



Hawaii's HB SB 3335, SD 1 AG-Drafted Legalization Bill Summary

HB 2600 and SB 3335 are identical comprehensive cannabis legalization bills, which the Hawai'i Attorney General's office drafted. While there are some positive features, including the inclusion of home cultivation and a social equity program, we have serious concerns about several aspects of the bills. They are overly focused on ramping up law enforcement and re-criminalizing innocuous conduct. We recommend significantly revising the bills to focus far more on education, reinvesting in communities, reparative justice, and building an equitable and inclusive industry.

Here is a summary of key provisions of SB 3335, SD-1, which makes some changes from the original language:

Personal Possession and Cultivation

- Beginning January 1, 2026, the bill would allow adults 21 and older to:
 - possess up to one ounce of cannabis and five grams of concentrates.
 - cultivate up to six plants and to store up to 10 ounces of cannabis at home.
- Personal cultivation:
 - may only occur in a secured place, not easily accessible to those under 21.
 - cannot be visible to the public without the use of technology.
 - is only allowed at one's private residence, which does not include federal public housing, shelters, on-campus housing, and commercial housing.
 - regardless of the number of adults living in a residence, the total limit per residence is 10 plants and two pounds of harvested cannabis.

New Penalties and Limitations

- Creates an unscientific DUI law. Criminalizes adults for 10 nanograms per milliliter of THC in their system, an amount that can remain long after impairment wears off. (As introduced, the limit was even worse, at five nanograms per milliliter.)
- Imposes up to 30 days in jail for anyone who possesses a cannabis package that has ever been opened, loose cannabis, or any pipe in the passenger area of a vehicle.
- Prohibits consuming cannabis in any public place or a vehicle.
- Cannabis must be stored in a "sealed child-resistant and resealable packaging with original labels and not easily accessible" to anyone under 21.
- Penalties are only removed for those in "strict compliance" with the law. A minor violation, such as cannabis plants being visible to neighbors, could result in jail time.
- Re-criminalizes possession of up to three grams of cannabis for those under 21, imposing a petty misdemeanor, which carries up to 30 days in jail and/or a fine of up to \$1,000. Allows courts to send those between the ages of 18-20 to probation and defer prosecution. Sends those under 18 to family court. Upon completion, the minor can petition for expungement.
 - Does not require anyone who controls property to allow cannabis consumption, display, processing, or distribution.
However, landlords cannot prevent the possession or non-inhaled use of cannabis unless

an exception applies, such as if the tenant is a roomer, the residence is transitional housing, or federal law requires otherwise.

Non-Discrimination

- Professional and occupational licensees may not be subject to discipline by state or county boards for providing services to state-legal cannabis businesses.
- Provides, “The use of adult-use cannabis alone shall not disqualify a person from any needed medical procedure or treatment, including organ and tissue transplants, unless in the judgment of the health care provider the use of cannabis increases the risk for a bad outcome from the procedure or treatment.”
- Fails to include non-discrimination protections for consumers related to child custody, state benefits, occupational licensing, and parole/probation revocation.
 - Weakens the existing law providing the medical use of cannabis doesn’t disqualify a patient from an organ transplant or other needed medical care.

Adult-Use Cannabis Market Regulations

- Establishes the Hawaii Cannabis Authority, governed by the Cannabis Control Board, to regulate adult-use cannabis businesses.
 - The governor-appointed board will have at least four members and will be part-time and unpaid. (As introduced, there were five members of the board.)
 - The board will appoint an executive director, who must have experience in cannabis regulation or public health administration.
 - Staff will include the following full-time positions: an executive secretary, a chief financial officer, general counsel, and chiefs of technology, compliance, equity, public health, and environment.
 - Establishes a 15-member Cannabis Control Implementation Committee. (This was a new addition in SD-1.)

Cannabis Business Licensing

- Provides for licensing of cannabis cultivators, processors, medical dispensaries, retail (adult-use) dispensaries, craft dispensaries, and independent laboratories.
 - The board may adopt rules for permits for special events, social consumption, and trucking permits.
- A person may only have an interest in nine total licenses, and three in a license class.
- Cultivation facilities cannot exceed 2,000 square feet indoors and 5,000 outdoors.
- The board will set application and licensing fees, which may vary based on business volume.

Expungement

- Provides that arrest and criminal records for an offense “the basis of which is an act permitted ... or decriminalized” by the law “including the possession or distribution of marijuana, shall be ordered to be expunged in accordance with the provisions of this section.”
- Beginning January 1, 2026, allows for petition-based expungement for the above, and allows for petitions to review sentences.
(The introduced version did not include any expungement or sentencing review. It only included a provision for an eventual report.)

Additional Law Enforcement

- Creates a new cannabis enforcement unit, with 17 new law enforcement positions.
- Creates eight positions in a drug nuisance abatement unit in the AG's office.

Taxation and Revenue Allocation

- Imposes a 10% retail tax on cannabis, in addition to regular state GET taxes (4%).
- Allocates 50% of the tax revenue to the cannabis regulation, nuisance abatement, and law enforcement special fund established.
- Allocates 50% of the tax revenue to the cannabis social equity, public health and education, and public safety special fund.
(The introduced version had six separate funds, which were combined in SD-1.)
- It is unclear if medical cannabis from a dual-licensed store is tax-exempt.
- In fiscal year 2024-2025, appropriates:
 - up to \$14 million into a new cannabis regulation, nuisance abatement, and law enforcement special fund.
 - of it, up to \$1.5 million is for the department of the attorney general.
 - of it, up to \$2.5 million is for the department of law enforcement.
 - up to \$19 million to the cannabis social equity, public health and education, and public safety special fund.
 - of it, up to \$10 million to implement the social equity program.
 - of it, up to \$5 million for the administration and implementation of the public health and education grant program.
 - of it, up to \$4 million for the implementation and administration of the public safety grant program.
 - up to \$750,000 to the department of taxation.