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# A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1           SECTION 1. Section 329-41, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) It is unlawful for any person:  
4           (1) Who is subject to part III to distribute, administer,  
5           prescribe, or dispense a controlled substance in  
6           violation of section 329-38 or rules authorized under  
7           section 329-31; however, a licensed manufacturer or  
8           wholesaler may sell or dispense a controlled substance  
9           to a master of a transpacific ship or a person in  
10          charge of a transpacific aircraft upon which no  
11          physician is regularly employed, for the actual  
12          medical needs of persons on board such ship or  
13          aircraft when not in port; provided schedule I or II  
14          controlled substances shall be sold to the master of  
15          such ship or person in charge of such aircraft only in  
16          accordance with the provisions set forth in title 21  
17          Code of Federal Regulations[7] sections 1301, 1305,



- 1 and 1307, adopted pursuant to [~~Title~~] title 21[~~7~~]  
2 United States Code[~~7~~] section 821;
- 3 (2) Who is a registrant to manufacture a controlled  
4 substance not authorized by the registrant's  
5 registration or to distribute or dispense a controlled  
6 substance not authorized by the registrant's  
7 registration to another registrant or another  
8 authorized person;
- 9 (3) To refuse or fail to make available, keep, or furnish  
10 any record, notification, order form, prescription,  
11 statement, invoice, or information in patient charts  
12 relating to the administration, dispensing, or  
13 prescribing of controlled substances;
- 14 (4) To refuse any lawful entry into any premises for any  
15 inspection authorized by this chapter;
- 16 (5) Knowingly to keep or maintain any store, shop,  
17 warehouse, dwelling, building, vehicle, boat,  
18 aircraft, or other structure or place for the purpose  
19 of using these substances or which is used for keeping  
20 or selling them in violation of this chapter or  
21 chapter 712, part IV;



- 1           (6) Who is a practitioner or pharmacist to dispense a  
2           controlled substance to any individual not known to  
3           the practitioner or pharmacist, except under the  
4           following circumstances:
- 5           (A) When dispensing a controlled substance directly  
6           to an individual, the practitioner or pharmacist  
7           shall first obtain and document, in a log book or  
8           an electronic database, the full name,  
9           identification number, identification type, and  
10          signature, whether by actual signature or by  
11          electronic signature capture device, of the  
12          individual obtaining the controlled substance.  
13          If the individual does not have any form of  
14          proper identification, the pharmacist shall  
15          verify the validity of the prescription and  
16          identity of the patient with the prescriber, or  
17          their authorized agent, before dispensing the  
18          controlled substance; and
- 19          (B) For mail order prescriptions, the practitioner or  
20          pharmacist shall not be subject to subparagraph  
21          (A); provided that all other requirements of



1 chapter 329 shall apply and that the practitioner  
2 or pharmacist, as part of the initial  
3 registration process of an individual in a mail  
4 order prescription drug plan and prior to the  
5 controlled substance being dispensed, shall  
6 obtain all identification information, including  
7 the full name, identification number,  
8 identification type, signature, and a photocopy  
9 of a form of proper identification of the  
10 individual obtaining the controlled substance.  
11 The practitioner or pharmacist shall also comply  
12 with other requirements set forth by rule.

13 For the purpose of this section, "proper  
14 identification" means government-issued identification  
15 containing the photograph, printed name,  
16 identification number, and signature of the individual  
17 obtaining the controlled substance;

18 (7) Who is a practitioner to predate or pre-sign  
19 prescriptions to facilitate the obtaining or attempted  
20 obtaining of controlled substances; [~~or~~]



1 (8) Who is a practitioner to facilitate the issuance or  
2 distribution of a written prescription or to issue an  
3 oral prescription for a controlled substance when not  
4 physically in the State[-]; or

5 (9) To cultivate, produce, manufacture, distribute, or  
6 dispense cannabis for medical use if the person is not  
7 authorized pursuant to chapter 329, part IX, or  
8 chapter 329D."

9 SECTION 2. Section 329-121, Hawaii Revised Statutes, is  
10 amended by amending the definition of "medical use" to read as  
11 follows:

12 ""Medical use" means the acquisition, possession,  
13 cultivation, use, distribution, or transportation of cannabis or  
14 paraphernalia relating to the administration of cannabis to  
15 alleviate the symptoms or effects of a qualifying patient's  
16 debilitating medical condition; provided that "medical use" does  
17 not include the cultivation or distribution of cannabis or  
18 paraphernalia by a qualifying out-of-state patient or the  
19 caregiver of a qualifying out-of-state patient. For the  
20 purposes of "medical use", the term "distribution" is limited to  
21 the transfer of cannabis and paraphernalia[-] from the



1 qualifying patient's registered primary caregiver to the  
2 qualifying patient."

3 SECTION 3. Section 329-122, Hawaii Revised Statutes, is  
4 amended by amending subsection (e) to read as follows:

5 "(e) The authorization for the medical use of cannabis in  
6 this section shall not apply to:

- 7 (1) The medical use of cannabis that endangers the health  
8 or well-being of another person;
- 9 (2) The medical use of cannabis:
- 10 (A) In a school bus, public bus, or any moving  
11 vehicle;
- 12 (B) In the workplace of one's employment;
- 13 (C) On any school grounds;
- 14 (D) At any public park, public beach, public  
15 recreation center, recreation or youth center; or
- 16 (E) At any other place open to the public; provided  
17 that a qualifying patient, primary caregiver,  
18 qualifying out-of-state patient, caregiver of a  
19 qualifying out-of-state patient, or an owner or  
20 employee of a medical cannabis dispensary  
21 licensed under chapter 329D shall not be



1 prohibited from transporting cannabis or any  
2 manufactured cannabis product, as that term is  
3 defined in section 329D-1, in any public place;  
4 provided further that the cannabis or  
5 manufactured cannabis product shall be  
6 transported in a sealed container, not be visible  
7 to the public, and shall not be removed from its  
8 sealed container or consumed or used in any way  
9 while it is in the public place; [~~and~~]

10 (3) The use of cannabis by a qualifying patient, parent,  
11 primary caregiver, qualifying out-of-state patient, or  
12 caregiver of a qualifying out-of-state patient, for  
13 purposes other than medical use permitted by this  
14 part[~~-~~]; and

15 (4) The cultivation, handling, or possession of a  
16 qualifying patient's cannabis for medical use, unless  
17 the person is the qualifying patient or the qualifying  
18 patient's registered primary caregiver."

19 SECTION 4. Section 329-123, Hawaii Revised Statutes, is  
20 amended as follows:

21 1. By amending subsection (a) to read:



1           "(a) Physicians or advanced practice registered nurses who  
2 issue written certifications shall provide, in each written  
3 certification, the name, address, patient identification number,  
4 and other identifying information of the qualifying patient.  
5 The department of health shall require, in rules adopted  
6 pursuant to chapter 91, that all written certifications comply  
7 with a designated form completed by or on behalf of a qualifying  
8 patient. The form shall require information from the applicant,  
9 primary caregiver, and physician or advanced practice registered  
10 nurse as specifically required or permitted by this chapter.  
11 The form shall require the address of the location where the  
12 cannabis is grown and shall appear on the registry card issued  
13 by the department of health. No more than five qualifying  
14 patients may use any particular location to cultivate cannabis;  
15 provided that this limitation shall not apply to qualifying  
16 patients who obtain a written exemption from the department of  
17 health. The certifying physician or advanced practice  
18 registered nurse shall be required to have a bona fide  
19 physician-patient relationship or bona fide advanced practice  
20 registered nurse-patient relationship, as applicable, with the



1 qualifying patient. All current active medical cannabis permits  
2 shall be honored through their expiration date."

3 2. By amending subsection (c) to read:

4 "(c) Primary caregivers shall register with the department  
5 of health. Every primary caregiver shall be responsible for the  
6 care of only one qualifying patient at any given time, unless  
7 the primary caregiver is the parent, guardian, or person having  
8 legal custody of more than one minor qualifying patient, in  
9 which case the primary caregiver may be responsible for the care  
10 of more than one minor qualifying patient at any given time;  
11 provided that the primary caregiver is the parent, guardian, or  
12 person having legal custody of all of the primary caregiver's  
13 qualifying patients. The department of health may permit  
14 registration of up to two primary caregivers for a minor  
15 qualifying patient; provided that both primary caregivers are  
16 the parent, guardian, or person having legal custody of the  
17 minor qualifying patient. A primary caregiver shall not use a  
18 qualifying patient's cannabis, nor shall the primary caregiver  
19 accept a qualifying patient's cannabis as compensation for the  
20 primary caregiver's services."



1 SECTION 5. Section 329-125, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§329-125 Protections afforded to a qualifying patient,**  
4 **primary caregiver, qualifying out-of-state patient, or caregiver**  
5 **of a qualifying out-of-state patient.** (a) A qualifying  
6 patient, primary caregiver, qualifying out-of-state patient, or  
7 caregiver of a qualifying out-of-state patient may assert the  
8 medical use of cannabis authorized under this part as an  
9 affirmative defense to any prosecution involving marijuana under  
10 this part, part IV, or part IV of chapter 712; provided that the  
11 qualifying patient, primary caregiver, qualifying out-of-state  
12 patient, or caregiver of a qualifying out-of-state patient  
13 strictly complied with the requirements of this part.

14 (b) Any qualifying patient, primary caregiver, qualifying  
15 out-of-state patient, or caregiver of a qualifying out-of-state  
16 patient not complying with the permitted scope of the medical  
17 use of cannabis shall not be afforded the protections against  
18 searches and seizures pertaining to the misapplication of the  
19 medical use of cannabis. To the extent the department is  
20 authorized by this chapter, the department may conduct



1 inspections of grow sites to verify a person's compliance with  
2 this chapter.

3 (c) A person who is not a qualifying patient, primary  
4 caregiver, qualifying out-of-state patient, or caregiver of a  
5 qualifying out-of-state patient or medical cannabis dispensary  
6 under chapter 329D shall not:

7 (1) Be afforded any protections against searches and  
8 seizures pertaining to the misapplication of the  
9 medical use of cannabis, other than the protections  
10 provided under constitutional law;

11 (2) Cultivate, produce, manufacture, distribute or  
12 dispense cannabis; or

13 (3) Receive compensation, cannabis or cannabis products,  
14 or engage in other related business transactions  
15 arising out of the production, manufacture, sale, or  
16 distribution of cannabis intended for medical use.

17 ~~[(e)]~~ (d) No person shall be subject to arrest or  
18 prosecution for simply being in the presence or vicinity of the  
19 medical use of cannabis as permitted under this part.

20 (e) No person shall mischaracterize or disguise  
21 transactions arising out of the production, manufacture, sale,



1 or distribution of cannabis intended for medical use as another  
2 type of compensation or expense."

3 SECTION 6. Section 329-129, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) No qualifying patient, primary caregiver, qualifying  
6 out-of-state patient, or caregiver of a qualifying out-of-state  
7 patient shall use butane or any other flammable solvent to  
8 [extract tetrahydrocannabinol from] process cannabis plants[-]  
9 or manufacture cannabis products."

10 SECTION 7. Section 329D-2, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) The director of health shall grant medical cannabis  
13 dispensary licenses to allow dispensaries to produce,  
14 manufacture, and dispense cannabis and manufactured cannabis  
15 products pursuant to this chapter. No person shall produce,  
16 manufacture, or dispense cannabis or manufactured cannabis  
17 products without a dispensary license."

18 SECTION 8. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



1 SECTION 9. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on June 30, 3000.



**Report Title:**

Cannabis; Medical Use; Patients; Caregivers; Cultivation; Grow Sites

**Description:**

Prohibits the cultivation, production, manufacture, distribution, possession, or dispensation of medical cannabis except by qualifying patients, qualifying out-of-state patients, their authorized primary caregivers, or medical cannabis dispensaries. Restricts the number of qualifying patients who may use a grow site to five, unless an exemption is obtained by the department of health. Prohibits the receipt of cannabis or cannabis products as compensation for acting as a primary caregiver to a qualifying patient. Effective 6/30/3000. (HD2)

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

