by law, the authority shall establish
9 standards with respect to:

- 10 (1) Criteria and procedures for the consideration and
11 selection, based on merit, of applications for
12 licenses issued under this chapter;
- 13 (2) Specific requirements regarding annual audits and
14 reports required from each licensee;
- 15 (3) Procedures for announced and unannounced inspections
16 by the authority, department, or their agents of
17 licensee facilities; provided that inspections for
18 license renewals shall be unannounced;
- 19 (4) Security requirements for the operation of licensee
20 facilities;



- 1 (5) Security requirements for the distribution of cannabis
2 and manufactured cannabis products between licensees
3 and between licensees and certified laboratories;
- 4 (6) Standards and criminal background checks to ensure the
5 reputable and responsible character and fitness of all
6 license applicants, licensees, employees, and
7 prospective employees of licensees;
- 8 (7) The training and certification of licensees and
9 employees of licensees;
- 10 (8) Laboratory standards related to testing cannabis and
11 manufactured cannabis products for content,
12 contamination, and consistency;
- 13 (9) The safety of manufactured cannabis products;
- 14 (10) Licensee inventory controls to prevent the
15 unauthorized diversion of cannabis or manufactured
16 cannabis products or the sale of cannabis or
17 manufactured cannabis products to persons in excess of
18 the limits established by this chapter; provided that
19 the controls, at a minimum, shall include:
- 20 (A) A computer software tracking system as specified
21 in section A-45; and



- 1 (B) Product packaging standards sufficient to allow
2 law enforcement personnel to reasonably determine
3 the contents of an unopened package;
- 4 (11) The disposal or destruction of unwanted or unused
5 cannabis and manufactured cannabis products;
- 6 (12) The enforcement of the following prohibitions against:
7 (A) The sale or provision of cannabis or manufactured
8 cannabis products to unauthorized persons;
9 (B) The sale or provision of cannabis or manufactured
10 cannabis products to a person twenty-one years of
11 age or older in quantities that exceed limits
12 established by this chapter; and
13 (C) The distribution of cannabis or manufactured
14 cannabis products, for free, on the premises of a
15 licensee; and
- 16 (13) The establishment of a range of penalties for
17 violations of this chapter or rule adopted thereto.
- 18 **SA-47 Signage.** Signs placed outside of the place of
19 business of a licensee shall not include the image of a cartoon
20 character or other design intended to appeal to children.



1 **§A-48 Laboratory standards and testing.** (a) The
2 authority shall establish, and the department shall enforce,
3 standards for laboratory-based testing of cannabis and
4 manufactured cannabis products for content, contamination, and
5 consistency; provided that in establishing these standards, the
6 authority shall:

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

9 (2) Consider the impact of the standards on the retail
10 cost of the product;

11 (3) Review and take guidance from the testing programs and
12 standards for pesticides under the regulations of the
13 United States Environmental Protection Agency, and, at
14 minimum, require testing for pesticides the authority
15 determines are commonly used;

16 (4) For the testing for microbiological impurities,
17 consider the benefits of organically grown cannabis
18 that features the use of bacteria in lieu of
19 pesticides; and

20 (5) Determine maximum levels of residual solvent and
21 processing chemicals allowable for the safety of



1 consumers and require testing for residual solvent and
2 processing chemicals.

3 (b) The authority may certify laboratories that can test
4 cannabis and manufactured cannabis products prior to the sale of
5 cannabis and manufactured cannabis products.

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

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



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

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

- 8 (1) Is clearly labeled with the phrase "For responsible,
9 adult use 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 **SA-50 Zoning.** (a) Licensees shall comply with all county
15 zoning ordinances, rules, or regulations; provided that:

- 16 (1) A responsible, adult-use cannabis cultivation site
17 shall be permitted in any area in which agricultural
18 production is permitted except as provided within this
19 chapter; 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 **§A-51 Hawaii-grown cannabis; labeling requirements.** (a)

15 In addition to all other labeling requirements, the identity
16 statement used for labeling or advertising cannabis and
17 manufactured cannabis products for responsible, adult use
18 cultivated or manufactured in whole from Hawaii-grown cannabis
19 plants shall consist of either:

20 (1) The geographic origin of the Hawaii-grown cannabis
21 plants when the Hawaii-grown cannabis plants are from



1 only one region, followed by the word "Grown";
2 provided that the geographic origin may be immediately
3 preceded by the term "100%"; or

4 (2) "Hawaii-Grown" when the manufactured cannabis product
5 consists of cannabis from several geographic origins
6 in the State; provided that the term "Hawaii-Grown"
7 may be immediately preceded by the term "100%".

8 (b) For purposes of this section, "geographic origin"
9 means the geographic regions in which Hawaii-grown cannabis
10 plants are cultivated, as those regions are designated in rules
11 adopted by the authority.

12 **§A-52 Education.** The authority shall provide education to
13 prospective licensees and active licensees on the duties imposed
14 under this chapter. The authority shall provide education to
15 the public on the authorized use of cannabis and manufactured
16 cannabis products as specified in part VI.

17 **§A-53 Labor peace agreements.** (a) All responsible,
18 adult-use cannabis cultivator licensees and responsible, adult-
19 use cannabis retailer licensees shall enter into, maintain, and
20 abide by the terms of a labor peace agreement, and shall submit
21 to the authority an attestation by a bona fide labor



1 organization stating that the applicant meets this section's
2 requirements.

3 (b) Employees of responsible, adult-use cannabis
4 cultivator licensees and responsible, adult-use cannabis
5 retailer licensees may join a bona fide labor organization, but
6 shall not be required to join as a condition of employment.

7 (c) Compliance with the requirements of this section is
8 deemed to be an ongoing material condition of the license, and
9 any violation may result in suspension, revocation and/or non-
10 renewal of the license by the commission.

11 (d) Nothing in this chapter shall be construed to limit
12 the federal National Labor Relations Act, federal Labor
13 Management Relations Act, federal Railway Labor Act, or other
14 conflicting federal law.

15 (e) For purposes of this section:

16 "Bona fide labor organization" is a labor union that
17 represents or is actively seeking to represent cannabis workers.

18 "Labor peace agreement" means an agreement between a
19 licensee and a bona fide labor organization that, at a minimum,
20 protects the state's proprietary interests by prohibiting labor
21 organizations and members from engaging in picketing, work



1 stoppages, boycotts, and any other economic interference with
2 the licensee.

3 **B. Cultivators**

4 **SA-61 Cultivation sites secure and hidden from public**
5 **view.** All responsible, adult-use cannabis cultivation sites
6 shall be secure and hidden from public view and shall maintain
7 twenty-four-hour security measures.

8 **SA-62 Cultivation site plant limitation.** A responsible,
9 adult-use cannabis cultivation site shall be limited to no more
10 than three thousand cannabis plants.

11 For purposes of this section, "plant" means a cannabis
12 plant that is greater than twelve vertical inches in height from
13 where the base of the stalk emerges from the growth medium to
14 the tallest point of the plant, or greater than twelve
15 horizontal inches in width from the end of one branch to the end
16 of another branch; provided that multiple stalks emanating from
17 the same root ball or root system shall be considered part of
18 the same single plant.

19 **C. Distributors**

20 **SA-71 Distribution.** (a) The authority shall establish
21 minimum security and transportation safety requirements for the



1 commercial distribution and delivery of cannabis and
2 manufactured cannabis products. Transportation safety standards
3 established by the authority shall include, but not be limited
4 to, minimum standards governing the types of vehicles in which
5 cannabis and manufactured cannabis products may be distributed
6 and delivered and minimum qualifications for persons eligible to
7 operate such vehicles.

8 (b) The transportation of cannabis and manufactured
9 cannabis products shall only be conducted by persons holding a
10 responsible, adult-use cannabis distributor license under this
11 chapter or employees of those persons. The driver of a vehicle
12 transporting or transferring cannabis or manufactured cannabis
13 products shall be directly employed by a responsible, adult-use
14 cannabis distributor.

15 **§A-72 Interisland distribution.** The authority shall adopt
16 rules providing for the reasonable restriction for the
17 distribution of cannabis and manufactured cannabis products
18 between islands; provided that the rules shall not restrict the
19 exportation of cannabis and manufactured cannabis products.

20 **D. Manufacturers**



1 **§A-81 Manufacturer facility operations.** All responsible,
2 adult-use cannabis manufacturer facilities shall be enclosed
3 indoor facilities and shall maintain twenty-four-hour security
4 measures, including but not limited to an alarm system, video
5 monitoring and recording on the premises, and exterior lighting.
6 Responsible, adult-use cannabis manufacturer facilities shall
7 remain locked at all times.

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

15 (b) The authority shall establish health, safety, and
16 sanitation standards regarding the manufacture of manufactured
17 cannabis products.

18 (c) Responsible, adult-use cannabis manufacturers shall
19 calculate the equivalent physical weight of the cannabis that is
20 used to manufacture the product and shall make the equivalency



1 calculations available to the authority, department, and
2 consumer of the manufactured cannabis product.

3 **E. Retailers**

4 **SA-91 Retail location operations.** (a) All responsible,
5 adult-use cannabis retail locations shall be enclosed indoor
6 facilities and shall maintain twenty-four-hour security
7 measures, including but not limited to an alarm system, video
8 monitoring and recording on the premises, and exterior lighting.
9 Responsible, adult-use cannabis manufacturer facilities shall
10 remain locked at all times other than the location's business
11 hours.

12 (b) A responsible, adult-use cannabis retail location
13 shall be prohibited from off-premises delivery of cannabis or
14 manufactured cannabis products to a person twenty-one years of
15 age or older.

16 **SA-92 Consumption at retail locations authorized.**

17 Responsible, adult-use cannabis retail locations may permit the
18 consumption of cannabis or manufactured cannabis products by
19 persons twenty-years of age or older on the premises as long as
20 consumption is hidden from public view, unless the retail
21 location is prohibited under chapter 329D.



1 **§A-93 Purchase limits.** A person twenty-one years of age
2 or older shall be allowed to purchase no more than the
3 equivalent of four ounces of cannabis within a consecutive
4 period of fifteen days.

5 **PART V. LICENSING SANCTIONS**

6 **§A-101 Disciplinary action.** (a) In addition to the
7 licensing sanctions or remedies provided by section 92-17
8 against any licensee, the authority may also impose conditions
9 or limitations upon a licensee's license after a hearing
10 conducted in accordance with chapter 91. The violation of any
11 condition or limitation on a licensee's license may be
12 sufficient cause to impose additional sanctions against the
13 licensee.

14 (b) Any person who violates any of the provisions of part
15 IV or the rules adopted pursuant thereto shall be fined not less
16 than \$100 nor more than \$1,000 for each violation. Each day's
17 violation may be deemed a separate violation.

18 **§A-102 Grounds for refusal to renew, reinstate or restore**
19 **and for revocation, suspension, denial, or condition of**
20 **licenses.** (a) In addition to any other acts or conditions
21 provided by law, the authority may refuse to renew, reinstate or



1 restore, or may deny, revoke, suspend, or condition in any
2 manner, any license for any one or more of the following acts or
3 conditions on the part of the licensee or the applicant thereof:

- 4 (1) Failure to meet or maintain the conditions and
5 requirements necessary to qualify for the granting of
6 a license;
- 7 (2) Engaging in false, fraudulent, or deceptive
8 advertising;
- 9 (3) Procuring a license through fraud, misrepresentation,
10 or deceit;
- 11 (4) Professional misconduct, incompetence, gross
12 negligence, or manifest incapacity;
- 13 (5) Failure to maintain a record or history of competency,
14 trustworthiness, fair dealing, and financial
15 integrity;
- 16 (6) Violating any condition or limitation upon which a
17 conditional or temporary license was issued;
- 18 (7) Engaging in business under a past or present license
19 issued pursuant this chapter or chapter 329D, in a
20 manner causing injury to one or more members of the
21 public; or



1 (8) Violating this chapter or any rule or order of the
2 authority.

3 (b) If the authority revokes or suspends a license, the
4 licensee shall not:

5 (1) Sell, transfer, or otherwise dispose of any cannabis
6 or manufactured cannabis products owned by or in the
7 possession of the licensee; or

8 (2) Manufacture cannabis products.

9 Upon a revocation order becoming final, all cannabis and
10 manufactured cannabis products may be forfeited to the State.

11 **SA-103 Suspended license.** A person whose license has been
12 suspended may apply for reinstatement of the license to the
13 extent authorized by law and upon complete compliance with any
14 term or condition imposed by the order of suspension. The
15 application for reinstatement shall be accompanied by all
16 applicable fees.

17 **SA-104 Revoked license.** A person may apply for a new
18 license after the time designated in an order of revocation has
19 passed or, if the order does not specify a time period, after
20 five years from the date of revocation of the license by filing



1 an application and complying with all current requirements for
2 new applicants.

3 **§A-105 Relinquishment no bar to jurisdiction.** The
4 forfeiture, nonrenewal, surrender, or voluntary relinquishment
5 of a license by a licensee shall not bar jurisdiction by the
6 authority or department to proceed with any investigation,
7 action, or proceeding to revoke, suspend, condition, or limit
8 the licensee's license or fine the licensee.

9 **§A-106 Summary suspension.** Notwithstanding any law to the
10 contrary, the authority or department may cause the immediate
11 suspension or restriction of a license, subject to subsequent
12 notice and hearing or other adequate procedures, upon a specific
13 determination that the failure to take such an action may result
14 in:

- 15 (1) An immediate and unreasonable threat to personal
16 safety; or
17 (2) Fraud or misrepresentation upon consumers,
18 and that, for the protection of the public from the possible
19 consequences of practices, the licensee's license should be
20 immediately suspended or restricted.



1 The authority or department may order the summary
2 suspension of the license for a period not to exceed twenty
3 days. The order of suspension shall be served upon the licensee
4 at the same time as the notice of hearing for disciplinary
5 action, and the hearing shall be scheduled prior to the
6 expiration of the order of suspension. The period of suspension
7 prior to the hearing shall not be extended beyond twenty days
8 except upon request of the licensee for a reasonable continuance
9 to adequately prepare the licensee's defense. Any attempt by
10 the licensee to continue sell or transfer cannabis or
11 manufactured cannabis products or manufacture cannabis products
12 while the license has been summarily suspended shall of itself
13 be sufficient to warrant a permanent revocation of the license
14 and shall subject the licensee to all penalties prescribed by
15 this chapter or any rule or order of the authority.

16 **SA-107 Hearings.** In every case in which the authority
17 refuses to issue, renew, restore or reinstate a license, or
18 proposes to take disciplinary action or other licensing
19 sanctions against a licensee, the proceeding before the
20 authority shall be conducted in accordance with chapter 91.



1 In all proceedings before it, the authority and each member
2 thereof shall have the same powers respecting administering
3 oaths, compelling the attendance of witnesses and the production
4 of documentary evidence, and examining witnesses as are
5 possessed by circuit courts. In case of disobedience by any
6 person of any order of the authority or of a member thereof, or
7 of any subpoena issued by it or a member, or the refusal of any
8 witness to testify to any matter regarding which the witness may
9 be questioned lawfully, any circuit judge, on application by the
10 authority or a member thereof, shall compel obedience as in the
11 case of disobedience of the requirements of a subpoena issued by
12 a circuit court, or a refusal to testify therein.

13 **§A-108 Judicial review by circuit court.** Any person
14 aggrieved by a final decision and order of the authority in a
15 "contested case", as defined in chapter 91, is entitled to
16 judicial review thereof by the circuit court of the circuit in
17 which the authority making the final decision and order has
18 jurisdiction. The review shall be as provided by chapter 91.

19 **PART VI. LAWFUL USE AND PROHIBITED ACTS**

20 **§A-111 Possession of cannabis by persons twenty-one years**
21 **of age or older.** (a) Except as limited by this part, it shall



1 be lawful for persons twenty-one years of age or older, without
2 a prescription, to:

3 (1) Possess, process, transport, purchase, obtain, or give
4 away to persons twenty-one years of age or older
5 without any compensation, cannabis not in the form of
6 concentrated cannabis in excess of a limit as
7 established by the authority by rule pursuant to
8 chapter 91;

9 (2) Possess, process, transport, purchase, obtain, or give
10 away to persons twenty-one years of age or older
11 without any compensation, cannabis in the form of
12 concentrated cannabis, including as contained in
13 cannabis products, in excess of a limit as established
14 by the authority by rule pursuant to chapter 91;

15 (3) Possess, plant, cultivate, harvest, dry, or process
16 not more than ten living cannabis plants and possess
17 the cannabis produced by the plants;

18 (4) Smoke or ingest cannabis or manufactured cannabis
19 products; and

20 (5) Possess, transport, purchase, obtain, use,
21 manufacture, or give away cannabis accessories to



1 persons twenty-one years of age or older without any
2 compensation.

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

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

13 **§A-112 Limitation of personal cultivation of cannabis.**
14 Personal cultivation of cannabis, as authorized under section
15 A-111(a)(3), shall be subject to the following restrictions:

16 (1) The living plants and any cannabis produced by the
17 plants in excess of the limit established under
18 section A-111(a)(1) are kept within the person's
19 private residence, or upon the grounds of that private
20 residence, are in a locked space, and are not visible
21 by normal unaided vision from a public place;



- 1 (2) Not more than ten living plants may be planted,
2 cultivated, harvested, dried, or processed within a
3 single private residence, or upon the grounds of that
4 private residence, at one time;
- 5 (3) A condominium association may limit or prohibit the
6 cultivation of cannabis within units through its
7 bylaws or house rules; and
- 8 (4) A planned community association may limit or prohibit
9 the cultivation of cannabis outdoors through its
10 bylaws or rules.

11 **§A-113 Limitation of smoking, ingesting, possession, and**
12 **manufacture of cannabis.** Section A-111 shall not permit a
13 person to:

- 14 (1) Smoke cannabis or manufactured cannabis products in an
15 area where smoking is prohibited under chapter 328J;
- 16 (2) Smoke or ingest cannabis or manufactured cannabis
17 products in a public place; and
- 18 (3) Possess an open container or open package of cannabis
19 or manufactured cannabis products while driving,
20 operating, or riding in the passenger seat or



1 compartment of a motor vehicle, aircraft, or other
2 vehicle used for transportation.

3 **§A-114 Unlawful excess cultivation; forfeiture.** (a) It
4 shall be unlawful for a person twenty-one years of age or older
5 to cultivate more than ten living cannabis plants.

6 (b) A violation of this section shall be a civil violation
7 as determined by the authority and may include civil forfeiture
8 and a fine; provided that the first violation shall be
9 punishable with the issuance of a written warning.

10 **§A-115 Unlawful possession; minors.** (a) It shall be
11 unlawful for a person under twenty-one years of age to possess
12 cannabis or manufactured cannabis products.

13 (b) A violation of this section shall be a civil violation
14 punishable by forfeiture of the cannabis or manufactured
15 cannabis products.

16 **§A-116 Unlicensed activity; citation.** (a) In addition to
17 any other remedy available, the investigator may issue citations
18 to persons acting in the capacity of or engaging in business
19 within the State without having a license previously obtained
20 under and in compliance with this chapter and the rules adopted
21 thereunder.



1 (b) Each citation shall be in writing and shall describe
2 the basis of the citation, including the specific statutory
3 provisions alleged to have been violated, and may contain an
4 order of abatement, and an assessment of civil penalties as
5 provided in this section.

6 (c) Any person who violates this section shall be assessed
7 a civil penalty of not more than \$500 or forty per cent of the
8 total amount of the goods and services provided or to be
9 provided, whichever is greater, for the first violation; not
10 more than \$1,000 or forty per cent of the total amount of the
11 goods and services provided or to be provided, whichever is
12 greater, for the second violation; and not more than \$5,000 or
13 forty per cent of the total amount of the goods and services
14 provided or to be provided, whichever is greater, for any
15 subsequent violation.

16 (d) Service of a citation issued under this section shall
17 be made by personal service or by certified mail, restricted
18 delivery, sent to the last known business or residence address
19 of the person cited.

20 (e) Any person cited under this section may submit a
21 written request to the director of health for a hearing, within



1 twenty days from the service of the citation, with respect to
2 the violations alleged, the scope of the order of abatement, or
3 the amount of the civil penalties assessed.

4 (f) If the person cited under this section timely notifies
5 the director of health of the request for a hearing, the
6 director shall afford an opportunity for a hearing under chapter
7 91. The hearing shall be conducted by the director of health or
8 the director may designate a hearings officer to hold the
9 hearing. The director of health or any hearings officer
10 designated by the director shall have the power to issue
11 subpoenas, administer oaths, hear testimony, find facts, make
12 conclusions of law, and issue a final order.

13 (g) If the person cited under this section does not submit
14 a written request to the director of health for a hearing within
15 twenty days from the receipt of the citation, the citation shall
16 be deemed a final order of the director.

17 (h) The director of health may apply to the appropriate
18 court for a judgment to enforce the provisions of any final
19 order issued by the director or designated hearings officer
20 pursuant to this section, including the provision for abatement
21 and civil penalties imposed.



1 (i) If any party is aggrieved by the decision of the
2 director of health or the designated hearings officer, the party
3 may appeal in the manner provided in chapter 91 to the circuit
4 court of the circuit in which the party resides or has the
5 party's principal place of business or in which the action in
6 question occurred. The operation of an abatement order shall
7 not be stayed on appeal unless specifically ordered by a court
8 of competent jurisdiction after applying the stay criteria
9 enumerated in section 91-14(c).

10 (j) The sanctions and disposition authorized under this
11 section shall be separate from and in addition to all other
12 remedies either civil or criminal provided in any other
13 applicable statutory provision.

14 (k) The director may adopt rules pursuant to chapter 91
15 necessary for the purpose of this section.

16 **§A-117 Unlicensed activity; aiding or abetting; sanctions;**
17 **injunctive relief; fines; damages; forfeiture.** (a) Any
18 licensee aiding or abetting an unlicensed person to directly or
19 indirectly evade this chapter may be fined up to \$1,000 for the
20 first offense; up to \$2,000 or, if applicable, forty per cent of
21 the total contract price, whichever is greater, for the second



1 offense; and up to \$5,000 or, if applicable, forty per cent of
2 the total contract price, whichever is greater, for any
3 subsequent offense. For purposes of this section, "contract
4 price" means the total monetary consideration offered by the
5 consumer for the provision of goods and services.

6 (b) Any person, who engages in an activity requiring a
7 license issued by the authority and who fails to obtain the
8 required license, or who uses any word, title, or representation
9 to induce the false belief that the person is licensed to
10 conduct business under this chapter, other than a licensee who
11 inadvertently fails to maintain licensing requirements under
12 this chapter and the rules adopted thereunder and who
13 subsequently corrects the failure so that there was no lapse in
14 licensure, shall be guilty of a misdemeanor and each day of
15 unlicensed activity shall be deemed a separate offense.

16 (c) The department, authority, or any person may maintain
17 a suit to enjoin the performance or the continuance of any act
18 or acts by a person acting without a license where a license is
19 required by this chapter, and if injured thereby, for the
20 recovery of damages. The department may also seek the
21 imposition of fines provided by subsection (a). The plaintiff



1 or petitioner in a suit for an injunction need not allege or
2 prove actual damages to prevail. Reasonable attorney fees and
3 costs shall be allowed by the court to the plaintiff or
4 petitioner as the prevailing party.

5 (d) All tools, implements, armamentariums, documents,
6 materials, or any other property used by any person to provide
7 products or services without a license required by this chapter
8 shall be declared forfeited to the State by the court and turned
9 over to the department for disposition as it deems appropriate.

10 **PART VII. MISCELLANEOUS PROVISIONS**

11 **§A-121 Remedies and penalties cumulative.** Unless
12 otherwise expressly provided, the remedies or penalties provided
13 by this chapter are cumulative to each other and to the remedies
14 or penalties available under all other laws of this State.

15 **§A-122 Severability.** If any provision of this chapter or
16 the application thereof to any person or circumstance is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the chapter which can be given effect without
19 the invalid provision or application, and to this end the
20 provisions of this chapter are severable."



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

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

5 (1) Medical cannabis production centers or medical
6 cannabis dispensaries established and licensed
7 pursuant to chapter 329D; and

8 (2) Responsible, adult-use cannabis cultivators;
9 responsible, adult-use cannabis distributors;
10 responsible, adult-use cannabis manufacturers; or
11 responsible, adult-use cannabis retailers established
12 and licensed pursuant to chapter A;

13 provided that the land is otherwise zoned for agriculture,
14 manufacturing, or retail purposes."

15 SECTION 5. (a) Existing medical cannabis dispensaries
16 licensed under chapter 329D, Hawaii Revised Statutes, shall be
17 allowed to apply for licenses pursuant to section 3 of this Act
18 and to operate under those licenses for three years prior to
19 non-medical cannabis dispensary applicants being allowed to
20 apply for licenses, except that non-medical cannabis dispensary
21 applicants shall be allowed to apply for responsible, adult-use



1 cultivator and responsible, adult-use distributor licenses on
2 January 1, 2024. The Hawaii cannabis authority established
3 pursuant to section 3 of this Act shall grant licenses
4 established under that section to any existing medical cannabis
5 dispensary licensed under chapter 329D, Hawaii Revised Statutes,
6 that applies for a license beginning on January 1, 2024.

7 (b) Subject to an applicant's period of eligibility under
8 subsection (a), the Hawaii cannabis authority established
9 pursuant to section 3 of this Act may grant provisional
10 licenses; provided that provisional licenses shall expire upon
11 the final disposition of an applicant's application submitted in
12 accordance with the authority's administrative rules adopted
13 pursuant to chapter A, Hawaii Revised Statutes, established by
14 section 3 of this Act.

15 SECTION 6. The department of health may adopt interim
16 rules to carry out the purposes of this part without regard to
17 chapter 91 or 201M, Hawaii Revised Statutes; provided that the
18 interim rules shall be effective for no more than one year after
19 their adoption.

20 SECTION 7. There is appropriated out of the general
21 revenues of the State the sum of \$ or so much thereof



1 as may be necessary for fiscal year 2023-2024 and the same sum
2 or so much thereof as may be necessary for fiscal year 2024-2025
3 to be deposited into the Hawaii cannabis authority special fund
4 established pursuant to section 3 of this Act.

5 SECTION 8. There is appropriated out of the Hawaii
6 cannabis authority special fund the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2023-2024 and
8 the same sum or so much thereof as may be necessary for fiscal
9 year 2024-2025 for the purposes of this part.

10 The sums appropriated shall be expended by the department
11 of health for the purposes of this Act.

12 PART III

13 SECTION 9. The purpose of this part is to clarify the
14 legality of cannabis and manufactured cannabis products for
15 responsible, adult use with respect to the uniform controlled
16 substances act and the Hawaii penal code.

17 SECTION 10. Chapter 329, Hawaii Revised Statutes, is
18 amended by adding a new section to part IX to be appropriately
19 designated and to read as follows:



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

4 SECTION 11. 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 responsible,
 9 adult-use cannabis licensees as provided in chapter A."

10 SECTION 12. Chapter 706, Hawaii Revised Statutes, is
 11 amended by adding a new section to part II to be appropriately
 12 designated and to read as follows:

13 "§706- Marijuana offenders; resentencing; expungement;
 14 sealing. (1) Records relating to the arrest, criminal charge,
 15 or conviction of a person for an offense under chapter 329, part
 16 IV of chapter 712, or any other offense, the basis of which is
 17 an act permitted by chapter A or decriminalized under Act ,
 18 Session Laws of Hawaii 2023, including the possession or
 19 distribution of marijuana, shall be ordered to be expunged in
 20 accordance with the provisions of this section.



1 (2) No later than December 31, 2025, the attorney general,
2 in collaboration with the judiciary and county prosecuting
3 attorneys, shall determine the offenses that meet the criteria
4 for expungement set forth in subsection (1). The county
5 prosecuting attorneys shall issue a written notice to persons
6 with records that qualify for expungement under subsection (1).
7 Once offenses have been identified, but no later than January 1,
8 2026, the attorney general, in cases of an arrest for or charge
9 with but not convicted of a crime, and the appropriate court of
10 record, in cases of conviction and pursuant to procedures
11 established by the judiciary, shall order the automatic
12 expungement of the records relating to the arrest, criminal
13 charge, or conviction, as appropriate.

14 (3) A person convicted for an offense under chapter 329,
15 part IV of chapter 712, or any other offense, the basis of which
16 is an act permitted by chapter A or decriminalized under
17 Act , Session Laws of Hawaii 2023, including the possession
18 or distribution of marijuana, shall have the right to petition
19 at any time, and without limitation to the number of petitions a
20 convicted person may file, with the appropriate court of record
21 for review and adjustment of the sentence.



1 (4) Any expungement order issued pursuant to this section
2 shall be sealed.

3 (5) Eligibility pursuant to this section shall be granted
4 notwithstanding the existence of:

5 (a) Prior arrests or convictions;

6 (b) Pending criminal proceedings; and

7 (c) Outstanding court-imposed or court-related fees,
8 fines, costs, assessments, or charges.

9 (6) Any outstanding fees, fines, costs, assessments, or
10 charges related to the eligible conviction shall be waived.

11 (7) Nothing in this section shall be construed to restrict
12 or modify a person's right to have the person's records
13 expunged, except as otherwise may be provided by law, or
14 diminish or abrogate any rights or remedies otherwise available
15 to the person.

16 (8) Nothing in this section shall be construed to require
17 the court or any agency to reimburse any petitioner for fines,
18 fees, and costs previously incurred, paid or collected in
19 association with the eligible conviction.

20 (9) The existence of convictions in other counts within
21 the same case that are not eligible for expungement pursuant to



1 this section or other applicable laws shall not prevent any
2 conviction otherwise eligible for expungement under this section
3 from being expunged pursuant to this section. In such
4 circumstances, the court shall make clear in its order what
5 counts are expunged and what counts are not expunged or remain
6 convictions. In such circumstances, notwithstanding
7 subsection (5), any expungement pursuant to this subsection
8 shall not affect the records related to any count or conviction
9 in the same case that are not eligible for expungement.

10 (10) Any conviction ordered expunged pursuant to this
11 section shall not be considered as a prior conviction when
12 determining the sentence to be imposed for any subsequent crime.

13 (11) In any application for employment, license, or other
14 civil right or privilege, or any appearance as a witness, a
15 person whose conviction of a crime has been expunged pursuant to
16 this chapter may state that the person has never been convicted
17 of the crime; provided that, if the person is an applicant for a
18 law enforcement agency position, for admission to the bar of any
19 court, an applicant for a teaching certificate, or the operator
20 or employee of an early childhood education facility, the person
21 shall disclose the fact of a conviction.



1 (12) Whenever the records of any conviction of a person
2 have been expunged under the provisions of this section, any
3 custodian of the records of conviction relating to that crime
4 shall not disclose the existence of the records upon inquiry
5 from any source, unless the inquiry is that of the person whose
6 record was expunged, that of a bar admission, character and
7 fitness, or disciplinary committee, board, or agency, or court
8 which is considering a bar admission, character and fitness, or
9 disciplinary matter, or that of the board of education, or that
10 of any law enforcement agency when the nature and character of
11 the offense in which an individual is to be charged would be
12 affected by virtue of the person having been previously
13 convicted or adjudicated of the same offense. The custodian of
14 any records which have been expunged pursuant to the provisions
15 of this section shall only release or allow access to those
16 records for the purposes specified in this subsection or by
17 order of a court.

18 (13) The judiciary and its employees and agents and the
19 department of the attorney general and its employees and agents
20 are immune from any civil liability for any act of commission or
21 omission, taken in good faith, arising out of and in the course



1 of participation in, or assistance with the expungement
2 procedures set forth in this section. This immunity shall be in
3 addition to and not in limitation of any other immunity provided
4 by law.

5 (14) The attorney general may adopt rules to effectuate
6 the purposes of this section."

7 SECTION 13. Chapter 712, Hawaii Revised Statutes, is
8 amended by adding a new section to part IV to be appropriately
9 designated and to read as follows:

10 **"§712- Promoting cannabis or manufactured cannabis**
11 **products to a person under twenty-one years of age. (1) A**
12 **person, including a person licensed under chapter A, commits the**
13 **offense of promoting cannabis or manufactured cannabis products**
14 **to a person under twenty-one years of age if the person**
15 **recklessly sells or offers for sale, influences the sale,**
16 **serves, delivers, or gives to a person cannabis or manufactured**
17 **cannabis products, and the person receiving the cannabis or**
18 **manufactured cannabis products is a person under the age of**
19 **twenty-one.**

20 (2) All persons engaged in the retail sale of cannabis or
21 manufactured cannabis products shall check the identification of



1 cannabis or manufactured cannabis products purchasers to
2 establish the age of the purchaser.

3 (3) It shall be an affirmative defense that the seller of
4 cannabis or manufactured cannabis products to a person under
5 twenty-one years of age in violation of this section had
6 requested, examined, and reasonably relied upon a photographic
7 identification from the person establishing that person's age as
8 at least twenty-one years of age prior to selling the person
9 cannabis or manufactured cannabis products. The failure of a
10 seller to request and examine photographic identification from a
11 person under twenty-one years of age prior to the sale of
12 cannabis or manufactured cannabis products to the person shall
13 be construed against the seller and form a conclusive basis for
14 the seller's violation of this section.

15 (4) It shall be unlawful for a person under twenty-one
16 years of age to purchase or possess any cannabis or manufactured
17 cannabis products, as those terms are defined in subsection (6).
18 This provision does not apply if a person under the age of
19 twenty-one, with parental authorization, is participating in a
20 controlled purchase as part of a law enforcement activity or a
21 study authorized by the department of health under the



1 supervision of law enforcement to determine the level of
2 incidence of cannabis or manufactured cannabis products sales to
3 persons under twenty-one years of age.

4 (5) Any person who violates subsection (1) or (3), or
5 both, shall be fined \$500 for the first offense. Any subsequent
6 offenses shall subject the person to a fine not less than \$500
7 nor more than \$2,000. Any person under twenty-one years of age
8 who violates subsection (4) shall be fined \$10 for the first
9 offense. Any subsequent offense shall subject the violator to a
10 fine of \$50, no part of which shall be suspended, or the person
11 shall be required to perform not less than forty-eight hours nor
12 more than seventy-two hours of community service during hours
13 when the person is not employed and is not attending school.
14 Any cannabis or manufactured cannabis products, as those terms
15 are defined in subsection (6), in the person's possession at the
16 time of violation of subsection (4) shall be seized, summarily
17 forfeited to the State, and destroyed by law enforcement
18 following the conclusion of an administrative or judicial
19 proceeding finding that a violation of subsection (4) has been
20 committed. The procedures set forth in chapter 712A shall not
21 apply to this subsection.



1 (6) For the purposes of this section:

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

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

6 SECTION 14. Section 329-43.5, Hawaii Revised Statutes, is
7 amended by amending subsection (e) to read as follows:

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

10 (1) Acquire, possess, cultivate, use, distribute, or
11 transport cannabis pursuant to the definition of
12 "medical use" under section 329-121, while the person
13 is facilitating the medical use of cannabis by a
14 qualifying patient; [~~or~~]

15 (2) Dispense, manufacture, or produce cannabis or
16 manufactured cannabis products pursuant to and in
17 compliance with chapter 329D, while the person is
18 facilitating the medical use of cannabis by a
19 qualifying patient pursuant to part IX of chapter
20 329[-]; or



1 (3) Possess, process, transport, cultivate, harvest, dry,
2 or manufacture cannabis or manufactured cannabis
3 products, or any other act authorized, pursuant to and
4 in compliance with chapter A."

5 SECTION 15. Section 706-622.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§706-622.5 Sentencing for drug offenders; expungement.**

8 (1) Notwithstanding section 706-620(3), a person convicted for
9 the first or second time for any offense under section 329-43.5,
10 except offenses under subsections (a) and (b) of that section
11 which constitute violations, involving the possession or use of
12 drug paraphernalia or any felony offense under part IV of
13 chapter 712 involving the possession or use of any dangerous
14 drug, detrimental drug, harmful drug, or intoxicating compound,
15 [~~marijuana, or marijuana concentrate,~~] as defined in section
16 712-1240, but not including any offense under part IV of chapter
17 712 involving the distribution or manufacture of any such drugs
18 or substances and not including any methamphetamine offenses
19 under sections 712-1240.7, 712-1240.8 as that section was in
20 effect before July 1, 2016, 712-1241, and 712-1242, is eligible



1 to be sentenced to probation under subsection (2) if the person
2 meets the following criteria:

3 (a) The court has determined that the person is nonviolent
4 after reviewing the person's criminal history, the
5 factual circumstances of the offense for which the
6 person is being sentenced, and any other relevant
7 information;

8 (b) The person has been assessed by a certified substance
9 abuse counselor to be in need of substance abuse
10 treatment due to dependency or abuse under the
11 applicable Diagnostic and Statistical Manual and
12 Addiction Severity Index; and

13 (c) Except for those persons directed to substance abuse
14 treatment under the supervision of the drug court, the
15 person presents a proposal to receive substance abuse
16 treatment in accordance with the treatment plan
17 prepared by a certified substance abuse counselor
18 through a substance abuse treatment program that
19 includes an identified source of payment for the
20 treatment program.



1 (2) A person eligible under subsection (1) may be
2 sentenced to probation to undergo and complete a substance abuse
3 treatment program if the court determines that the person can
4 benefit from substance abuse treatment and, notwithstanding that
5 the person would be subject to sentencing as a repeat offender
6 under section 706-606.5, the person should not be incarcerated
7 to protect the public. If the person fails to complete the
8 substance abuse treatment program and the court determines that
9 the person cannot benefit from any other suitable substance
10 abuse treatment program, the person shall be subject to
11 sentencing under the applicable section under this part. As a
12 condition of probation under this subsection, the court may
13 direct the person to undergo and complete substance abuse
14 treatment under the supervision of the drug court if the person
15 has a history of relapse in treatment programs. The court may
16 require other terms and conditions of probation, including
17 requiring that the person contribute to the cost of the
18 substance abuse treatment program, comply with deadlines for
19 entering into the substance abuse treatment program, and reside
20 in a secure drug treatment facility.



1 (3) For the purposes of this section, "substance abuse
2 treatment program" means drug or substance abuse treatment
3 services provided outside a correctional facility by a public,
4 private, or nonprofit entity that specializes in treating
5 persons who are diagnosed with having substance abuse or
6 dependency and preferably employs licensed professionals or
7 certified substance abuse counselors.

8 (4) Upon written application from a person sentenced under
9 this part or a probation officer, the court shall issue a court
10 order to expunge the record of conviction for that particular
11 offense; provided that a person has successfully completed the
12 substance abuse treatment program and complied with other terms
13 and conditions of probation. A person sentenced to probation
14 under this section who has not previously been sentenced under
15 this section shall be eligible for one time only for expungement
16 under this subsection.

17 ~~[(5) Upon motion from a person convicted for the~~
18 ~~possession of marijuana under section 712-1249 arising from a~~
19 ~~set of facts and circumstances that resulted in no other~~
20 ~~criminal charge, the court shall grant an expungement order~~
21 ~~pertaining to the conviction for the offense; provided that the~~



1 ~~amount of marijuana for which the person was convicted of~~
2 ~~possessing was three grams or less.~~

3 ~~(6)]~~ (5) Nothing in this section shall be construed to
4 give rise to a cause of action against the State, a state
5 employee, or a treatment provider."

6 SECTION 16. Section 706-625, Hawaii Revised Statutes, is
7 amended by amending subsection (7) to read as follows:

8 "(7) The court may require a defendant to undergo and
9 complete a substance abuse treatment program when the defendant
10 has committed a violation of the terms and conditions of
11 probation involving possession or use, not including to
12 distribute or manufacture as defined in section 712-1240, of any
13 dangerous drug, detrimental drug, harmful drug, or intoxicating
14 compound, [~~marijuana, or marijuana concentrate,~~] as defined in
15 section 712-1240, unlawful methamphetamine trafficking as
16 provided in section 712-1240.6, or involving possession or use
17 of drug paraphernalia under section 329-43.5. If the defendant
18 fails to complete the substance abuse treatment program or the
19 court determines that the defendant cannot benefit from any
20 other suitable substance abuse treatment program, the defendant



1 shall be subject to revocation of probation and incarceration.

2 The court may require the defendant to:

3 (a) Be assessed by a certified substance abuse counselor
4 for substance abuse dependency or abuse under the
5 applicable Diagnostic and Statistical Manual and
6 Addiction Severity Index;

7 (b) Present a proposal to receive substance abuse
8 treatment in accordance with the treatment plan
9 prepared by a certified substance abuse counselor
10 through a substance abuse treatment program that
11 includes an identified source of payment for the
12 treatment program;

13 (c) Contribute to the cost of the substance abuse
14 treatment program; and

15 (d) Comply with any other terms and conditions of
16 probation.

17 As used in this subsection, "substance abuse treatment
18 program" means drug or substance abuse treatment services
19 provided outside a correctional facility by a public, private,
20 or nonprofit entity that specializes in treating persons who are
21 diagnosed with substance abuse or dependency and preferably



1 employs licensed professionals or certified substance abuse
2 counselors.

3 Nothing in this subsection shall be construed to give rise
4 to a cause of action against the State, a state employee, or a
5 treatment provider."

6 SECTION 17. Section 706-660, Hawaii Revised Statutes, is
7 amended by amending subsection (2) to read as follows:

8 "(2) A person who has been convicted of a class B or class
9 C felony for any offense under part IV of chapter 712 may be
10 sentenced to an indeterminate term of imprisonment; provided
11 that this subsection shall not apply to sentences imposed under
12 sections 706-606.5, 706-660.1, 712-1240.5, 712-1240.8 as that
13 section was in effect prior to July 1, 2016, 712-1242, 712-1245,
14 [~~712-1249.5,~~] 712-1249.6, 712-1249.7, and 712-1257.

15 When ordering a sentence under this subsection, the court
16 shall impose a term of imprisonment, which shall be as follows:

17 (a) For a class B felony--ten years or less, but not less
18 than five years; and

19 (b) For a class C felony--five years or less, but not less
20 than one year.



1 The minimum length of imprisonment shall be determined by the
2 Hawaii paroling authority in accordance with section 706-669."

3 SECTION 18. Section 712-1240, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending the definition of "detrimental drug" to
6 read:

7 ""Detrimental drug" means any substance or immediate
8 precursor defined or specified as a "Schedule V substance" by
9 chapter 329[~~, or any marijuana~~]."

10 2. By amending the definition of "harmful drug" to read:

11 ""Harmful drug" means any substance or immediate precursor
12 defined or specified as a "Schedule III substance" or a
13 "Schedule IV substance" by chapter 329[~~, or any marijuana
14 concentrate except marijuana and a substance specified in
15 section 329-18(e)(14)~~]."

16 SECTION 19. Section 712-1244, Hawaii Revised Statutes, is
17 amended by amending subsection (1) to read as follows:

18 "(1) A person commits the offense of promoting a harmful
19 drug in the first degree if the person knowingly:

20 (a) Possesses one hundred or more capsules or tablets or
21 dosage units containing one or more of the harmful



- 1 drugs [~~or one or more of the marijuana concentrates~~],
2 or any combination thereof;
- 3 (b) Possesses one or more preparations, compounds,
4 mixtures, or substances, of an aggregate weight of one
5 ounce or more containing one or more of the harmful
6 drugs [~~or one or more of the marijuana concentrates~~],
7 or any combination thereof;
- 8 (c) Distributes twenty-five or more capsules or tablets or
9 dosage units containing one or more of the harmful
10 drugs [~~or one or more of the marijuana concentrates~~],
11 or any combination thereof;
- 12 (d) Distributes one or more preparations, compounds,
13 mixtures, or substances, of an aggregate weight of
14 one- eighth ounce or more, containing one or more of
15 the harmful drugs [~~or one or more of the marijuana~~
16 ~~concentrates~~], or any combination thereof; or
- 17 (e) Distributes any harmful drug [~~or any marijuana~~
18 ~~concentrate~~] in any amount to a minor."

19 SECTION 20. Section 712-1245, Hawaii Revised Statutes, is
20 amended by amending subsection (1) to read as follows:



1 "(1) A person commits the offense of promoting a harmful
2 drug in the second degree if the person knowingly:

3 (a) Possesses fifty or more capsules or tablets or dosage
4 units containing one or more of the harmful drugs [~~or~~
5 ~~one or more of the marijuana concentrates~~], or any
6 combination thereof;

7 (b) Possesses one or more preparations, compounds,
8 mixtures, or substances, of an aggregate weight of
9 one- eighth ounce or more, containing one or more of
10 the harmful drugs [~~or one or more of the marijuana~~
11 ~~concentrates~~], or any combination thereof; or

12 (c) Distributes any harmful drug [~~or any marijuana~~
13 ~~concentrate~~] in any amount."

14 SECTION 21. Section 712-1246, Hawaii Revised Statutes, is
15 amended by amending subsection (1) to read as follows:

16 "(1) A person commits the offense of promoting a harmful
17 drug in the third degree if the person knowingly possesses
18 twenty-five or more capsules or tablets or dosage units
19 containing one or more of the harmful drugs [~~or one or more of~~
20 ~~the marijuana concentrates~~], or any combination thereof."



1 SECTION 22. Section 712-1247, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§712-1247 Promoting a detrimental drug in the first**

4 **degree.** (1) A person commits the offense of promoting a
5 detrimental drug in the first degree if the person knowingly:

6 (a) Possesses four hundred or more capsules or tablets
7 containing one or more of the Schedule V substances;

8 (b) Possesses one or more preparations, compounds,
9 mixtures, or substances of an aggregate weight of one
10 ounce or more, containing one or more of the Schedule
11 V substances;

12 (c) Distributes fifty or more capsules or tablets
13 containing one or more of the Schedule V substances;

14 or

15 (d) Distributes one or more preparations, compounds,
16 mixtures, or substances of an aggregate weight of one-
17 eighth ounce or more, containing one or more of the
18 Schedule V substances[+]

19 ~~(e) Possesses one or more preparations, compounds,~~
20 ~~mixtures, or substances of an aggregate weight of one~~
21 ~~pound or more, containing any marijuana;~~



- 1 ~~(f) Distributes one or more preparations, compounds,~~
- 2 ~~mixtures, or substances of an aggregate weight of one~~
- 3 ~~ounce or more, containing any marijuana;~~
- 4 ~~(g) Possesses, cultivates, or has under the person's~~
- 5 ~~control twenty-five or more marijuana plants; or~~
- 6 ~~(h) Sells or barter any marijuana or any Schedule V~~
- 7 ~~substance in any amount].~~

8 (2) Promoting a detrimental drug in the first degree is a
9 class C felony.

10 ~~[(3) Any marijuana seized as evidence of a violation of~~
11 ~~this section in excess of one pound may be destroyed after it~~
12 ~~has been photographed and the weight thereof recorded. The~~
13 ~~remainder of the marijuana shall remain in the custody of the~~
14 ~~police department until the termination of any criminal action~~
15 ~~brought as a result of the seizure of the marijuana.~~
16 ~~Photographs duly identified as accurately representing the~~
17 ~~marijuana shall be deemed competent evidence of the marijuana~~
18 ~~involved and shall be admissible in any proceeding, hearing, or~~
19 ~~trial to the same extent as the marijuana itself; provided that~~
20 ~~nothing in this subsection shall be construed to limit or to~~



1 ~~restrict the application of rule 901 of the Hawaii rules of~~
2 ~~evidence.]"~~

3 SECTION 23. Section 712-1248, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of promoting a
6 detrimental drug in the second degree if the person knowingly:

7 (a) Possesses fifty or more capsules or tablets containing
8 one or more of the Schedule V substances;

9 (b) Possesses one or more preparations, compounds,
10 mixtures, or substances, of an aggregate weight of
11 one- eighth ounce or more, containing one or more of
12 the Schedule V substances; or

13 [~~(c) Possesses one or more preparations, compounds,~~
14 ~~mixtures, or substances, of an aggregate weight of one~~
15 ~~ounce or more, containing any marijuana; or~~

16 ~~(d)]~~ (c) Distributes [~~any marijuana or~~] any Schedule V
17 substance in any amount."

18 SECTION 24. Section 712-1249, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§712-1249 Promoting a detrimental drug in the third**
21 **degree.** (1) A person commits the offense of promoting a



1 detrimental drug in the third degree if the person knowingly
2 possesses [~~any marijuana or~~] any Schedule V substance in any
3 amount.

4 (2) Promoting a detrimental drug in the third degree is a
5 petty misdemeanor[~~; provided that possession of three grams or~~
6 ~~less of marijuana is a violation, punishable by a fine of~~
7 ~~\$130]."~~

8 SECTION 25. Section 712A-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§712A-4 Covered offenses.** Offenses for which property is
11 subject to forfeiture under this chapter are:

- 12 (a) All offenses that specifically authorize forfeiture;
- 13 (b) Murder, kidnapping, labor trafficking, unlicensed sale
14 of liquor, unlicensed manufacture of liquor, gambling,
15 criminal property damage, robbery, bribery, extortion,
16 theft, unauthorized entry into motor vehicle,
17 burglary, money laundering, trademark counterfeiting,
18 insurance fraud, promoting a dangerous, harmful, or
19 detrimental drug, [~~commercial promotion of marijuana,~~]
20 methamphetamine trafficking, manufacturing of a
21 controlled substance with a child present, promoting



1 child abuse, promoting prostitution, sex trafficking,
 2 solicitation of a minor for prostitution, habitual
 3 solicitation of prostitution, or electronic enticement
 4 of a child that is chargeable as a felony offense
 5 under state law;

6 (c) The manufacture, sale, or distribution of a controlled
 7 substance in violation of chapter 329, promoting
 8 detrimental drugs or intoxicating compounds, promoting
 9 pornography, promoting pornography for minors, or
 10 solicitation of prostitution near schools or public
 11 parks, which is chargeable as a felony or misdemeanor
 12 offense, but not as a petty misdemeanor, under state
 13 law; and

14 (d) The attempt, conspiracy, solicitation, coercion, or
 15 intimidation of another to commit any offense for
 16 which property is subject to forfeiture."

17 SECTION 26. Section 712-1249.4, Hawaii Revised Statutes,
 18 is repealed.

19 ~~["§712-1249.4] Commercial promotion of marijuana in the~~
 20 ~~first degree. (1) A person commits the offense of commercial~~



1 ~~promotion of marijuana in the first degree if the person~~
2 ~~knowingly:~~

- 3 ~~(a) Possesses marijuana having an aggregate weight of~~
4 ~~twenty-five pounds or more;~~
- 5 ~~(b) Distributes marijuana having an aggregate weight of~~
6 ~~five pounds or more;~~
- 7 ~~(c) Possesses, cultivates, or has under the person's~~
8 ~~control one hundred or more marijuana plants;~~
- 9 ~~(d) Cultivates on land owned by another person, including~~
10 ~~land owned by the government or other legal entity,~~
11 ~~twenty-five or more marijuana plants, unless the~~
12 ~~person has the express permission from the owner of~~
13 ~~the land to cultivate the marijuana or the person has~~
14 ~~a legal or an equitable ownership interest in the land~~
15 ~~or the person has a legal right to occupy the land; or~~
- 16 ~~(e) Uses, or causes to be used, any firearm or other~~
17 ~~weapon, device, instrument, material, or substance,~~
18 ~~whether animate or inanimate, which in the manner used~~
19 ~~is capable of causing death, serious bodily injury,~~
20 ~~substantial bodily injury, or other bodily injury, as~~
21 ~~defined in chapter 707 in order to prevent the theft,~~



1 ~~removal, search and seizure, or destruction of~~
2 ~~marijuana.~~

3 ~~(2) Commercial promotion of marijuana in the first degree~~
4 ~~is a class A felony.~~

5 ~~(3) Any marijuana seized as evidence in violation of this~~
6 ~~section in excess of an aggregate weight of twenty-five pounds~~
7 ~~as stated in subsection (1) (a), or in excess of an aggregate~~
8 ~~weight of five pounds as stated in subsection (1) (b), or in~~
9 ~~excess of one hundred marijuana plants as stated in subsection~~
10 ~~(1) (c), or in excess of twenty-five marijuana plants as stated~~
11 ~~in subsection (1) (d) may be destroyed after the excess amount~~
12 ~~has been photographed and the number of plants and the weight~~
13 ~~thereof has been recorded. The required minimum amount of the~~
14 ~~marijuana needed to constitute the elements of this offense~~
15 ~~shall remain in the custody of the police until the termination~~
16 ~~of any criminal action brought as a result of the seizure of the~~
17 ~~marijuana. Photographs duly identified as accurately~~
18 ~~representing the marijuana shall be deemed competent evidence of~~
19 ~~the marijuana involved and shall be admissible in any~~
20 ~~proceeding, hearing, or trial to the same extent as the~~
21 ~~marijuana itself; provided that nothing in this subsection shall~~

1 ~~be construed to limit or restrict the application of rule 901 of~~
2 ~~the Hawaii rules of evidence."}]~~

3 SECTION 27. Section 712-1249.5, Hawaii Revised Statutes,
4 is repealed.

5 [~~"§712-1249.5 Commercial promotion of marijuana in the~~
6 ~~second degree.~~ (1) ~~A person commits the offense of commercial~~
7 ~~promotion of marijuana in the second degree if the person~~
8 ~~knowingly:~~

9 ~~(a) Possesses marijuana having an aggregate weight of two~~
10 ~~pounds or more;~~

11 ~~(b) Distributes marijuana having an aggregate weight of~~
12 ~~one pound or more;~~

13 ~~(c) Possesses, cultivates, or has under the person's~~
14 ~~control fifty or more marijuana plants;~~

15 ~~(d) Cultivates on land owned by another person, including~~
16 ~~land owned by the government or other legal entity,~~
17 ~~any marijuana plant, unless the person has the express~~
18 ~~permission from the owner of the land to cultivate the~~
19 ~~marijuana or the person has a legal or an equitable~~
20 ~~ownership interest in the land or the person has a~~
21 ~~legal right to occupy the land; or~~



1 ~~(e) Sells or barter any marijuana or any Schedule V~~
2 ~~substance in any amount to a minor.~~

3 ~~(2) Commercial promotion of marijuana in the second degree~~
4 ~~is a class B felony.~~

5 ~~(3) Any marijuana seized as evidence in violation of this~~
6 ~~section in excess of an aggregate weight of two pounds as stated~~
7 ~~in subsection (1) (a), or in excess of an aggregate weight of one~~
8 ~~pound as stated in subsection (1) (b), or in excess of twenty~~
9 ~~five marijuana plants as stated in subsection (1) (c) may be~~
10 ~~destroyed after the excess amount has been photographed and the~~
11 ~~number of plants and the weight thereof has been recorded. The~~
12 ~~required minimum amount of the marijuana needed to constitute~~
13 ~~the elements of this offense shall remain in the custody of the~~
14 ~~police until the termination of any criminal action brought as a~~
15 ~~result of the seizure of the marijuana. Photographs duly~~
16 ~~identified as accurately representing the marijuana shall be~~
17 ~~deemed competent evidence of the marijuana involved and shall be~~
18 ~~admissible in any proceeding, hearing, or trial to the same~~
19 ~~extent as the marijuana itself; provided that nothing in this~~
20 ~~subsection shall be construed to limit or to restrict the~~
21 ~~application of rule 901 of the Hawaii rules of evidence."]~~



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PART IV

SECTION 28. The purpose of this part is to:

- (1) Impose an additional tax on the sale of cannabis and manufactured cannabis products for responsible, adult use; and
- (2) Exempt sales for cannabis and manufactured cannabis products from the general excise tax.

SECTION 29. The Hawaii Revised Statutes is amended by adding a new chapter to title 14 to be appropriately designated and to read as follows:

"CHAPTER B

RESPONSIBLE, ADULT-USE CANNABIS TAX LAW

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

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

"Hawaii responsible, adult-use cannabis law" means chapter A.

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



1 "Responsible, adult-use cannabis retailer" or "retailer"
2 means a responsible, adult-use cannabis retailer licensed under
3 the Hawaii responsible, adult-use cannabis law.

4 **SB-2 Permit.** (a) It shall be unlawful for any
5 responsible, adult-use cannabis retailer to sell cannabis or
6 manufactured cannabis products pursuant to the Hawaii
7 responsible, adult-use cannabis law unless a permit has been
8 issued to the retailer as hereinafter prescribed, and such
9 permit is in full force and effect.

10 (b) The Hawaii cannabis authority established pursuant to
11 chapter A shall certify to the department of taxation from time
12 to time and within forty-eight hours after such license is
13 issued the name of every retailer, together with the retailer's
14 place of business, and the period covered by the retailer's
15 license. The department of taxation thereupon shall issue its
16 permit to such person for the period covered by the person's
17 license upon the payment of a permit fee of \$. The
18 permit shall be valid for the retailer to which it was issued.
19 The permit shall be issued by the department of taxation as of
20 the date when the Hawaii cannabis authority issued the license.



1 (c) Any permit issued under this chapter shall not be
2 assignable; it shall be conspicuously displayed on the licensed
3 premises of the permittee; it shall expire on the date the
4 retailer's license under chapter A is set to expire, unless
5 sooner suspended, surrendered, or revoked for cause by the
6 department; and it shall be renewed annually, upon fulfillment
7 of all requirements as in the case of an original permit and the
8 payment of a renewal fee of \$. Whenever a permit is
9 defaced, destroyed, or lost, or the licensed premises are
10 relocated, the department may issue a duplicate permit to the
11 permittee upon the payment of a fee of \$.

12 (d) The department of taxation may suspend, or, after
13 hearing, revoke, any permit issued under this chapter whenever
14 it finds that the permittee has failed to comply with this
15 chapter, or any rule of the department adopted under this
16 chapter. Upon suspending or revoking any permit the department
17 shall request the permittee to surrender to it immediately the
18 permit, or any duplicate thereof issued to the permittee, and
19 the permittee shall surrender the same promptly to the
20 department as requested. Whenever the department suspends a
21 permit, it shall notify the permittee immediately and afford the



1 permittee a hearing, if desired, and if a hearing has not
2 already been afforded. After the hearing the department shall
3 either rescind its order of suspension, or good cause appearing
4 therefor, shall continue the suspension or revoke the permit.

5 **§B-3 Cooperation between department of taxation,**
6 **department of health, and Hawaii cannabis authority.** The
7 department of taxation, department of health, and the Hawaii
8 cannabis authority shall cooperate in the enforcement of this
9 chapter.

10 The department of taxation shall notify the department of
11 health and Hawaii cannabis authority of the name and address of
12 every permittee whose permit has been revoked, and any license
13 issued to the permittee under the Hawaii responsible, adult use
14 cannabis law shall be deemed forfeited.

15 The department of taxation may notify the department of
16 health and the Hawaii cannabis authority of the name and address
17 of every person who has failed to file any return required, or
18 to pay any tax prescribed, or to secure a permit, or to perform
19 any other duty or act imposed under this chapter, and the Hawaii
20 cannabis authority shall thereupon suspend any license that may
21 have been issued to any such person under the Hawaii



1 responsible, adult-use cannabis law until such time as such
2 person complies with this chapter.

3 The Hawaii cannabis authority shall provide to the
4 department of taxation the results of any examination the
5 authority has undertaken pursuant to section B-10 and shall,
6 upon request, furnish to the department of taxation any
7 information in its possession relative to any person having a
8 license issued by it, and its records shall be open to
9 examination to the department of taxation.

10 **SB-4 Tax.** Upon every person engaging or continuing in the
11 business of selling cannabis or manufactured cannabis products
12 at retail for responsible, adult use, there is hereby levied,
13 and shall be assessed and collected, a tax equivalent to the
14 following:

15 (1) On January 1, 2024, and thereafter, five per cent of
16 the gross proceeds of sales of cannabis or
17 manufactured cannabis products at retail for
18 responsible, adult use;

19 (2) On January 1, 2026, and thereafter, ten per cent of
20 the gross proceeds of sales of cannabis or



1 manufactured cannabis products at retail for
2 responsible, adult use; and
3 (3) On January 1, 2028, and thereafter, fifteen per cent
4 of the gross proceeds of sales of cannabis or
5 manufactured cannabis products at retail for
6 responsible, adult use.

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

18 **§B-6 Payment of tax; penalties.** At the time of the filing
19 of the return required under section B-5 and within the time
20 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 responsible, adult-use cannabis and
18 responsible, adult-use manufactured cannabis products made by
19 the retailer, in such form as the department of taxation may
20 prescribe. All such records shall be offered for inspection and
21 examination at any time upon demand by the department of



1 taxation, department of health, or Hawaii cannabis authority 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 health, the Hawaii cannabis authority, or the duly authorized
16 agent of either the directors or authority, 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
19 responsible, adult-use cannabis and responsible, adult-use
20 manufactured cannabis products at retail to verify the accuracy
21 of the payment of the tax imposed by this chapter and other



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

7 The authority granted to the director of health and Hawaii
8 cannabis authority under this section shall not conflict with
9 section 231-18 and shall not extend to the inspection of any
10 documents not directly related 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 responsible, adult-use cannabis and
14 responsible, adult-use manufactured cannabis products or upon
15 any of the transactions, acts, or activities taxed by this
16 chapter.

17 **§B-12 Appeals.** Any person aggrieved by any assessment of
18 the tax imposed by this chapter may appeal from the assessment
19 in the manner and within the time and in all other respects as
20 provided in the case of income tax appeals by section 235-114.



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

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

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



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

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



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

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

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

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

18 The director shall adopt rules pursuant to chapter 91.

19 **§B-16 Penalties.** (a) The penalties provided by this
20 section shall apply to any person whether acting as principal,
21 agent, officer, or director, for oneself, itself, or for another



1 person, and shall apply to each single violation, but shall not
2 apply to any act the punishment for which is elsewhere
3 prescribed by this chapter.

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

8 SECTION 30. Section 235-2.4, Hawaii Revised Statutes, is
9 amended by amending subsection (v) to read as follows:

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

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

19 (2) The cultivation, distribution, manufacture, and sale
20 of cannabis and manufactured cannabis products for



1 responsible, adult use by persons licensed under
2 chapter A."

3 SECTION 31. Section 237-24, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§237-24 Amounts not taxable.** This chapter shall not
6 apply to the following amounts:

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



- 1 (4) The value of all property of every kind and sort
2 acquired by gift, bequest, or devise, and the value of
3 all property acquired by descent or inheritance;
- 4 (5) Amounts received by any person as compensatory damages
5 for any tort injury to the person, or to the person's
6 character reputation, or received as compensatory
7 damages for any tort injury to or destruction of
8 property, whether as the result of action or by
9 private agreement between the parties (provided that
10 amounts received as punitive damages for tort injury
11 or breach of contract injury shall be included in
12 gross income);
- 13 (6) Amounts received as salaries or wages for services
14 rendered by an employee to an employer;
- 15 (7) Amounts received as alimony and other similar payments
16 and settlements;
- 17 (8) Amounts collected by distributors as fuel taxes on
18 "liquid fuel" imposed by chapter 243, and the amounts
19 collected by such distributors as a fuel tax imposed
20 by any Act of the Congress of the United States;



- 1 (9) Taxes on liquor imposed by chapter 244D on dealers
2 holding permits under that chapter;
- 3 (10) The amounts of taxes on cigarettes and tobacco
4 products imposed by chapter 245 on wholesalers or
5 dealers holding licenses under that chapter and
6 selling the products at wholesale;
- 7 (11) Federal excise taxes imposed on articles sold at
8 retail and collected from the purchasers thereof and
9 paid to the federal government by the retailer;
- 10 (12) The amounts of federal taxes under chapter 37 of the
11 Internal Revenue Code, or similar federal taxes,
12 imposed on sugar manufactured in the State, paid by
13 the manufacturer to the federal government;
- 14 (13) An amount up to, but not in excess of, \$2,000 a year
15 of gross income received by any blind, deaf, or
16 totally disabled person engaging, or continuing, in
17 any business, trade, activity, occupation, or calling
18 within the State; a corporation all of whose
19 outstanding shares are owned by an individual or
20 individuals who are blind, deaf, or totally disabled;
21 a general, limited, or limited liability partnership,



1 all of whose partners are blind, deaf, or totally
2 disabled; or a limited liability company, all of whose
3 members are blind, deaf, or totally disabled;

4 (14) Amounts received by a producer of sugarcane from the
5 manufacturer to whom the producer sells the sugarcane,
6 where:

7 (A) The producer is an independent cane farmer, so
8 classed by the Secretary of Agriculture under the
9 Sugar Act of 1948 (61 Stat. 922, chapter 519) as
10 the Act may be amended or supplemented;

11 (B) The value or gross proceeds of sale of the sugar,
12 and other products manufactured from the
13 sugarcane, is included in the measure of the tax
14 levied on the manufacturer under section 237-
15 13(1) or (2);

16 (C) The producer's gross proceeds of sales are
17 dependent upon the actual value of the products
18 manufactured therefrom or the average value of
19 all similar products manufactured by the
20 manufacturer; and



- 1 (D) The producer's gross proceeds of sales are
- 2 reduced by reason of the tax on the value or sale
- 3 of the manufactured products;
- 4 (15) Money paid by the State or eleemosynary child-placing
- 5 organizations to foster parents for their care of
- 6 children in foster homes;
- 7 (16) Amounts received by a cooperative housing corporation
- 8 from its shareholders in reimbursement of funds paid
- 9 by such corporation for lease rental, real property
- 10 taxes, and other expenses of operating and maintaining
- 11 the cooperative land and improvements; provided that
- 12 such a cooperative corporation is a corporation:
- 13 (A) Having one and only one class of stock
- 14 outstanding;
- 15 (B) Each of the stockholders of which is entitled
- 16 solely by reason of the stockholder's ownership
- 17 of stock in the corporation, to occupy for
- 18 dwelling purposes a house, or an apartment in a
- 19 building owned or leased by the corporation; and
- 20 (C) No stockholder of which is entitled (either
- 21 conditionally or unconditionally) to receive any



1 distribution not out of earnings and profits of
2 the corporation except in a complete or partial
3 liquidation of the corporation; ~~and~~

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

11 (18) Amounts received for the sale of cannabis and
12 manufactured cannabis products for medical use in
13 accordance with part IX of chapter 329 and chapter
14 329D; and

15 (19) Taxes on cannabis and manufactured cannabis products
16 imposed by chapter B on responsible, adult-use
17 cannabis retail locations holding permits under that
18 chapter."

19 PART V



1 SECTION 32. Chapter 329, Hawaii Revised Statutes, is
2 amended by adding a new section to part IX to be appropriately
3 designated and to read as follows:

4 **"§329- Privileges of qualifying out-of-state patients.**
5 Notwithstanding any law to the contrary, qualifying out-of-state
6 patients shall have the same rights and privileges as qualifying
7 patients."

8 SECTION 33. Section 329-130, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§329-130 Authorized sources of medical cannabis. (a)**
11 After December 31, 2024, a qualifying patient and qualifying
12 out-of-state patient shall obtain medical cannabis or
13 manufactured cannabis products only:

14 (1) From a dispensary licensed pursuant to chapter 329D;
15 provided that the cannabis shall be purchased and paid
16 for at the time of purchase; or

17 (2) By cultivating cannabis in an amount that does not
18 exceed an adequate supply for the qualifying
19 patient~~[r]~~ or qualifying out-of-state patient,
20 pursuant to section 329-122; provided that each
21 location used to cultivate cannabis shall be used by



1 no more than five qualifying patients[-] and
2 qualifying out-of-state patients.

3 After December 31, 2024, no primary caregiver shall be
4 authorized to cultivate cannabis for any qualifying patient[-]
5 or any qualifying out-of-state patient.

6 (b) This section shall not apply to:

7 (1) A qualifying patient or qualifying out-of-state
8 patient who is a minor or an adult lacking legal
9 capacity and the primary caregiver is the parent,
10 guardian, or person having legal custody of a
11 qualifying patient or qualifying out-of-state patient
12 described in this paragraph; or

13 (2) A qualifying patient on any island on which there is
14 no medical cannabis dispensary licensed pursuant to
15 chapter 329D.

16 [~~(c) A qualifying out-of-state patient and a caregiver of~~
17 ~~a qualifying out-of-state patient shall be authorized to obtain~~
18 ~~cannabis for medical use only from retail dispensing locations~~
19 ~~of dispensaries licensed pursuant to chapter 329D.]"~~

20 SECTION 34. Section 329D-24, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§329D-24 Cultivation of medical cannabis by qualifying**
2 **patients and primary caregivers.** Nothing in this chapter shall
3 be construed as prohibiting a qualifying patient, qualifying
4 out-of-state patient, or primary caregiver from cultivating or
5 possessing an adequate supply of medical cannabis pursuant to
6 part IX of chapter 329.

7 ~~[A qualifying out-of-state patient or a caregiver of a~~
8 ~~qualifying out-of-state patient shall not be authorized to~~
9 ~~cultivate cannabis.]"~~

PART VI

11 SECTION 35. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 36. This Act shall take effect on July 1, 2023.

INTRODUCED BY:



.IAN 19 2023



H.B. NO. 237

Report Title:

Responsible, Adult-Use Cannabis; Hawaii Cannabis authority;
Medical Cannabis; Taxation

Description:

Legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use. Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax. Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allows qualifying out-of-state patients to cultivate medical cannabis.

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

