

RELATING TO CANNABIS.

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

PART I

SECTION 1. The legal history of cannabis or marijuana in the United States primarily addresses the regulation of cannabis for medical use, and secondarily the use of cannabis 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 cannabis laws. Chapter 329, part IX, Hawaii Revised Statutes, was enacted to create a medical use of cannabis exemption from criminal sanctions. Other jurisdictions—specifically, Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut,

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

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

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

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

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

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

The purpose of this Act is to:

- (1) Provide for the legalization, regulation, and taxation of responsible, adult-use cannabis;
- (2) Exempt sales of cannabis and manufactured cannabis products for medical use from the general excise tax; and
- (3) Provide that qualifying out-of-state patients have the same rights and privileges as qualifying patients with respect to medical cannabis.

## PART II

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

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

### **"CHAPTER A**

#### **RESPONSIBLE, ADULT-USE CANNABIS**

##### **PART I. GENERAL PROVISIONS**

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

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

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

"Cannabis" means all parts of the plant *Cannabis sativa* L., *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not;

the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" includes the separated resin, whether crude or purified, obtained from cannabis.

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

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

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

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

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

"Department" means the department of health.

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

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

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

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

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

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

"Responsible, adult-use cannabis manufacturer" means a person that conducts the production, preparation, propagation, or compounding of responsible, adult-use cannabis or responsible, adult-use manufactured cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed



location that packages or repackages responsible, adult-use cannabis or responsible, adult-use manufactured cannabis products or labels or relabels its container.

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

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

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

- (1) Affect the medical use of cannabis or limit any privileges or rights as provided in part IX of chapter 329;
- (2) Affect the regulation of medical cannabis dispensaries as provided in chapter 329D;
- (3) Require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;
- (4) Prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while under the influence of cannabis;

(5) 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;

(6) Supersede any law relating to operating a vehicle under the influence of an intoxicant;

(7) 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

(8) 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.

## **PART II. ADMINISTRATION**

**§A-11 Hawaii cannabis authority; members; qualifications;**

**compensation.** (a) There is established a Hawaii cannabis authority within the department of health for administrative purposes only.

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

- (1) One person from the public health sector to be appointed by the director of health;
- (2) One person actively engaged in the cannabis industry to be appointed by the director of commerce and consumer affairs;
- (3) One person to be appointed by the chairperson of the civil rights commission;
- (4) One person to be appointed by the chairperson of the commission on the status of women;
- (5) One person to be appointed by the chairperson of the board of trustees of the office of Hawaiian affairs;
- (6) One person from a nonprofit advocacy organization that focuses on cannabis decriminalization or correctional justice reform to be appointed by the governor;
- (7) One person from the public appointed by the governor; and
- (8) Two persons from the public, one each to be appointed by the speaker of the house of representatives and president of the senate.

The member representing the public health sector or public, or the member's immediate family member, may not have a financial interest in the cannabis industry or liquor industry. No person who has served as a commissioner on a county liquor commission shall be eligible to sit as a member of the authority until at

least five years have expired between the person's termination from service as a commissioner on a county liquor commission and the person's appointment to the authority.

For purposes of this subsection:

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

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

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

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

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

**§A-12 Hawaii cannabis authority; organization.** (a) The authority shall elect one member as chairperson and one member as vice-chairperson annually. In the absence of both the chairperson and the vice-chairperson to preside at a meeting, the members present shall select a chair pro tem.

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

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

**§A-13 Hawaii cannabis authority; powers and duties.** In addition to any other powers or duties authorized by law, the Hawaii cannabis authority may:

- (1) Adopt, amend, or repeal rules, issue declaratory rulings or informal nonbinding interpretations, and conduct contested case proceedings pursuant to chapter 91;
- (2) Grant, deny, convert, forfeit, renew, reinstate, or restore licenses, including the issuance of conditional licenses;
- (3) Revoke, suspend, or otherwise limit the license of any licensee for any violation of the provisions in this chapter or any rule or order of the authority;
- (4) Develop requirements for licensure through rules in accordance with section A-22;
- (5) Establish fees in accordance with section A-24;

(6) Investigate and conduct hearings regarding any violation of this chapter and any rule or order of the authority;

(7) Create fact-finding committees which may make recommendations to the authority for its deliberations;

(8) Contract with qualified persons including investigators who may be exempt from chapter 76 and who shall assist the authority in exercising its powers and duties; and

(9) Subpoena witnesses and documents, administer oaths, and receive affidavits and oral testimony, including telephonic communications, and do any and all things necessary or incidental to the exercise of the authority's power and duties, including the authority to conduct contested case proceedings under chapter 91.

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

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

(1) Adopting, amending, or repealing rules;

(2) Ordering disciplinary action against a licensee, including the revocation, suspension, or imposition of conditions or fines; provided that summary suspensions may be delegated; and

(3) Granting, denying, or otherwise conditioning license applications.

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

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

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

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

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

### **PART III. LICENSING**

#### **A. General Licensing Provisions**

**§A-21 License required; classification.** (a) No person shall engage in the business of a responsible, adult-use cannabis cultivator; responsible, adult-use cannabis distributor; responsible, adult-use cannabis manufacturer; or responsible, adult-use cannabis retailer, nor engage in the

cultivation, manufacture, distribution, or sale of cannabis or manufactured cannabis products for responsible, adult use, unless the person is licensed pursuant to this chapter to engage in such business.

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

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

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

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

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

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



**§A-22 Qualifications for licensure.** The authority shall determine by rules adopted pursuant to chapter 91 the qualifications necessary for licensure.

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

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

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

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

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

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

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

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

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

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

- (1) An applicant with at least fifty-one per cent ownership and control by one or more individuals who have resided for at least five of the preceding ten years in a disproportionately impacted area;
- (2) An applicant with at least fifty-one per cent ownership and control by one or more individuals who:

(A) Have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under section 706- ; or

(B) Is a member of an impacted family;  
or

(3) For applicants with a minimum of ten full-time employees, an applicant with at least fifty-one per cent of current employees who:

(A) Currently reside in a disproportionately impacted area; or

(B) Have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under section 706- or member of an impacted family.

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

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

The authority and department shall establish grant and loan programs for the purposes of providing financial assistance,

loans, grants, and technical assistance to social equity applicants.

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

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

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

(3) Fix, determine, charge, and collect any premiums, fees, charges, costs and expenses, including application fees, commitment fees, program fees, financing charges, or publication fees in connection with its activities under this section;

(4) Provide staff, administration, and related support required to administer this section;

(5) Take whatever actions are necessary or appropriate to protect the State's interest in the event of bankruptcy, default, foreclosure, or noncompliance with the terms and conditions of financial assistance provided under this section, including the ability to recapture funds if the recipient is found to be noncompliant with the terms and conditions of the financial assistance agreement;

(6) Establish application, notification, contract, and other forms, procedures, or rules deemed necessary and appropriate; and

(7) Utilize vendors or contract work to carry out the purposes of this subpart.

(c) Loans made under this section:

(1) Shall only be made if, in the authority's and department's judgments, the project furthers the goals set forth in this chapter; and

(2) Shall be in such principal amount and form and contain such terms and provisions with respect to security, insurance, reporting, delinquency charges, default remedies, and other matters as the authority and department shall determine appropriate to protect the public interest and to be consistent with the purposes of this section. The terms and provisions may be less than required for similar loans not covered by this section.

(d) Grants made under this section shall be awarded on a competitive and annual basis. Grants made under this section shall further and promote the goals of this chapter, including promotion of social equity applicants, job training and workforce development, and technical assistance to social equity applicants.

(e) The department shall submit an annual report to the governor and the legislature no later than twenty days prior to the convening of each regular session. The report shall detail the outcomes and effectiveness of this section, including the following:

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

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

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

**SA-33 Fee waivers.** (a) For social equity applicants, the authority shall waive fifty per cent of any nonrefundable license application fees; any nonrefundable fees associated with purchasing a license to operate a business licensed under this chapter; and any surety bond or other financial requirements for the first five years of the applicant's operations; provided that the social equity applicant meets the following qualifications at the time the payment is due:

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

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

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

(c) If the authority or department determines that an applicant who applied as a social equity applicant is not eligible for such status, the applicant shall be provided an additional ten days to provide alternative evidence that the applicant qualifies as a social equity applicant.

Alternatively, the applicant may pay the remainder of the waived

fee and be considered as a non-social equity applicant. If the applicant cannot do either, then the authority may keep the initial application fee and the application shall not be considered.

**§A-34 Reporting to the authority and department.**

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

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

**PART IV. LICENSEE OPERATIONS AND TESTING**

**A. Generally**

**§A-41 Employment of persons under the age of twenty-one prohibited.** No person under the age of twenty-one shall be employed by a responsible, adult-use cannabis cultivator; responsible, adult-use cannabis distributor; responsible, adult-use cannabis manufacturer; or responsible, adult-use cannabis retailer.

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

**§A-43 Public view prohibited.** A licensee shall not display cannabis or manufactured cannabis products in windows or in public view.



**§A-44 Free samples prohibited.** No free samples of cannabis or manufactured cannabis products shall be provided at any time by a licensee.

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

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

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

(B) The total amount of manufactured cannabis product inventory, including the equivalent physical weight of cannabis that is used to manufacture manufactured cannabis products, purchased by persons twenty-one years of age or older from all responsible, adult-use

cannabis retail locations in the State in any fifteen-day period;

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

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

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

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

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

(3) Notwithstanding any other provision of this subsection to the contrary, once the authority has authorized a licensee to commence sales of cannabis or manufactured cannabis products, if the department's computer software tracking system is inoperable or is not functioning

properly, as an alternative to requiring licensees to temporarily cease operations, the authority may implement an alternate tracking system that will enable licensees to transact with each other and persons twenty-one years of age or older to purchase cannabis or manufactured cannabis products from a licensed responsible, adult-use cannabis retail location on a temporary basis. The authority shall seek input regarding the alternate tracking system from licensees. The alternate tracking system may operate as follows:

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

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

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

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

(2) Allow each licensee to submit to the department in real time, by automatic identification and data capture, all cannabis, cannabis plants, and manufactured cannabis product inventory in possession of that licensee from either seed or immature plant state, including all plants that are derived from cuttings or cloning, until the cannabis or manufactured cannabis product is sold or destroyed pursuant to section A-46;

(3) Allow the licensed responsible, adult-use cannabis retailer to submit to the department in real time for the total amount of cannabis and manufactured cannabis product purchased by a person twenty-one years of age or older from the responsible, adult-use cannabis retailer's retail locations in the State in any fifteen-day period; provided that the software tracking system shall impose an automatic stopper in real time, which cannot be overridden, on any further purchases

of cannabis or manufactured cannabis products, if the maximum allowable amount of cannabis has already been purchased for the applicable fifteen-day period; provided further that additional purchases shall not be permitted until the next applicable period; and

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

**SA-46 Standards.** In addition to any other rulemaking authority provided by law, the authority shall establish standards with respect to:

- (1) Criteria and procedures for the consideration and selection, based on merit, of applications for licenses issued under this chapter;
- (2) Specific requirements regarding annual audits and reports required from each licensee;
- (3) Procedures for announced and unannounced inspections by the authority, department, or their agents of licensee facilities; provided that inspections for license renewals shall be unannounced;
- (4) Security requirements for the operation of licensee facilities;
- (5) Security requirements for the distribution of cannabis and manufactured cannabis products between licensees and between licensees and certified laboratories;
- (6) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, and prospective employees of licensees;
- (7) The training and certification of licensees and employees of licensees;
- (8) Laboratory standards related to testing cannabis and manufactured cannabis products for content, contamination, and consistency;
- (9) The safety of manufactured cannabis products;
- (10) Licensee inventory controls to prevent the unauthorized diversion of cannabis or manufactured cannabis products or the sale of cannabis or manufactured cannabis products to persons in excess of the limits established by this chapter; provided that the controls, at a minimum, shall include:

(A) A computer software tracking system as specified in section A-45; and

(B) Product packaging standards sufficient to allow law enforcement personnel to reasonably determine the contents of an unopened package;

(11) The disposal or destruction of unwanted or unused cannabis and manufactured cannabis products;

(12) The enforcement of the following prohibitions against:

(A) The sale or provision of cannabis or manufactured cannabis products to unauthorized persons;

(B) The sale or provision of cannabis or manufactured cannabis products to a person twenty-one years of age or older in quantities that exceed limits established by this chapter; and

(C) The distribution of cannabis or manufactured cannabis products, for free, on the premises of a licensee; and

(13) The establishment of a range of penalties for violations of this chapter or rule adopted thereto.

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

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

- (1) Review and take guidance from the testing programs and standards utilized in other jurisdictions;
- (2) Consider the impact of the standards on the retail cost of the product;
- (3) Review and take guidance from the testing programs and standards for pesticides under the regulations of the United States Environmental Protection Agency, and, at minimum, require testing for pesticides the authority determines are commonly used;
- (4) For the testing for microbiological impurities, consider the benefits of organically grown cannabis that features the use of bacteria in lieu of pesticides; and
- (5) Determine maximum levels of residual solvent and processing chemicals allowable for the safety of consumers and require testing for residual solvent and processing chemicals.

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

(c) If a licensee obtains a laboratory result indicating that a sample of a batch of its cannabis or manufactured cannabis products does not meet the authority's standards for

consumer safety, the licensee, at its own expense, may have the same sample or a different sample from the same batch retested by the same laboratory or a different laboratory. If a retest at a different laboratory yields a different result, the department shall determine which result controls whether the batch may be approved for sale or whether further testing shall be required. Any batch that does not meet the authority's standards for consumer safety and either:

(1) The licensee refuses to have the batch retested;

(2) A retest by the same laboratory confirms that the batch fails to meet the authority's standards; or

(3) A retest as ordered by the department confirms that the batch fails to meet the authority's standards,

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

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

(1) Is clearly labeled with the phrase "For responsible, adult use only."; and

(2) Contains information about the contents and potency of the product.

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

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

(1) A responsible, adult-use cannabis cultivation site shall be permitted in any area in which agricultural production is permitted except as provided within this chapter; and

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

(b) As used in this section:

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

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

**SA-51 Hawaii-grown cannabis; labeling requirements.** (a)  
In addition to all other labeling requirements, the identity statement used for labeling or advertising cannabis and manufactured cannabis products for responsible, adult use



cultivated or manufactured in whole from Hawaii-grown cannabis plants shall consist of either:

(1) The geographic origin of the Hawaii-grown cannabis plants when the Hawaii-grown cannabis plants are from only one region, followed by the word "Grown"; provided that the geographic origin may be immediately preceded by the term "100%"; or

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

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

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

**§A-53 Labor peace agreements.** (a) All responsible, adult-use cannabis cultivator licensees and responsible, adult-use cannabis retailer licensees shall enter into, maintain, and abide by the terms of a labor peace agreement, and shall submit to the authority an attestation by a bona fide labor organization stating that the applicant meets this section's requirements.

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

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

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

(e) For purposes of this section:

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

"Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the licensee.

## **B. Cultivators**

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

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

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

### **C. Distributors**

**§A-71 Distribution.** (a) The authority shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of cannabis and manufactured cannabis products. Transportation safety standards established by the authority shall include, but not be limited to, minimum standards governing the types of vehicles in which

cannabis and manufactured cannabis products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

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

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

#### **D. Manufacturers**

**§A-81 Manufacturer facility operations.** All responsible, adult-use cannabis manufacturer facilities shall be enclosed indoor facilities and shall maintain twenty-four-hour security measures, including but not limited to an alarm system, video monitoring and recording on the premises, and exterior lighting.

Responsible, adult-use cannabis manufacturer facilities shall remain locked at all times.

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

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

(c) Responsible, adult-use cannabis manufacturers shall calculate the equivalent physical weight of the cannabis that is used to manufacture the product and shall make the equivalency calculations available to the authority, department, and consumer of the manufactured cannabis product.

#### **E. Retailers**

**§A-91 Retail location operations.** (a) All responsible, adult-use cannabis retail locations shall be enclosed indoor facilities and shall maintain twenty-four-hour security measures, including but not limited to an alarm system, video

monitoring and recording on the premises, and exterior lighting. Responsible, adult-use cannabis manufacturer facilities shall remain locked at all times other than the location's business hours.

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

**§A-92 Consumption at retail locations authorized.**

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

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

**PART V. LICENSING SANCTIONS**

**§A-101 Disciplinary action.** (a) In addition to the licensing sanctions or remedies provided by section 92-17 against any licensee, the authority may also impose conditions

or limitations upon a licensee's license after a hearing conducted in accordance with chapter 91. The violation of any condition or limitation on a licensee's license may be sufficient cause to impose additional sanctions against the licensee.

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

**§A-102 Grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses.** (a) In addition to any other acts or conditions provided by law, the authority may refuse to renew, reinstate or restore, or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

- (1) Failure to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Engaging in false, fraudulent, or deceptive advertising;
- (3) Procuring a license through fraud, misrepresentation, or deceit;
- (4) Professional misconduct, incompetence, gross negligence, or manifest incapacity;
- (5) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;

(6) Violating any condition or limitation upon which a conditional or temporary license was issued;

(7) Engaging in business under a past or present license issued pursuant this chapter or chapter 329D, in a manner causing injury to one or more members of the public; or

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

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

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

(2) Manufacture cannabis products.

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

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

**§A-104 Revoked license.** A person may apply for a new license after the time designated in an order of revocation has passed or, if the order does not specify a time period, after five years from the date of revocation of the license by filing an application and complying with all current requirements for new applicants.



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

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

- (1) An immediate and unreasonable threat to personal safety; or
- (2) Fraud or misrepresentation upon consumers,

and that, for the protection of the public from the possible consequences of practices, the licensee's license should be immediately suspended or restricted.

The authority or department may order the summary suspension of the license for a period not to exceed twenty days. The order of suspension shall be served upon the licensee at the same time as the notice of hearing for disciplinary action, and the hearing shall be scheduled prior to the

expiration of the order of suspension. The period of suspension prior to the hearing shall not be extended beyond twenty days except upon request of the licensee for a reasonable continuance to adequately prepare the licensee's defense. Any attempt by the licensee to continue sell or transfer cannabis or manufactured cannabis products or manufacture cannabis products while the license has been summarily suspended shall of itself be sufficient to warrant a permanent revocation of the license and shall subject the licensee to all penalties prescribed by this chapter or any rule or order of the authority.

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

In all proceedings before it, the authority and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the authority or of a member thereof, or of any subpoena issued by it or a member, or the refusal of any

witness to testify to any matter regarding which the witness may be questioned lawfully, any circuit judge, on application by the authority or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.

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

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

**§A-111 Possession of cannabis by persons twenty-one years of age or older.** (a) Except as limited by this part, it shall be lawful for persons twenty-one years of age or older, without a prescription, to:

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

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

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

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

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

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

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

**§A-112 Limitation of personal cultivation of cannabis.**

Personal cultivation of cannabis, as authorized under section A-111(a) (3), shall be subject to the following restrictions:

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

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

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

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

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

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

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

(3) Possess an open container or open package of cannabis or manufactured cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, aircraft, or other vehicle used for transportation.

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

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

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

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

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

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

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

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

(e) Any person cited under this section may submit a written request to the director of health for a hearing, within twenty days from the service of the citation, with respect to the violations alleged, the scope of the order of abatement, or the amount of the civil penalties assessed.

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

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

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

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

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

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

**§A-117 Unlicensed activity; aiding or abetting; sanctions; injunctive relief; fines; damages; forfeiture.** (a) Any



licensee aiding or abetting an unlicensed person to directly or indirectly evade this chapter may be fined up to \$1,000 for the first offense; up to \$2,000 or, if applicable, forty per cent of the total contract price, whichever is greater, for the second offense; and up to \$5,000 or, if applicable, forty per cent of the total contract price, whichever is greater, for any subsequent offense. For purposes of this section, "contract price" means the total monetary consideration offered by the consumer for the provision of goods and services.

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

(c) The department, authority, or any person may maintain a suit to enjoin the performance or the continuance of any act or acts by a person acting without a license where a license is

required by this chapter, and if injured thereby, for the recovery of damages. The department may also seek the imposition of fines provided by subsection (a). The plaintiff or petitioner in a suit for an injunction need not allege or prove actual damages to prevail. Reasonable attorney fees and costs shall be allowed by the court to the plaintiff or petitioner as the prevailing party.

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

#### **PART VII. MISCELLANEOUS PROVISIONS**

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

**§A-122 Severability.** 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 which can be given effect without

the invalid provision or application, and to this end the provisions of this chapter are severable."

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

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

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

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

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

SECTION 5. (a) Existing medical cannabis dispensaries licensed under chapter 329D, Hawaii Revised Statutes, shall be allowed to apply for licenses pursuant to section 3 of this Act and to operate under those licenses for three years prior to non-medical cannabis dispensary applicants being allowed to apply for licenses, except that non-medical cannabis dispensary applicants shall be allowed to apply for responsible, adult-use cultivator and responsible, adult-use distributor licenses on January 1, 2024. The Hawaii cannabis authority established pursuant to section 3 of this Act shall grant licenses



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

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

### PART III

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

SECTION 10. 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- \_\_\_\_\_ Relation to chapter A. This part shall not affect cannabis and manufactured cannabis products for responsible, adult use as authorized under chapter A."**

SECTION 11. Chapter 329D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§329D- \_\_\_\_\_ **Relation to chapter A.** Nothing in this chapter shall be construed to affect the regulation of responsible, adult-use cannabis licensees as provided in chapter A."

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

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

(2) No later than December 31, 2025, the attorney general, in collaboration with the judiciary and county prosecuting attorneys, shall determine the offenses that meet the criteria for expungement set forth in subsection (1). The county prosecuting attorneys shall issue a written notice to persons with records that qualify for expungement under subsection (1). Once offenses have been identified, but no later than January 1, 2026, the attorney general, in cases of an arrest for or charge

with but not convicted of a crime, and the appropriate court of record, in cases of conviction and pursuant to procedures established by the judiciary, shall order the automatic expungement of the records relating to the arrest, criminal charge, or conviction, as appropriate.

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

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

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

(a) Prior arrests or convictions;

(b) Pending criminal proceedings; and

(c) Outstanding court-imposed or court-related

fees, fines, costs, assessments, or charges.

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

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

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

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



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

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

(12) Whenever the records of any conviction of a person have been expunged under the provisions of this section, any custodian of the records of conviction relating to that crime shall not disclose the existence of the records upon inquiry from any source, unless the inquiry is that of the person whose record was expunged, that of a bar admission, character and fitness, or disciplinary committee, board, or agency, or court which is considering a bar admission, character and fitness, or disciplinary matter, or that of the board of education, or that of any law enforcement agency when the nature and character of

the offense in which an individual is to be charged would be affected by virtue of the person having been previously convicted or adjudicated of the same offense. The custodian of any records which have been expunged pursuant to the provisions of this section shall only release or allow access to those records for the purposes specified in this subsection or by order of a court.

(13) The judiciary and its employees and agents and the department of the attorney general and its employees and agents are immune from any civil liability for any act of commission or omission, taken in good faith, arising out of and in the course of participation in, or assistance with the expungement procedures set forth in this section. This immunity shall be in addition to and not in limitation of any other immunity provided by law.

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

SECTION 13. 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- Promoting cannabis or manufactured cannabis products to a person under twenty-one years of age. (1) A**

person, including a person licensed under chapter A, commits the offense of promoting cannabis or manufactured cannabis products to a person under twenty-one years of age if the person recklessly sells or offers for sale, influences the sale, serves, delivers, or gives to a person cannabis or manufactured cannabis products, and the person receiving the cannabis or manufactured cannabis products is a person under the age of twenty-one.

(2) All persons engaged in the retail sale of cannabis or manufactured cannabis products shall check the identification of cannabis or manufactured cannabis products purchasers to establish the age of the purchaser.

(3) It shall be an affirmative defense that the seller of cannabis or manufactured cannabis products to a person under twenty-one years of age in violation of this section had requested, examined, and reasonably relied upon a photographic identification from the person establishing that person's age as at least twenty-one years of age prior to selling the person cannabis or manufactured cannabis products. The failure of a seller to request and examine photographic identification from a person under twenty-one years of age prior to the sale of cannabis or manufactured cannabis products to the person shall

be construed against the seller and form a conclusive basis for the seller's violation of this section.

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

(5) Any person who violates subsection (1) or (3), or both, shall be fined \$500 for the first offense. Any subsequent offenses shall subject the person to a fine not less than \$500 nor more than \$2,000. Any person under twenty-one years of age who violates subsection (4) shall be fined \$10 for the first offense. Any subsequent offense shall subject the violator to a fine of \$50, no part of which shall be suspended, or the person shall be required to perform not less than forty-eight hours nor more than seventy-two hours of community service during hours when the person is not employed and is not attending school.

Any cannabis or manufactured cannabis products, as those terms are defined in subsection (6), in the person's possession at the time of violation of subsection (4) shall be seized, summarily forfeited to the State, and destroyed by law enforcement following the conclusion of an administrative or judicial proceeding finding that a violation of subsection (4) has been committed. The procedures set forth in chapter 712A shall not apply to this subsection.

(6) For the purposes of this section:

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

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

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

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

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

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

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

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

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

(1) Notwithstanding section 706-620(3), a person convicted for the first or second time for any offense under section 329-43.5, except offenses under subsections (a) and (b) of that section which constitute violations, involving the possession or use of drug paraphernalia or any felony offense under part IV of chapter 712 involving the possession or use of any dangerous drug, detrimental drug, harmful drug, or intoxicating compound, as defined in section 712-1240, but not including any offense under part IV of chapter 712 involving the distribution or manufacture of any such drugs or substances and not including any methamphetamine offenses under sections 712-1240.7, 712-1240.8 as that section was in effect before July 1, 2016, 712-1241, and 712-1242, is eligible to be sentenced to probation under subsection (2) if the person meets the following criteria:

(a) The court has determined that the person is nonviolent after reviewing the person's criminal history, the factual circumstances of the offense for

which the person is being sentenced, and any other relevant information;

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

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

(2) A person eligible under subsection (1) may be sentenced to probation to undergo and complete a substance abuse treatment program if the court determines that the person can benefit from substance abuse treatment and, notwithstanding that the person would be subject to sentencing as a repeat offender under section 706-606.5, the person should not be incarcerated to protect the public. If the person fails to complete the

substance abuse treatment program and the court determines that the person cannot benefit from any other suitable substance abuse treatment program, the person shall be subject to sentencing under the applicable section under this part. As a condition of probation under this subsection, the court may direct the person to undergo and complete substance abuse treatment under the supervision of the drug court if the person has a history of relapse in treatment programs. The court may require other terms and conditions of probation, including requiring that the person contribute to the cost of the substance abuse treatment program, comply with deadlines for entering into the substance abuse treatment program, and reside in a secure drug treatment facility.

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

(4) Upon written application from a person sentenced under this part or a probation officer, the court shall issue a court



order to expunge the record of conviction for that particular offense; provided that a person has successfully completed the substance abuse treatment program and complied with other terms and conditions of probation. A person sentenced to probation under this section who has not previously been sentenced under this section shall be eligible for one time only for expungement under this subsection.

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

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

"(7) The court may require a defendant to undergo and complete a substance abuse treatment program when the defendant has committed a violation of the terms and conditions of probation involving possession or use, not including to distribute or manufacture as defined in section 712-1240, of any dangerous drug, detrimental drug, harmful drug, or intoxicating compound, as defined in section 712-1240, unlawful methamphetamine trafficking as provided in section 712-1240.6, or involving possession or use of drug paraphernalia under

section 329-43.5. If the defendant fails to complete the substance abuse treatment program or the court determines that the defendant cannot benefit from any other suitable substance abuse treatment program, the defendant shall be subject to revocation of probation and incarceration. The court may require the defendant to:

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

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

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

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

As used in this subsection, "substance abuse treatment program" means drug or substance abuse treatment services

provided outside a correctional facility by a public, private, or nonprofit entity that specializes in treating persons who are diagnosed with substance abuse or dependency and preferably employs licensed professionals or certified substance abuse counselors.

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

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

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

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

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

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

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

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

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

"Detrimental drug" means any substance or immediate  
precursor defined or specified as a "Schedule V substance" by  
chapter 329."

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

"Harmful drug" means any substance or immediate precursor  
defined or specified as a "Schedule III substance" or a  
"Schedule IV substance" by chapter 329."

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

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

(a) Possesses one hundred or more capsules or  
tablets or dosage units containing one or more of the  
harmful drugs, or any combination thereof;

(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 harmful drugs, or any combination thereof;

(c) Distributes twenty-five or more capsules or tablets or dosage units containing one or more of the harmful drugs, or any combination thereof;

(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 harmful drugs, or any combination thereof;  
or

(e) Distributes any harmful drug in any amount to a minor."

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

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

(a) Possesses fifty or more capsules or tablets or dosage units containing one or more of the harmful drugs, or any combination thereof;

(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 harmful drugs , or any combination thereof; or

(c) Distributes any harmful drug in any amount."

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

"(1) A person commits the offense of promoting a harmful drug in the third degree if the person knowingly possesses twenty-five or more capsules or tablets or dosage units containing one or more of the harmful drugs, or any combination thereof."

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

**"§712-1247 Promoting a detrimental drug in the first degree.** (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; or

(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

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

SECTION 23. 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

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

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

**"§712-1249 Promoting a detrimental drug in the third degree.** (1) A person commits the offense of promoting a detrimental drug in the third degree if the person knowingly possesses any Schedule V substance in any amount.

(2) Promoting a detrimental drug in the third degree is a petty misdemeanor

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

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

(a) All offenses that specifically authorize forfeiture;

(b) Murder, kidnapping, labor trafficking, unlicensed sale of liquor, unlicensed manufacture of liquor, gambling, criminal property damage, robbery, bribery, extortion, theft, unauthorized entry into



motor vehicle, burglary, money laundering, trademark counterfeiting, insurance fraud, promoting a dangerous, harmful, or detrimental drug, methamphetamine trafficking, manufacturing of a controlled substance with a child present, promoting child abuse, promoting prostitution, sex trafficking, solicitation of a minor for prostitution, habitual solicitation of prostitution, or electronic enticement of a child that is chargeable as a felony offense under state law;

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

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

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

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

#### 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.

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

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

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

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

(d) The department of taxation may suspend, or, after hearing, revoke, any permit issued under this chapter whenever it finds that the permittee has failed to comply with this chapter, or any rule of the department adopted under this chapter. Upon suspending or revoking any permit the department shall request the permittee to surrender to it immediately the permit, or any duplicate thereof issued to the permittee, and the permittee shall surrender the same promptly to the department as requested. Whenever the department suspends a permit, it shall notify the permittee immediately and afford the permittee a hearing, if desired, and if a hearing has not

already been afforded. After the hearing the department shall either rescind its order of suspension, or good cause appearing therefor, shall continue the suspension or revoke the permit.

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

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

The department of taxation may notify the department of health and the Hawaii cannabis authority of the name and address of every person who has failed to file any return required, or to pay any tax prescribed, or to secure a permit, or to perform any other duty or act imposed under this chapter, and the Hawaii cannabis authority shall thereupon suspend any license that may have been issued to any such person under the Hawaii responsible, adult-use cannabis law until such time as such person complies with this chapter.

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

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

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

(2) On January 1, 2026, and thereafter, ten per cent of the gross proceeds of sales of cannabis or manufactured cannabis products at retail for responsible, adult use; and

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

**SB-5 Return; forms; contents.** Every taxpayer shall, on or before the twentieth day of each month, file with the department of taxation in the taxation district in which the taxpayer's business premises are located, or with the department in Honolulu, a return showing all sales of responsible, adult-use

cannabis and taxed under section B-4(a) made by the taxpayer during the preceding month, showing separately the amount of the nontaxable sales, and the amount of the taxable sales, and the tax payable thereon. The form of return shall be prescribed by the department and shall contain such information as it may deem necessary for the proper administration of this chapter

**§B-6 Payment of tax; penalties.** At the time of the filing of the return required under section B-5 and within the time prescribed therefor, each taxpayer shall pay to the department of taxation the tax imposed by this chapter, required to be shown by the return.

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

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

(b) If it should appear upon such examination or thereafter within five years after the filing of the return, or at any time if no return has been filed, as a result of such examination or as a result of any examination of the records of

the taxpayer or of any other inquiry or investigation, that the correct amount of the tax is greater than that shown on the return, or that any tax imposed by the chapter has not been paid, an assessment of such tax may be made in the manner provided in section 235-108(b). The amount of the tax for the period covered by the assessment shall not be reduced below the amount determined by an assessment so made, except upon appeal or in a proceeding brought pursuant to section 40-35.

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

**§B-8 Disposition of revenues.** All moneys collected pursuant to this chapter shall be paid into the state treasury



as state realizations, to be kept and accounted for as provided by law.

**SB-9 Records to be kept.** (a) Every retailer shall keep a record of all sales of responsible, adult-use cannabis and responsible, adult-use manufactured cannabis products made by the retailer, in such form as the department of taxation may prescribe. All such records shall be offered for inspection and examination at any time upon demand by the department of taxation, department of health, or Hawaii cannabis authority and shall be preserved for a period of five years; provided that the department of taxation may in writing consent to their destruction within such period or may require that they be kept longer.

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

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

**§B-10 Inspection.** The director of taxation, director of health, the Hawaii cannabis authority, or the duly authorized agent of either the directors or authority, may examine all records required to be kept under this chapter, and books, papers, and records of any person engaged in the sale of responsible, adult-use cannabis and responsible, adult-use manufactured cannabis products at retail to verify the accuracy of the payment of the tax imposed by this chapter and other compliance with this chapter and regulations adopted pursuant thereto. Every person in possession of such books, papers, and records and the person's agents and employees shall give the directors, the authority, or the duly authorized agent of either of them, the means, facilities, and opportunities for such examination.

The authority granted to the director of health and Hawaii cannabis authority under this section shall not conflict with section 231-18 and shall not extend to the inspection of any documents not directly related to this chapter.

**§B-11 Tax in addition to other taxes.** The tax imposed by this chapter shall be in addition to any other tax imposed upon the business of selling responsible, adult-use cannabis and responsible, adult-use manufactured cannabis products or upon

any of the transactions, acts, or activities taxed by this chapter.

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

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

**SB-14 Investigations; contempt; fees.** (a) The director of taxation, and any agent authorized by the director to conduct any inquiry, investigation, or hearing hereunder, shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the director, the director or the director's agent authorized to conduct the hearing may subpoena witnesses and require the production of books, papers, and documents pertinent to the inquiry. No witness under subpoena authorized to be issued by this section shall be excused from testifying or from producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate the witness, but such evidence or the books or papers so produced shall not be used in any criminal proceeding against the witness.

(b) If any person disobeys such process or, having appeared in obedience thereto, refuses to answer any pertinent question put to the person by the director or the director's authorized agent or to produce any books and papers pursuant thereto, the director of taxation or the agent may apply to the circuit court of the circuit wherein the taxpayer resides or wherein the transaction, act, or activity under investigation

has occurred, or to any judge of the court, setting forth such disobedience to process or refusal to answer, and the court or the judge shall cite the person to appear before the court or the judge to answer such question or to produce such books and papers, and, upon the person's refusal so to do, shall commit the person to jail until the person shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the director may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify.

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

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

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

The director shall adopt rules pursuant to chapter 91.

**SB-16 Penalties.** (a) The penalties provided by this section shall apply to any person whether acting as principal, agent, officer, or director, for oneself, itself, or for another person, and shall apply to each single violation, but shall not apply to any act the punishment for which is elsewhere prescribed by this chapter.

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

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

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

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

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

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

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

(1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;

(2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;

(3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;

(4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;

(5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);

(6) Amounts received as salaries or wages for services rendered by an employee to an employer;

(7) Amounts received as alimony and other similar payments and settlements;

(8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any Act of the Congress of the United States;

(9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;

(10) The amounts of taxes on cigarettes and tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale;

(11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;

(12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;

(13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State; a corporation all of whose outstanding shares are owned by an individual or individuals who are blind, deaf, or totally disabled; a general, limited, or limited liability partnership, all of whose partners are blind, deaf, or totally disabled; or a limited liability company, all of whose members are blind, deaf, or totally disabled;

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

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

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

(C) The producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average



value of all similar products manufactured by the manufacturer; and

(D) The producer's gross proceeds of sales are reduced by reason of the tax on the value or sale of the manufactured products;

(15) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;

(16) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements; provided that such a cooperative corporation is a corporation:

(A) Having one and only one class of stock outstanding;

(B) Each of the stockholders of which is entitled solely by reason of the stockholder's ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation; and

(C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation

except in a complete or partial liquidation of  
the corporation;

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

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

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

#### PART V

SECTION 32. 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-\_\_\_\_\_ Privileges of qualifying out-of-state patients.**

Notwithstanding any law to the contrary, qualifying out-of-state patients shall have the same rights and privileges as qualifying patients."

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

**"§329-130 Authorized sources of medical cannabis. (a)**

After December 31, 2024, a qualifying patient and qualifying out-of-state patient shall obtain medical cannabis or manufactured cannabis products only:

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

(2) By cultivating cannabis in an amount that does not exceed an adequate supply for the qualifying patient~~[-]~~ or qualifying out-of-state patient, pursuant to section 329-122; provided that each location used to cultivate cannabis shall be used by no more than five qualifying patients~~[-]~~ and qualifying out-of-state patients.

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

(b) This section shall not apply to:

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

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

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

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

PART VI

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

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

INTRODUCED BY: \_\_\_\_\_

**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.*