RELATING TO CANNABIS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that it is high time Hawaii begins to reap the revenue benefits from taxing adult cannabis use. Cannabis can bring agricultural solutions to Hawaii's struggling agrarian communities, where growing and selling established Hawaii-brand cannabis products will result in significant revenue.

The legislature further finds that the costs to enforce criminal cannabis possession statutes are substantial and unnecessary. According to the report entitled "The Budgetary Implications of Marijuana Decriminalization and Legalization for Hawaii," which was originally completed in 2005 by Lawrence W. Boyd, and updated in 2013 by David C. Nixon, state and county law enforcement agencies spent $9,300,000 annually (in 2011 dollars) to enforce simple cannabis possession laws.

A 2014 scientific survey of registered voters in the State conducted by Qmark Research found that sixty-six per cent of those surveyed favored legalizing the use of cannabis by adults
and regulating and collecting taxes from the sale of cannabis.
Numerous states have passed laws legalizing the possession of small amounts of cannabis for adult personal use, including Alaska, California, Colorado, District of Columbia, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont, and Washington.

In the interest of allowing law enforcement agencies to focus on violent and property crimes, generating revenue for education and other public purposes, and protecting individual freedom, the legislature also finds that the use of cannabis must be legal for persons twenty-one years of age or older and subject to a twelve per cent excise tax.

Cannabis must be regulated for the health and public safety of Hawaii's citizenry as follows:

(1) Individuals must show proof of age before purchasing cannabis;
(2) Selling, distributing, or transferring cannabis to a minor and other individuals under the age of twenty-one must remain illegal;
(3) Legitimate, taxpaying businesses, and not criminal actors, must conduct sales of cannabis;
(4) Cannabis sold in this State must be tested, labeled, and subject to additional regulations to ensure that consumers are informed and protected; and

(5) Hemp must be regulated separately from strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

The legislature declares that it is necessary to ensure consistency and fairness in the application of this chapter throughout the State. Therefore, the matters addressed by this chapter are, except as specified herein, matters of statewide concern.

The purpose of this Act is to:

(1) Legalize the personal use of cannabis for persons twenty-one years of age or older;

(2) Require licensing to operate a cannabis establishment;

(3) Subject cannabis establishments to excise taxes; and

(4) Decriminalize criminal offenses involving the possession of marijuana by adults.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:
CHAPTER

RESPONSIBLE ADULT CANNABIS USE

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

"Cannabis" means all parts of the plant of the genus cannabis, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis concentrate. "Cannabis" does not include hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

"Cannabis accessories" means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for
ingesting, inhaling, or otherwise introducing cannabis into the human body.

"Cannabis cultivation facility" means an entity registered to cultivate, prepare, and package cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities, to on-site consumption establishments, and to other cannabis cultivation facilities, but not to consumers.

"Cannabis establishment" means a cannabis cultivation facility, an on-site consumption establishment, a cannabis testing facility, a cannabis product manufacturing facility, a cannabis transporter, a retail cannabis store, or any other type of cannabis business authorized and registered by the department.

"Cannabis product manufacturing facility" means an entity registered to purchase cannabis and cannabis products from cannabis product manufacturing facilities; manufacture, prepare, and package cannabis products; and sell cannabis and cannabis products to cannabis product manufacturing facilities, on-site consumption establishments, and retail cannabis stores, but not to consumers.
"Cannabis products" means concentrated cannabis products and cannabis products that are comprised of cannabis and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

"Cannabis testing facility" means an entity registered to test cannabis for potency and contaminants.

"Cannabis transporter" means an entity registered to transport cannabis between cannabis establishments.

"Consumer" means a person twenty-one years of age or older who purchases cannabis or cannabis products for personal use by the person's self or other persons twenty-one years of age or older, but not for resale.

"County" means any of the political subdivisions of the State, including the city and county of Honolulu, and the counties of Hawaii, Kauai, and Maui; provided that the county of Maui shall include the county of Kalawao for the purposes of this chapter.

"Department" means the department of health, or its successor agency.

"Hemp" means the plant of the genus cannabis and any part of the plant, whether growing or not, with a delta-9
tetrahydrocannabinol concentration that does not exceed three-tenths per cent on a dry weight basis of any part of the plant or per volume or weight of product, or with a combined concentration of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant that does not exceed three-tenths per cent regardless of moisture content.

"Immature cannabis plant" means a cannabis plant that has not flowered and which does not have buds that may be observed by visual examination.

"Local regulatory authority" means the office or entity designated by a county to process cannabis establishment applications.

"Minor" means any person below the age of twenty-one years.

"On-site consumption establishment" means an entity registered to purchase cannabis from cannabis cultivation facilities and cannabis and cannabis products from cannabis product manufacturing facilities and sell cannabis or cannabis products to consumers for on-site consumption.

"Possession limit" means:

(1) One ounce of cannabis in plant form;

(2) Five grams of concentrated cannabis;
(3) Cannabis products containing no more than 500 milligrams of delta-9 tetrahydrocannabinol;

(4) Seven cannabis plants; and

(5) Any additional cannabis produced by an individual's lawfully possessed cannabis plants; provided that any amount of cannabis in excess of one ounce of cannabis shall be possessed in the same secure facility where the plants were cultivated.

"Public place" means any place to which the general public has access. The term does not include an on-site consumption establishment.

"Restricted use pesticide" shall have the same meaning as defined in section 149A-2.

"Retail cannabis store" means an entity registered to purchase cannabis from cannabis cultivation facilities and cannabis and cannabis products from cannabis product manufacturing facilities and to sell cannabis and cannabis products to consumers for off-site consumption.

"Small local farm" means a farm physically located within the State of Hawaii that has ten acres or less of land and is
owned by owners who shall be residents of the State of Hawaii for at least five years.

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

§ 2 Personal use of cannabis. (a) Notwithstanding any other state law to the contrary, the following acts shall neither be a criminal offense under state law nor a basis for seizure or forfeiture of assets under state law for persons twenty-one years of age or older:

(1) Possessing, consuming, growing, using, processing, purchasing, or transporting an amount of cannabis that does not exceed the possession limit;

(2) Transferring an amount of cannabis that does not exceed the possession limit to a person who is twenty-one years of age or older without remuneration;

(3) Controlling property where actions described by this subsection occur; and
(4) Assisting another person who is twenty-one years of age or older in any of the acts described in this subsection.

(b) Notwithstanding any other provision of law, unless there is a specific finding that an individual parolee or probationer's use of cannabis could create a danger to the individual or other persons, it shall not be a violation of conditions of parole or probation to:

(1) Engage in conduct allowed by subsection (a); or

(2) Test positive for cannabis, delta-9 tetrahydrocannabinol, or any other cannabinoid.

§ -3 Resentencing for marijuana offenders; expungement.

(a) A person convicted for an offense under chapter 329 or under part IV of chapter 712 the basis of which is an act permitted by this chapter shall have the right to petition the court for review and adjustment of the sentence.

(b) Upon written application from a person arrested for or charged with an offense the basis of which is an act permitted by this chapter, the attorney general, or the attorney general's duly authorized representative within the department of the attorney general, shall issue an expungement order annulling,
canceling, and rescinding the record of arrest for that
particular offense.
(c) Upon written application from a person convicted of an
offense the basis of which is an act permitted by this chapter,
the court shall issue a court order to expunge the record of
conviction for that particular offense.
§ 4 Decriminalization; drug awareness programs; minors;
fees. Notwithstanding any other law to the contrary, possession
of one ounce or less of cannabis by a minor shall be a civil
violation punishable by forfeiture of the cannabis and
completion of up to four hours of instruction in a drug
awareness program. The minor and the parents or legal guardians
if the minor is under the age of eighteen shall be notified of
the offense and available drug awareness programs, which shall
be established by the department. The department shall set fees
which shall not exceed $100 for the program sufficient to cover
costs of administering the program. If a minor fails to
complete a drug awareness program within one year of notice of
the offense and available program, a court may impose a civil
penalty of not more than $150, not more than forty hours of
community service, or both.
§ 5 Restricted use pesticides; prohibited. No cannabis cultivation facility or cannabis product manufacturing facility shall apply restricted use pesticides on cannabis plants or cannabis products to be sold within the State.

§ 6 False identification; penalty. (a) A minor shall not present or offer to a cannabis establishment or the cannabis establishment's agent or employee any written or oral evidence of age that is false, fraudulent, or not actually the minor's own, for the purposes of:

(1) Purchasing, attempting to purchase, or otherwise procuring or attempting to procure cannabis; or

(2) Gaining access to a cannabis establishment.

(b) Any minor who violates this section is guilty of a civil violation punishable by a fine of not more than $150 or not more than fifteen hours of community service.

§ 7 Cannabis accessories; authorized. (a) Notwithstanding any other provision of law, it is not unlawful and shall not be an offense under state law or be a basis for seizure or forfeiture of assets under state law for persons twenty-one years of age or older to manufacture, possess, or purchase cannabis accessories, or to distribute or sell cannabis
accessories to any person who is twenty-one years of age or
older.

(b) A person who is twenty-one years of age or older is
authorized to manufacture, possess, and purchase cannabis
accessories, and to distribute or sell cannabis accessories to
any person who is twenty-one years of age or older.

§ -8 Lawful operation of cannabis-related facilities.

(a) Notwithstanding any other state law to the contrary, the
following acts shall neither be a criminal offense under state
law nor a basis for seizure or forfeiture of assets under state
law for persons twenty-one years of age or older:

(1) Manufacture, sale, purchase, or possession of cannabis
accessories; and

(2) Leasing or otherwise allowing the use of property
owned, occupied, or controlled by any person,
corporation, or other entity for any of the activities
described in this section.

(b) Notwithstanding any other provision of law, the
following acts, when performed by a retail cannabis store with a
current, valid registration, or a person twenty-one years of age
or older who is acting in the person's capacity as an owner,
employee, or agent of a retail cannabis store, are not unlawful and shall not be an offense under state law or be a basis for seizure or forfeiture of assets under state law:

(1) Possessing, displaying, storing, or transporting cannabis or cannabis products;

(2) Purchasing cannabis from a cannabis cultivation facility;

(3) Purchasing cannabis or cannabis products from a cannabis product manufacturing facility or cannabis transporter;

(4) Transferring cannabis or cannabis products to a cannabis testing facility;

(5) Distributing or selling cannabis or cannabis products to retail cannabis stores; and

(6) Delivering, distributing, transferring, or selling cannabis or cannabis products to consumers. For purposes of this paragraph, "delivering" shall mean the transporting of cannabis, cannabis products, and cannabis accessories to a consumer.

(c) Notwithstanding any other provision of law, the following acts, when performed by an on-site consumption
establishment with a current, valid registration, or a person twenty-one years of age or older who is acting in the person's capacity as an owner, employee, or agent of an on-site consumption establishment, are not unlawful and shall not be an offense under state law or be a basis for seizure or forfeiture of assets under state law:

(1) Possessing, displaying, storing, or transporting cannabis or cannabis products;

(2) Purchasing cannabis from a cannabis cultivation facility;

(3) Purchasing cannabis or cannabis products from a cannabis product manufacturing facility or cannabis transporter;

(4) Transferring cannabis or cannabis products to a cannabis testing facility; and

(5) Distributing, transferring, or selling cannabis or cannabis products to consumers or on-site consumption establishments.

(d) Notwithstanding any other provision of law, the following acts, when performed by a cannabis cultivation facility with a current, valid registration, or a person twenty-
one years of age or older who is acting in the person's capacity
as an owner, employee, or agent of a cannabis cultivation
facility, are not unlawful and shall not be an offense under
state law or be a basis for seizure or forfeiture of assets
under state law:

(1) Cultivating, harvesting, processing, packaging,
transporting, displaying, storing, or possessing
cannabis;

(2) Transferring cannabis to a cannabis testing facility;

(3) Transferring, distributing, or selling cannabis to a
cannabis cultivation facility, cannabis product
manufacturing facility, cannabis transporter, on-site
consumption establishment, or retail cannabis store;

(4) Purchasing cannabis from a cannabis cultivation
facility or a cannabis transporter; and

(5) Receiving cannabis seeds or immature cannabis plants
from a person twenty-one years of age or older.

(e) Notwithstanding any other provision of law, the
following acts, when performed by a cannabis product
manufacturing facility with a current, valid registration, or a
person twenty-one years of age or older who is acting in the
person's capacity as an owner, employee, or agent of a cannabis product manufacturing facility, are not unlawful and shall not be an offense under state law or be a basis for seizure or forfeiture of assets under state law:

(1) Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis or cannabis products;

(2) Transferring cannabis or cannabis products to a cannabis testing facility;

(3) Transferring, distributing, or selling cannabis or cannabis products to a retail cannabis store, on-site consumption establishment, cannabis transporter, or cannabis product manufacturing facility;

(4) Purchasing cannabis from a cannabis cultivation facility; and

(5) Purchasing cannabis or cannabis products from a cannabis product manufacturing facility or a cannabis transporter.

(f) Notwithstanding any other provision of law, the following acts, when performed by a cannabis testing facility with a current, valid registration, or a person twenty-one years
of age or older who is acting in the person's capacity as an
owner, employee, or agent of a cannabis testing facility, are
not unlawful and shall not be an offense under state law or be a
basis for seizure or forfeiture of assets under state law:
(1) Possessing, cultivating, processing, repackaging,
storining, transporting, or displaying cannabis or
cannabis products;
(2) Receiving cannabis or cannabis products from a
cannabis establishment or a person twenty-one years of
age or older; and
(3) Returning cannabis or cannabis products to a cannabis
establishment or a person twenty-one years of age or
older.
(g) Notwithstanding any other provision of law, the
following acts, when performed by a cannabis transporter with a
current, valid registration, or a person twenty-one years of age
or older who is acting in the person's capacity as an owner,
employee, or agent of a cannabis transporter, are not unlawful
and shall not be an offense under state law or be a basis for
seizure or forfeiture of assets under state law:
(1) Purchasing cannabis or cannabis products from a cannabis establishment;

(2) Possessing, storing, or transporting cannabis or cannabis products; and

(3) Distributing, selling, or transferring cannabis or cannabis products to a cannabis establishment.

(h) Notwithstanding any other provision of law, engaging in any activities involving cannabis or cannabis products, when performed by a cannabis establishment with a current, valid registration, or a person twenty-one years of age or older who is acting in the person's capacity as an owner, employee, or agent of a cannabis establishment, is not unlawful and shall not be an offense under state law or be a basis for seizure or forfeiture of assets under state law, if the activities are within the scope of activities allowed for that type of cannabis establishment.

§ -9 Medical cannabis provision unaffected. Nothing in this chapter shall be construed to affect the medical use of cannabis or limit any privileges or rights as provided in part IX of chapter 329.
§ -10 Priority licensing for medical cannabis

Medical cannabis dispensaries shall be allowed to register as a retail cannabis store and operate for one year before other applicants are able to receive registrations. Any person twenty-one years of age or older who meets the employee requirements of chapter 329D may apply to be a grower at a medical cannabis dispensary to ensure an adequate supply. Cannabis testing facilities are to be licensed immediately to test all batches of cannabis.

§ -11 Administrative rules. (a) Not later than one hundred eighty days after the effective date of this Act, the department shall adopt rules necessary for implementation of this chapter; provided that the rules shall not prohibit the operation of cannabis establishments, either expressly or through regulations that make their operation unreasonably impracticable. The rules may include:

(1) Procedures for the issuance, renewal, suspension, and revocation of a registration to operate a cannabis establishment; provided that the procedures shall be subject to all requirements of chapter 91;
(2) A schedule of reasonable application, registration, and renewal fees; provided that application fees shall not exceed $5,000; provided further that this upper limit shall be adjusted annually for inflation;

(3) Qualifications for registration that are directly and demonstrably related to the operation of a cannabis establishment and which shall not disqualify applicants solely for arrest or conviction for cannabis offenses prior to the effective date of this Act;

(4) Security requirements including lighting, physical security, video, and alarm requirements;

(5) Requirements for the transportation and storage of cannabis and cannabis products by cannabis establishments;

(6) Requirements for the delivery of cannabis and cannabis products to consumers, including a prohibition on delivering to any address located on land owned by the federal government or any address on land or in a building leased by the federal government;
(7) Employment and training requirements, including requiring that each cannabis establishment create an identification badge for each employee or agent; provided that these requirements shall not disqualify applicants solely for arrest or conviction for cannabis offenses prior to the effective date of this Act;

(8) Requirements designed to prevent the sale or diversion of cannabis and cannabis products to minors;

(9) Standards for cannabis product manufacturers to determine the amount of cannabis that is the equivalent of cannabis products;

(10) Requirements for cannabis and cannabis products sold or distributed by a cannabis establishment, including prohibition of any misleading labeling and requirements that cannabis product labels include the following:

(A) The length of time it typically takes for a product to take effect;

(B) The ingredients and possible allergens;

(C) A nutritional fact panel;
(D) Opaque, child resistant packaging, which shall be designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as prescribed by title 16 Code of Federal Regulations section 1700.20; and

(E) When practicable, a clearly identifiable, standard symbol indicating that an edible cannabis product contains cannabis;

(11) Health and safety regulations and standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by cannabis establishments;

(12) Restrictions on advertising, marketing, and signage including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors;

(13) Regulations to create at least three tiers of cultivation facilities, based on the size of the facility or the number of plants cultivated; provided
that security regulations and licensing fees shall vary based on the size of the cultivation facility;

(14) Restrictions on the display of cannabis and cannabis products, including to ensure that cannabis and cannabis products shall not be displayed in a manner that is visible to the general public from a public right-of-way;

(15) Restrictions or prohibitions on additives to cannabis and cannabis products, including but not limited to those that are toxic or designed to make the product more addictive;

(16) Prohibitions on products that are designed to make the product more appealing to children, including prohibiting the use of any images designed or likely to appeal to minors such as cartoons, toys, animals, or children; and any other likeness of images, characters, or phrases that are popularly used to advertise to children;

(17) Restrictions preventing the production and sale of cannabis products that are not reasonably detectable to consumers, including prohibiting tasteless powders;
(18) Regulations governing visits to cultivation facilities and product manufacturers, including requiring these cannabis establishments to log visitors;

(19) A definition of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving in a cannabis product;

(20) Standards for the safe manufacture of cannabis extracts and concentrates;

(21) Requirements that educational materials be disseminated to consumers who purchase cannabis or cannabis products;

(22) Requirements for random sample testing to ensure quality control, including by ensuring that cannabis and cannabis products are accurately labeled for potency; provided that the testing analysis shall include testing for residual solvents, poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; harmful microbials such as E. Coli or salmonella; and pesticides;
Standards for the operation of cannabis testing facilities, including requirements for equipment and qualifications for personnel; Civil penalties for the failure to comply with rules adopted pursuant to this chapter; Procedures for collecting taxes levied on cannabis establishments; and Requirements for on-site consumption establishments, including for security, ventilation, odor control, and consumption by patrons; provided that these rules may include a prohibition on smoking indoors.

In order to ensure that individual privacy is protected, the department shall not require a consumer to provide a retail cannabis store or on-site consumption establishment with personal information other than government-issued identification to determine the consumer's age, and a retail cannabis store or on-site consumption establishment shall not be required to acquire and record personal information about consumers.

§ -12 Cannabis establishment registrations. (a) Each application or renewal application for an annual registration to
operate a cannabis establishment shall be submitted to the department. The application shall include supporting documentation to establish the following:

(1) That the individual applicant has been a legal resident of the State for not less than five years preceding the date of application; and

(2) That the applying entity is not less than sixty-five per cent held by Hawaii legal residents or entities wholly controlled by Hawaii legal residents who have been Hawaii legal residents for not less than five years immediately preceding the date the application was submitted.

A renewal application may be submitted up to ninety days prior to the expiration of the cannabis establishment's registration.

(b) The department shall begin accepting and processing applications to operate cannabis establishments one year after the effective date of this Act.

(c) Upon receiving an application or renewal application for a cannabis establishment, the department shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the county
in which the applicant desires to operate the cannabis
establishment, unless the county has not designated a local
regulatory authority.

(d) Within one hundred twenty days after receiving an
application or renewal application, the department shall issue
an annual registration to the applicant, unless the department
finds the applicant is not in compliance with this chapter or
any rules adopted pursuant to this chapter in effect at the time
of application.

(e) Upon denial of an application, the department shall
notify the applicant in writing of the specific reason for its
denial within two weeks.

(f) Every cannabis establishment registration shall
specify the location where the cannabis establishment will
operate. A separate registration shall be required for each
location at which a cannabis establishment operates.

(g) Cannabis establishments and the books and records
maintained and created by cannabis establishments are subject to
inspection by the department.

§ -13 Construction; employers; driving; minors; control
of property. Nothing in this chapter shall be construed to:
(1) Require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;

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

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

(4) Supersede any law relating to driving under the influence of cannabis or driving while impaired by cannabis;

(5) Permit the transfer of cannabis, with or without remuneration, to a minor or to allow a minor to purchase, possess, use, transport, grow, or consume cannabis; or
(6) Require any person, corporation, or any other entity that occupies, owns, or controls real property to allow the consumption, cultivation, display, sale, or transfer of cannabis on or in that property; provided that in the case of the rental of a residential dwelling, a landlord shall not prohibit the possession of cannabis or the consumption of cannabis that is not inhaled, unless:

(A) The tenant is not leasing the entire residential dwelling;

(B) The residence is incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service;

(C) The residence is a transitional housing facility; or

(D) Failing to prohibit cannabis possession or consumption would violate federal law or regulations or cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations.
$ -14 Contracts enforceable; public policy. It is the public policy of this State that:

(1) Contracts related to the operation of a cannabis establishment registered pursuant to this chapter shall be enforceable; and

(2) No contract entered into by a registered cannabis establishment or its employees or agents as permitted pursuant to a valid registration, or by those who allow property to be used by a cannabis establishment, its employees, or its agents as permitted pursuant to a valid registration, shall be unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling, possessing, or using cannabis or hemp is prohibited by federal law.

$ -15 Interisland transportation of cannabis by a consumer or owner, employee, or agent of a cannabis establishment. In addition to the transport permitted under this chapter, a consumer or owner, employee, or agent of a cannabis establishment may transport cannabis or cannabis
products between the islands of the State, in a manner and
amount prescribed by rules adopted pursuant to chapter 91 by:
(1) The department; and
(2) The department of transportation under section 261-
and with the understanding that state law and its protections do
not apply outside of the jurisdictional limits of the State.
§ -16 Respecting state law. (a) No law enforcement
officer employed by an agency that receives state or local
government funds shall expend any state or local resources,
including the officer's time, to:
(1) Effect any arrest or seizure of cannabis, or conduct
any investigation, on the sole basis of activity the
officer believes to constitute a violation of federal
law if the officer has reason to believe that the
activity is in compliance with this chapter; or
(2) Provide any information or logistical support related
to the activity to any federal law enforcement
authority or prosecuting entity.
(b) No agency or political subdivision of the State may
rely on a violation of federal law as the sole basis for taking
an adverse action against a person providing professional
services to a cannabis establishment if the person has not
violated state laws.

§ -17 Deposit of fees and fines. All fees and fines
collected by the department pursuant to this chapter or any
administrative rules adopted thereunder shall be deposited in
the cannabis regulation special fund pursuant to section 321-

§ -18 Excise tax on cannabis. (a) There shall be an
excise tax imposed, in addition to any other taxes permitted by
law, on proceeds from the sale or transfer of cannabis from a
cannabis cultivation facility to a retail cannabis store, on-
site consumption establishment, or cannabis product
manufacturing facility at the rate of twelve per cent.

(b) Any cannabis cultivation facility that has become
liable for the payment of an excise tax under this section
during the preceding calendar month for the transfer or sale of
cannabis shall pay the excise tax on or before the twentieth day
of each calendar month.

§ -19 Apportionment of revenue. Revenues generated in
excess of the amount needed to implement and enforce this
chapter by the cannabis excise tax shall be distributed every
three months as follows:
(1) Fifty per cent shall be distributed to the counties proportionally, based on the percentage of cannabis sales within the county compared to statewide sale; provided that this revenue shall be earmarked for infrastructure projects within each county; and

(2) Fifty per cent shall be used to distribute grants to help develop small local farms.

§ -20 Severability; conflicting provisions. (a) If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(b) Except where otherwise indicated in this chapter, this chapter shall supersede conflicting state statutes; local charters, ordinances, or resolutions; and other state or local provisions."

SECTION 3. Chapter 261, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:
"§261- Interisland transportation of cannabis; rules.

(a) The department shall adopt rules, pursuant to chapter 91, regarding the interisland transportation of cannabis and useable cannabis for purposes of medical use of cannabis. For purposes of this subsection, "cannabis", "medical use", and "useable cannabis" shall be as defined in section 329-121.

(b) The department shall adopt rules, pursuant to chapter 91, regarding the interisland transportation of cannabis or any cannabis product for purposes other than medical use. For purposes of this subsection, "cannabis" and "cannabis product" shall be as defined in section 1."
(2) To fund positions and operating costs authorized by the legislature; and

(3) For any other expenditure necessary, consistent with this chapter and chapter .

(b) The fund shall consist of all moneys derived from fees and fines collected under this chapter.

c) Moneys on balance in the cannabis regulation special fund at the close of each fiscal year shall remain in that fund and shall not lapse to the credit of the general fund."

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

"§329- Interisland transportation of cannabis by a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient. In addition to the transport permitted under section 329-122, a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may transport cannabis, usable cannabis, or manufactured cannabis products between the islands of the State, in a manner and amount prescribed by rules adopted pursuant to chapter 91 by:
(1) The department; and

(2) The department of transportation under section 261-

and with the understanding that state law and its protections do

not apply outside of the jurisdictional limits of the State.

SECTION 6. Section 291E-61, Hawaii Revised Statutes, is

amended by amending subsection (a) to read as follows:

"(a) A person commits the offense of operating a vehicle

under the influence of an intoxicant if the person operates or

assumes actual physical control of a vehicle:

(1) While under the influence of alcohol in an amount

sufficient to impair the person's normal mental

faculties or ability to care for the person and guard

against casualty;

(2) While under the influence of any drug that impairs the

person's ability to operate the vehicle in a careful

and prudent manner[†], unless the person only has an

inactive tetrahydrocannabinol metabolite in the

person's system;

(3) With .08 or more grams of alcohol per two hundred ten

liters of breath; or
With .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood."

SECTION 7. Section 291E-61.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A person commits the offense of habitually operating a vehicle under the influence of an intoxicant if:

(1) The person is a habitual operator of a vehicle while under the influence of an intoxicant; and

(2) The person operates or assumes actual physical control of a vehicle:

(A) While under the influence of alcohol in an amount sufficient to impair the person's normal mental faculties or ability to care for the person and guard against casualty;

(B) While under the influence of any drug that impairs the person's ability to operate the vehicle in a careful and prudent manner unless the person only has an inactive tetrahydrocannabinol metabolite in the person's system;
(C) With .08 or more grams of alcohol per two hundred ten liters of breath; or

(D) With .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood."

SECTION 8. Section 329-43.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Except as provided in chapter and subsection (e), it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. A violation of this subsection shall constitute a violation subject to a fine of no more than $500.

(b) Except as provided in chapter and subsection (e), it is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing or under circumstances where [one] the person reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound,
convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. A violation of this subsection shall constitute a violation subject to a fine of no more than $500."

SECTION 9. Section 329-122, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) For the purposes of this section, "transport" means the transportation of cannabis, usable cannabis, or any manufactured cannabis product between:

(1) A qualifying patient and the qualifying patient's primary caregiver;

(2) A qualifying out-of-state patient under eighteen years of age and the caregiver of a qualifying out-of-state patient;

(3) The production centers and the retail dispensing locations under a dispensary licensee's license; or

(4) A production center, retail dispensing location, qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and a certified laboratory for the
purpose of laboratory testing; provided that a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may only transport up to one gram of cannabis per test to a certified laboratory for laboratory testing and may only transport the product if the qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient:

(A) Secures an appointment for testing at a certified laboratory;

(B) Obtains confirmation, which may be electronic, that includes the specific time and date of the appointment and a detailed description of the product and amount to be transported to the certified laboratory for the appointment; and

(C) Has the confirmation, which may be electronic, available during transport.

For purposes of interisland transportation, "transport" of cannabis, usable cannabis, or any manufactured cannabis product, by any means is allowable only between a production center or
retail dispensing location and a certified laboratory for the
sole purpose of laboratory testing pursuant to section 329D-8,
as permitted under section 329D-6(m) and subject to section
329D-6(j), or as provided in section 329--., and with the
understanding that state law and its protections do not apply
outside of the jurisdictional limits of the State. Allowable
interisland transportation by any means or for any purpose
between a [qualified] qualifying patient, primary caregiver,
qualifying out-of-state patient, or caregiver of a qualifying
out-of-state patient and any other entity or individual,
including an individual who is a [qualified] qualifying patient,
primary caregiver, qualifying out-of-state patient, or caregiver
of a qualifying out-of-state patient[.] shall be as provided
pursuant to section 329--."

SECTION 10. Section 712-1240, Hawaii Revised Statutes, is
amended as follows:

1. By amending the definition of "detrimental drug" to
"Detrimental drug" means any substance or immediate precursor defined or specified as a "Schedule V substance" by chapter 329, or any marijuana.

2. By amending the definition of "marijuana concentrate" to read:

"Marijuana concentrate" means hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinol. "Marijuana concentrate" does not include cannabis products as defined under section 1.

SECTION 11. Section 712-1240.1, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) It is an affirmative defense to prosecution for any marijuana-related offense defined in this part that the person who possessed or distributed the marijuana was authorized to possess or distribute the marijuana for medical purposes or for personal use pursuant to part IX of chapter 329 and chapter ___.

SECTION 12. Section 712-1247, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:
"(1) A person commits the offense of promoting a
detrimental drug in the first degree if the person knowingly:

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

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

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

(d) Distributes one or more preparations, compounds,
mixtures, or substances of an aggregate weight of one-
eighth ounce or more, containing one or more of the
Schedule V substances;

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

(f) Distributes one or more preparations, compounds,
mixtures, or substances of an aggregate weight of one
ounce or more, containing any marijuana;
Possesses, cultivates, or has under the person's control twenty-five or more marijuana plants; or

Sells or barters any marijuana or any Schedule V substance in any amount."

SECTION 13. Section 712-1248, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

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

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

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

Possesses one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one ounce or more, containing any marijuana; or

(c) Distributes any marijuana or any Schedule V substance in any amount."

SECTION 14. Section 712-1249, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:
"(1) A person commits the offense of promoting a
detrimental drug in the third degree if the person knowingly
possesses [any marijuana or] any Schedule V substance in any
amount."

SECTION 15. There is appropriated out of the general
revenues of the State of Hawaii the sum of $ or so much
thereof as may be necessary for fiscal year 2019-2020 for
deposit into the cannabis regulation special fund established
under section 3 of this Act.

SECTION 16. There is appropriated out of the cannabis
regulation special fund the sum of $ or so much thereof
as may be necessary for fiscal year 2019-2020 for the regulation
of cannabis in the State.

The sum appropriated shall be expended by the department of
health for the purposes of this Act.

SECTION 17. The department of health shall reimburse the
general fund for the appropriation made under section 12 to the
cannabis regulation special fund established under section 3 of
this Act using the proceeds in the special fund.

SECTION 18. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 19. This Act shall take effect upon its approval.

INTRODUCED BY:

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JAN 24 2019
Report Title:
Cannabis; Legalization; Decriminalization

Description:
Legalizes the personal use of cannabis for persons twenty-one years of age or older. Requires licensing to operate cannabis establishments. Subjects cannabis establishment to excise taxes. Authorizes the interisland transportation of cannabis. Decriminalizes possession of cannabis. Appropriates funds.

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