

JAN 22 2021

A BILL FOR AN ACT

RELATING TO CANNABIS.

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

1 SECTION 1. The legislature finds that the legal history of
2 cannabis or marijuana in the United States primarily addresses
3 the regulation of cannabis for medical use, and secondarily the
4 use of cannabis for personal or recreational purposes. By the
5 mid-1930s, cannabis was regulated as a drug in every state,
6 including thirty-five states that adopted the Uniform State
7 Narcotic Drug Act, which was subsequently replaced in 1970 with
8 the federal Uniform Controlled Substances Act. Under the
9 federal Uniform Controlled Substances Act, marijuana and
10 tetrahydrocannabinol, the primary psychoactive compound in
11 cannabis, are classified as schedule I controlled substances.

12 Notwithstanding the prospect of federal prosecution,
13 several states, including Hawaii, enacted medical cannabis laws.
14 Chapter 329, part IX, Hawaii Revised Statutes, was enacted to
15 create a medical use of cannabis exemption from criminal
16 sanctions. As of November 4, 2020, thirty-six states and four
17 U.S. territories also allow the use of cannabis for medicinal



1 purposes. Furthermore, chapter 329D, Hawaii Revised Statutes,
2 was enacted to establish medical cannabis dispensaries
3 authorized to operate beginning in July 2016. As Hawaii expands
4 its medical cannabis program through the use of highly regulated
5 and monitored dispensaries, more patients are anticipated to
6 consider medical cannabis as a viable treatment.

7 In addition to medical cannabis laws, some states have
8 legalized or decriminalized cannabis. The jurisdictions of
9 Alaska, Arizona, California, Colorado, Connecticut, Delaware,
10 District of Columbia, Hawaii, Illinois, Maine, Maryland,
11 Massachusetts, Michigan, Minnesota, Mississippi, Missouri,
12 Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York,
13 North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South
14 Dakota, Vermont, Virginia, and Washington have all
15 decriminalized cannabis in small amounts. In each state,
16 cannabis users no longer face jail time for the possession or
17 use of cannabis in the amount permitted by statute. Most places
18 that decriminalized small amounts of cannabis replaced
19 incarceration or criminal charges with civil fines,
20 confiscation, drug education, or drug treatment, or made various
21 cannabis offenses the lowest priority for law enforcement.



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1 In addition to the majority of states that have
2 decriminalized possession of cannabis, the federal government
3 has also signaled its approval of decriminalization at the
4 federal level. On December 4, 2020, the U.S. House of
5 Representatives passed the Marijuana Opportunity Reinvestment
6 and Expungement Act, or MORE Act, which removes cannabis from
7 the list of federally controlled substances and facilitates
8 cancelling low-level federal convictions and arrests related to
9 cannabis. This is the first time Congress has acted on the
10 issue of decriminalizing cannabis.

11 In 2012, voters in Colorado and Washington voted to
12 legalize and regulate the production, possession, and
13 distribution of cannabis for persons age twenty-one and older.
14 Following Colorado and Washington's lead, Alaska, California,
15 District of Columbia, Maine, Massachusetts, Michigan, Nevada,
16 Oregon, and Vermont also legalized small amounts of cannabis for
17 adult recreational use. As of 2020, fifteen states and three
18 U.S. territories have legalized recreational cannabis.

19 Colorado was the first state to remove the prohibition on
20 commercial production of cannabis for general use. During the
21 first year of legal cannabis sales in 2014, Colorado collected



1 \$67,594,323 in taxes and fees from medical and retail cannabis.
2 As of November 2020, Colorado has collected \$1,563,063,859 in
3 total revenue from cannabis taxes and fees.

4 The legislature finds that the legalization of cannabis for
5 personal or recreational use is a natural, logical, and
6 reasonable outgrowth of the current science of cannabis and
7 attitude toward cannabis.

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

11 The purpose of this Act is to:

- 12 (1) Decriminalize and regulate small amounts of cannabis
13 for personal use;
- 14 (2) Establish regulations for the cultivation, sale, and
15 personal use of small amounts of cannabis;
- 16 (3) Tax cannabis sales in the same manner as state excise
17 taxes; and
- 18 (4) Subject income derived from cannabis sales to state
19 income taxes.



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

4 "CHAPTER

5 LEGALIZATION OF CANNABIS FOR PERSONAL USE

6 § -1 Definitions. As used in this chapter:

7 "Cannabis" means all parts of the plant of the genus
8 cannabis, whether growing or not; the seeds thereof; the resin
9 extracted from any part of the plant; and every compound,
10 manufacture, salt, derivative, mixture, or preparation of the
11 plant, its seeds, or its resin, including cannabis concentrate.
12 "Cannabis" does not include industrial hemp; fiber produced from
13 the stalks, oil, or cake made from the seeds of the plant;
14 sterilized seed of the plant which is incapable of germination;
15 or the weight of any other ingredient combined with cannabis to
16 prepare topical or oral administrations, food, drink, or other
17 product. For purposes of this definition, "industrial hemp"
18 means the plant of the genus cannabis and any part of such
19 plant, whether growing or not, with a delta-9
20 tetrahydrocannabinol concentration that does not exceed 0.3 per
21 cent on a dry weight basis.



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

9 "Cannabis cultivation facility" means an entity licensed to
10 cultivate, prepare, and package cannabis and sell cannabis to
11 retail cannabis stores, cannabis product manufacturing
12 facilities, and other cannabis cultivation facilities, but not
13 to consumers.

14 "Cannabis establishment" means a cannabis cultivation
15 facility, cannabis testing facility, cannabis product
16 manufacturing facility, or retail cannabis store.

17 "Cannabis product manufacturing facility" means an entity
18 licensed to purchase cannabis; manufacture, prepare, and package
19 cannabis products; and sell cannabis and cannabis products to
20 other cannabis product manufacturing facilities and retail
21 cannabis stores, but not to consumers.



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1 "Cannabis products" means cannabis concentrate products and
2 products that comprise cannabis and other ingredients intended
3 for use or consumption and include but are not limited to edible
4 products, ointments, and tinctures.

5 "Cannabis testing facility" means an entity licensed to
6 analyze and certify the safety and potency of cannabis.

7 "Department" means the department of taxation.

8 "License" means a license issued by the department to
9 authorize the operation of a cannabis establishment.

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

15 "Retail cannabis store" means an entity licensed to
16 purchase cannabis from cannabis cultivation facilities, purchase
17 cannabis and cannabis products from cannabis product
18 manufacturing facilities, and sell cannabis and cannabis
19 products to consumers.

20 § -2 **Personal use of cannabis.** (a) Notwithstanding any
21 law to the contrary, the personal use of cannabis is permitted.



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

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

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

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

18 (f) The consumption of cannabis products is permitted.

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



1 § -3 Lawful operation of cannabis establishments;
2 license required. Notwithstanding any law to the contrary, the
3 following acts are permitted and shall not constitute a criminal
4 offense or be the basis for search, seizure, or forfeiture of
5 assets of a person age twenty-one years or older:

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

9 (2) Possessing, displaying, or transporting cannabis or
10 cannabis products; purchasing cannabis from a cannabis
11 cultivation facility; purchasing cannabis or cannabis
12 products from a cannabis product manufacturing
13 facility; or selling cannabis or cannabis products to
14 consumers; provided that the person conducting the
15 activities described in this paragraph has obtained a
16 current, valid license to operate a retail cannabis
17 store or is acting in the capacity of an owner,
18 employee, or agent of a licensed retail cannabis
19 store;

20 (3) Cultivating, harvesting, processing, packaging,
21 transporting, displaying, or possessing cannabis;

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1 delivering or transferring cannabis to a cannabis
2 testing facility; selling cannabis to a cannabis
3 cultivation facility, cannabis product manufacturing
4 facility, or retail cannabis store; or purchasing
5 cannabis from a cannabis cultivation facility;
6 provided that the person conducting the activities
7 described in this paragraph has obtained a current,
8 valid license to operate a cannabis cultivation
9 facility or is acting in the capacity of an owner,
10 employee, or agent of a licensed cannabis cultivation
11 facility;

12 (4) Packaging, processing, transporting, manufacturing,
13 displaying, or possessing cannabis or cannabis
14 products; delivering or transferring cannabis or
15 cannabis products to a cannabis testing facility;
16 selling cannabis or cannabis products to a retail
17 cannabis store or cannabis product manufacturing
18 facility; purchasing cannabis from a cannabis
19 cultivation facility; or purchasing cannabis or
20 cannabis products from a cannabis product
21 manufacturing facility; provided that the person



1 conducting the activities described in this paragraph
2 has obtained a current, valid license to operate a
3 cannabis product manufacturing facility or is acting
4 in the capacity as an owner, employee, or agent of a
5 licensed cannabis product manufacturing facility;

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

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

17 **§ -4 Regulation of cannabis; rules.** (a) No later than
18 July 1, 2021, the department shall adopt rules, pursuant to
19 chapter 91, necessary for implementation of this chapter. The
20 rules shall not require such a high investment of risk, money,
21 time, or any other resource or asset that the operation of a



1 cannabis establishment is not worthy of being carried out in
2 practice by a reasonably prudent business person. The rules
3 shall include:

4 (1) Procedures for the application, issuance, renewal,
5 suspension, and revocation of a license to operate a
6 cannabis establishment; provided that any license to
7 be issued shall be issued no later than ninety days
8 after receipt of an application;

9 (2) A schedule of application, licensing, and renewal
10 fees; provided that application fees shall not exceed
11 \$5,000, adjusted annually for inflation, unless the
12 department determines a greater fee is necessary to
13 carry out its responsibilities under this section;

14 (3) Qualifications for licensure that are directly and
15 demonstrably related to the operation of a cannabis
16 establishment;

17 (4) Security requirements for the premises of cannabis
18 establishments;

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



- 1 (6) Labeling requirements for cannabis and cannabis
2 products sold or distributed by a cannabis
3 establishment;
- 4 (7) Health and safety regulations and standards for the
5 manufacture of cannabis products and the cultivation
6 of cannabis;
- 7 (8) Restrictions on the advertising and display of
8 cannabis and cannabis products; and
- 9 (9) Civil penalties for the failure to comply with rules
10 adopted pursuant to this section.

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

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



1 **§ -5 Effect on employers.** This chapter shall not be
2 construed to:

3 (1) Require an employer to permit or accommodate the use,
4 consumption, possession, transfer, display, transport,
5 sale, or growing of cannabis in the workplace; or

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

8 **§ -6 Effect on intoxicated driving laws.** This chapter
9 shall not be construed as a defense, exemption, or immunity from
10 chapter 291E.

11 **§ -7 Effect on medical cannabis law.** This chapter shall
12 not be construed to affect medical use of cannabis as provided
13 in chapter 329 and shall not be deemed to expand the medical use
14 of cannabis beyond the uses provided in chapter 329.

15 **§ -8 Effect on medical cannabis dispensary law.** This
16 chapter shall not be construed to affect the dispensing of
17 medical cannabis as provided in chapter 329D and shall not be
18 deemed to expand the dispensing of medical cannabis beyond the
19 uses provided in chapter 329D.

20 **§ -9 Effect on property rights.** This chapter shall not
21 be construed to prohibit a person, employer, school, hospital,



1 detention facility, corporation, or any other entity who
2 occupies, owns, or controls a property from prohibiting or
3 otherwise regulating the possession, consumption, use, display,
4 transfer, distribution, sale, transportation, or growing of
5 cannabis on or in that property.

6 § -10 Taxes. A cannabis establishment shall be subject
7 to payment of income taxes on gross receipts under chapter 235
8 and payment of excise taxes under chapter 237 for each
9 transaction conducted by the cannabis establishment."

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

13 "§712- Legalization of marijuana. The following acts
14 shall be exempt from arrest, prosecution, and criminal
15 culpability under this part:

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



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1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. New statutory material is underscored.

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

6

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'C. O. ...', written over a horizontal line.

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Report Title:

Cannabis; Legalization

Description:

Legalizes the personal use, possession, and sale of cannabis in a specified quantity. Requires licensing to operate cannabis establishments. Subjects cannabis 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.

