



Bill Summary SB375

Sponsored by Rep. Jeanne Kapela (D), co-sponsored by Rep. Sonny Ganadan (D), Rep. Natalia Hussey-Burdick (D), Rep. Nicole Lowen (D), Rep. Lisa Marten (D), Rep. Amy Perruso (D), Rep. Mahina Poepoe (D), Rep. David Tarnas

Referred to House Committee of Health & Homelessness, Judiciary & Hawaiian Affairs/Commerce & Consumer Protection, Finance

Sponsored by Sen. Chris Lee (D), Sen. Brenton Awa (R), Sen. Gil Keith-Agaran (D), Sen. Jarrett Keohokalole (D), Sen. Angus McKelvey (D), Sen. Les Ihara (D), Sen. Donna Kim (D) Referred to Senate Committee of Health & Human Services/Consumer Protection, Judiciary/Ways and Means

Personal Liberty and Possession Limits

Beginning on July 1, 2023, allows adults 21 and over to:

- Possess up to 4 ounces of cannabis or an equivalent amount of cannabis products; and
- Cultivate up to 10 plants within a locked space, not visible from the public. Condo associations may limit personal cultivation through by laws.
- Consumers can purchase no more than 4oz every 15 days.
- Removes cannabis from commercial promotion felony statutes
- Removes cannabis from property forfeiture laws.
- Reduces criminal penalties for unlicensed cultivation and possession over legal limits to civil penalties.
- Allows adults 21 and over to gift cannabis within legal limits.
- Allows possession, transport, purchase of cannabis accessories.
- Legalizes possession and use of cannabis paraphernalia.
- Prohibits operating a vehicle with open container of cannabis inside Does not supersede any law relating to operating a vehicle under the influence of an intoxicant.
- Prohibits smoking in public or anywhere smoking is prohibited.
- Prohibits landlords from prohibiting possession or consumption of non-inhaled cannabis, except in special

License and Regulatory Structure

- Establishes Hawaii Cannabis Authority - nine member body with appointments from Governor and legislative leadership, Office of Hawaiian Affairs, Commission on Women, Commission on Civil Rights.
- Authority shall meet at least quarterly. Can adopt, amend, or repeal rules. Grant, deny, convert, forfeit, renew, reinstate licenses or conditional licenses. These functions cannot be delegated.
- Authority shall determine number of licenses, criteria for licensure, and establish fees. These functions can be delegated to Department of Health.
- Authority has the power to investigate, subpoena and refer to civil court.
- Authority shall issue licenses for four license types: cultivator, distributor, manufacturer, and

retailer. Licenses must be renewed annually. Licensees can have more than one license but not more than 1 of each class of license. Approval and individual licensure needed for each additional location. Can only transfer license of the same class, subject to approval by DOH.

- Authority shall establish testing standards. Authority can certify labs to test cannabis.
- Authority shall create advertising and packaging standards.
- Authority shall adopt rules for interisland transport of cannabis products.
- Authority shall adopt rules for manufactured products.
- Authority shall establish standards for "Hawaii Grown" labeling.
- Starting January 1, 2024, allows existing medical cannabis licensees to apply for and operate under adult use retail license for 3 years before non medical applicants can apply.
- Starting January 1, 2024, non-medical businesses will only be allowed to apply for adult use cultivator and distributor licenses by merit based application process.
- Establishes a "Cannabis Authority Special Fund" to collect all licensing fees and fines. These funds shall be used to administer the program.

Social Equity and Industry Inclusion

- The cannabis authority shall establish grants, loans, and technical assistance programs for social equity applicants. Authority shall deliver an annual report to legislature on the effectiveness of the program and diversity in cannabis industry.
- Social equity applicants shall have 50% of the license fee waived if owners had less than \$750k of income in previous year.
- Beginning in 2025, a report due from authority to legislature on diversity in the cannabis industry including women, veterans, and minorities.
- "Disproportionately Impacted Area" defined as a census tract with a poverty rate of at least 20 per cent according to latest census.
- "Social Equity Applicant" defined as an applicant that is a resident of the state and meets of the following:

a.) applicant with at least 51% ownership and control by one or more individuals who have resided for at least 5 of the 10 preceding years in a disproportionately impacted area.

b.) applicant with at least 51% ownership and control by one or more individuals who: 1.) Have been arrested for, convicted of any cannabis offense or 2.) is a member of an impacted family.

c.) Applicants with a minimum of 10 full time employees, an applicant with at least 51% of current employees who live in a DIA or have been arrested for, convicted of any cannabis offense.

- "Member of an impacted family" defined as parent, legal guardian, child, spouse or dependent of someone with cannabis arrest or conviction.

Protections for Medical Cannabis Patients

- Preserves all existing medical use of cannabis limits, privileges or rights.
- Provides qualifying out of state patients with same rights and privileges as in state medical patients.

Taxation

- On January 1, 2024, excise tax of 5% of gross proceeds of sale of cannabis at retail.

- On January 1, 2026, excise tax of 10% of gross proceeds of sale of cannabis at retail
- On January 1, 2028, excise tax of 15% of gross proceeds of sale of cannabis at retail
- Allows adult use cannabis businesses to deduct business expenses from state tax.
- Exempts sale of medical cannabis and cannabis products from general excise tax.
- Revenue from cannabis sales shall be deposited into the general fund.

Public Health & Safety

- Prohibits smoking in all areas where smoking is currently prohibited.
- Prohibits smoking in public places.
- Prohibits businesses from displaying cannabis within plain view.
- Prohibits businesses from providing free samples.
- Requires businesses maintain seed to sale tracking system.
- Prohibits cartoons on advertising or signage.
- Prohibits cannabis businesses within 750 feet of playground or school.
- Establishes penalties for unlicensed activity of \$500 or forty percent of the total amount of the goods and services provided, whichever is greater for 1st violation. \$1,000 or forty percent of the total amount of goods and services provided, whichever is greater for 2nd violation, and fine of \$5,000 or forty percent of total amount of goods and services provided, whichever greater for subsequent violations. Violator may request a hearing after citation within 21 days.
- Establishes penalties for "Aiding and abetting unlicensed activity" of \$1,000 fine for first offense, \$2,000 fine or 40% of contract price for 2nd offense, and \$5,000 or 40% of contract price for subsequent offense.

Local Control

- Prohibits counties from prohibiting land use for cannabis businesses provided the land is zoned for manufacturing, agriculture or retail use.

Penalties for Underage Possession

- Prohibits possession or use by persons under age 21. Imposes fines and community service of not less than 48 hours if enrolled in school or 72 hours if not working and not enrolled in school for minor possession or distribution. Exemptions of minor medical patients.

Redresses Harms Caused by Prohibition and Unequal Enforcement

- By December 31, 2025, requires the Attorney General and Judiciary to determine the offenses eligible for expungement. The county attorneys shall then issue written notices to all person eligible for expungement.
- No later than January 1, 2026, the attorney general shall order the automatic expungement of records of arrest, criminal charge, or conviction of cannabis offenses.
- Effective July 1, 2023, a person convicted of possession or distributing cannabis can petition the appropriate court for review and adjustment of the sentence at any time.
- All Expungement orders shall be sealed. Prior arrests, pending charges, or outstanding court fees, costs shall not be barrier to eligibility.
- Once record is expunged, persons can state they have never been convicted of a crime.
- Custodian of records not allowed to disclose except for bar admission.
- Beginning July 1, 2023, allows for non-violent drug offenses to be sentenced to probation upon

review that record is nonviolent and enrollment and adherence to a substance abuse treatment program. The offenders drug record may be expunged by written application upon successful completion of the program. Expungement is only available once under this provision.

Business Controls

- All retail locations shall be indoors. Retailers are prohibited from delivery.
- Retailers may have consumption lounges away from public view.
- All cultivation sites shall be hidden from the public. No more than 3000 plants per cultivation site.
- No employees under the age of 21.

Act takes effect July 1, 2023.