A BILL FOR AN ACT

RELATING TO MARIJUANA.

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

SECTION 1. The legal history of cannabis or marijuana in the United States primarily addresses the regulation of marijuana for medical use, and secondarily the use of marijuana for personal or recreational purposes. By the mid-1930s cannabis was regulated as a drug in every state, including thirty-five states that adopted the Uniform State Narcotic Drug Act which was subsequently replaced in 1970 with the federal Uniform Controlled Substances Act, which classifies marijuana and tetrahydrocannabinol as schedule I controlled substances.

Notwithstanding the prospect of federal prosecution, several states, including Hawaii, have enacted medical marijuana laws. Chapter 329, part IX, Hawaii Revised Statutes, was enacted to create a medical use of marijuana exemption from criminal sanctions. Other jurisdictions, such as Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey,
New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington, also allow the use of marijuana for medicinal purposes. Furthermore, chapter 329D, Hawaii Revised Statutes, was enacted to establish medical marijuana dispensaries that were authorized to operate beginning in July 2016. As Hawaii expands its medical marijuana program through the use of highly regulated and monitored dispensaries, more patients are anticipated to consider medical marijuana as a viable treatment, knowing that the medicine will be regulated and tested.

In addition to medicinal marijuana laws, some states have legalized or decriminalized marijuana. Most places that have decriminalized cannabis have civil fines, confiscation, drug education, or drug treatment in place of incarceration or criminal charges for possession of small amounts of cannabis, or have made various cannabis offenses the lowest priority for law enforcement. The states of Alaska, California, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New York, North Carolina, Ohio, Oregon, Rhode Island, Vermont, and Washington have
decriminalized marijuana in small amounts. In each of these
states, marijuana users no longer face arrest or jail time for
the possession or use of marijuana in an amount permitted by
statute.

The legislature further finds that the legalization of
marijuana for personal or recreational use is a natural,
logical, and reasonable outgrowth of the current science of
marijuana and attitude toward marijuana. In 2012, voters in
Colorado voted to amend the state's constitution (Amendment 64)
to legalize and regulate the production, possession, and
distribution of marijuana for persons age twenty-one and older.
Also in 2012, voters in Washington approved a proposition to
legalize and regulate the production, possession, and
distribution of cannabis for persons age twenty-one and older.
Colorado is the first state to remove the prohibition on
commercial production of marijuana for general use. Colorado
realized state tax revenue of approximately $18,900,000 during
the first half of 2014, and this revenue is expected to increase
as sales of retail marijuana increase. Following Colorado and
Washington's lead, Oregon and Alaska passed legislation to also
legalize and regulate the production, possession, and
distribution of cannabis for persons age twenty-one and older.

Several other states have followed suit in making recreational marijuana legal.

The legislature further finds that marijuana cultivation and sales hold potential for economic development, increased tax revenues, and reduction in crime.

The purpose of this Act is to:

(1) Decriminalize and regulate small amounts of marijuana for personal use;

(2) Establish a licensing scheme for the cultivation, sale, and use of small amounts of marijuana for personal use;

(3) Tax marijuana sales in the same manner as state excise taxes; and

(4) Subject income derived from marijuana sales to state income taxes.

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

"CHAPTER

LEGALIZATION OF MARIJUANA FOR PERSONAL USE
§ -1 Definitions. As used in this chapter:

"Department" means the department of taxation.

"License" means a license issued by the department to authorize the operation of a marijuana establishment.

"Marijuana" means all parts of the plant of the genus cannabis, whether growing or not; 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 marijuana concentrate.

"Marijuana" does not include industrial hemp; 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 marijuana to prepare topical or oral administrations, food, drink, or other product. For purposes of this definition, "industrial hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis.

"Marijuana 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 marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

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

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

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

"Marijuana products" means marijuana concentrate products and products that comprise marijuana and other ingredients.
intended for use or consumption and include but are not limited
to edible products, ointments, and tinctures.

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

"Personal use" means an amount of marijuana not exceeding
one ounce that is used for private, personal, or recreational
purposes by persons age twenty-one years or older. The term
personal use includes display, possession, sale, transport,
transfer, or processing of marijuana or marijuana products.

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

§-2 Personal use of marijuana. (a) Notwithstanding
any law to the contrary, the personal use of marijuana is
permitted.

(b) Personal use of marijuana shall not be the basis for
arrest, seizure, or forfeiture of assets.

(c) The possession, use, display, purchase, transfer, or
transport of marijuana, marijuana accessories, or marijuana
paraphernalia for personal use shall be immune from criminal prosecution.

(d) The possession, growing, processing, or transporting of not more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants are grown shall not be subject to criminal prosecution; provided that the growing takes place in an enclosed and locked space and is not conducted openly or publicly, and that the plants are not made available for sale.

(e) The transfer or sale of one ounce or less of marijuana with or without remuneration to a person who is twenty-one years of age or older is permitted.

(f) The consumption of marijuana products is permitted.

(g) Assisting, advising, or abetting another person who is twenty-one years of age or older in any actions described in this section is permitted.

§ -3 Lawful operation of marijuana establishments; license required. Notwithstanding any law to the contrary, the following acts are permitted and shall not constitute a criminal
offense or be the basis for search, seizure, or forfeiture of assets of a person age twenty-one years or older:

(1) Manufacturing, possessing, or purchasing marijuana accessories or selling marijuana accessories to a person who is twenty-one years of age or older;

(2) Possessing, displaying, or transporting marijuana or marijuana products; purchasing marijuana from a marijuana cultivation facility; purchasing marijuana or marijuana products from a marijuana product manufacturing facility; or selling marijuana or marijuana products to consumers; provided that the person conducting the activities described in this paragraph has obtained a current, valid license to operate a retail marijuana store or is acting in the capacity of an owner, employee, or agent of a licensed retail marijuana store;

(3) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing marijuana; delivering or transferring marijuana to a marijuana testing facility; selling marijuana to a marijuana cultivation facility, marijuana product manufacturing
facility, or retail marijuana store; or purchasing
marijuana from a marijuana cultivation facility;
provided that the person conducting the activities
described in this paragraph has obtained a current,
valid license to operate a marijuana cultivation
facility or is acting in the capacity of an owner,
employee, or agent of a licensed marijuana cultivation
facility;

(4) Packaging, processing, transporting, manufacturing,
displaying, or possessing marijuana or marijuana
products; delivering or transferring marijuana or
marijuana products to a marijuana testing facility;
selling marijuana or marijuana products to a retail
marijuana store or marijuana product manufacturing
facility; purchasing marijuana from a marijuana
cultivation facility; or purchasing marijuana or
marijuana products from a marijuana product
manufacturing facility; provided that the person
conducting the activities described in this paragraph
has obtained a current, valid license to operate a
marijuana product manufacturing facility or is acting
in the capacity as an owner, employee, or agent of a
licensed marijuana product manufacturing facility;

(5) Possessing, processing, repackaging, storing,
transporting, displaying, transferring, or delivering
marijuana or marijuana products; provided that the
person has obtained a current, valid license to
operate a marijuana testing facility or is acting in
the capacity as an owner, employee, or agent of a
licensed marijuana testing facility; and

(6) Leasing or otherwise allowing the use of property
owned, occupied, or controlled by any person,
corporation, or other entity for any of the activities
conducted lawfully in accordance with this section.

§ -4 Regulation of marijuana; rules. (a) No later than
July 1, 2020, the department shall adopt rules, pursuant to
chapter 91, necessary for implementation of this chapter. The
rules shall not require such a high investment of risk, money,
time, or any other resource or asset that the operation of a
marijuana establishment is not worthy of being carried out in
practice by a reasonably prudent business person. The rules
shall include:
(1) Procedures for the application, issuance, renewal, 
suspension, and revocation of a license to operate a 
marijuana establishment; provided that any license to 
be issued shall be issued no later than ninety days 
after receipt of an application;

(2) A schedule of application, licensing, and renewal 
fees; provided that application fees shall not exceed 
$5,000, adjusted annually for inflation, unless the 
department determines a greater fee is necessary to 
carry out its responsibilities under this section;

(3) Qualifications for licensure that are directly and 
demonstrably related to the operation of a marijuana 
establishment;

(4) Security requirements for the premises of marijuana 
establishments;

(5) Requirements to prevent the sale or diversion of 
marijuana and marijuana products to persons under the 
age of twenty-one;

(6) Labeling requirements for marijuana and marijuana 
products sold or distributed by a marijuana 
establishment;
(7) Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;

(8) Restrictions on the advertising and display of marijuana and marijuana products; and

(9) Civil penalties for the failure to comply with rules adopted pursuant to this section.

(b) In order to ensure that individual privacy is protected, the department shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age. A retail marijuana store shall not be required to acquire and record personal information about consumers.

(c) If an application for a license under this section is denied, the applicant shall be notified in writing of the specific reason for the denial. The applicant may be entitled to resubmit the application at any time after denial of the initial application.

§ -5 Effect on employers. This chapter shall not be construed to:
(1) Require an employer to permit or accommodate the use, consumption, possession, transfer, display, transport, sale, or growing of marijuana in the workplace; or

(2) Affect the ability of an employer to have policies restricting the use of marijuana by employees.

§ -6 Effect on intoxicated driving laws. This chapter shall not be construed as a defense, exemption, or immunity from chapter 291E.

§ -7 Effect on medical cannabis law. This chapter shall not be construed to affect medical use of cannabis as provided in chapter 329 and shall not be deemed to expand the medical use of cannabis beyond the uses provided in chapter 329.

§ -8 Effect on medical cannabis dispensary law. This chapter shall not be construed to affect the dispensing of medical cannabis as provided in chapter 329D and shall not be deemed to expand the dispensing of medical cannabis beyond the uses provided in chapter 329D.

§ -9 Effect on property rights. This chapter shall not be construed to prohibit a person, employer, school, hospital, detention facility, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or
otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

§ -10 Taxes. A marijuana establishment shall be subject to payment of income taxes on gross receipts under chapter 235 and payment of excise taxes under chapter 237 for each transaction conducted by the marijuana establishment."

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

"§712— Legalization of marijuana. The following acts shall be exempt from arrest, prosecution, and criminal culpability under this part:

(a) Any act permitted under section -2;
(b) Any act permitted under section -3; and
(c) An act of any person who is appropriately and currently licensed if the act requires a license under chapter ______."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.
SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY:

[Signatures]
Report Title:
Marijuana; Legalization

Description:
Legalizes the personal use, possession, and sale of marijuana in a specified quantity. Requires licensing to operate marijuana establishments. Subjects marijuana establishments to excise taxes and income taxes.

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