

JAN 25 2023

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 21 Code of
17 Federal Regulations, sections 1301, 1305, and 1307,



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- 1 adopted pursuant to Title 21, United States Code,
2 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; [~~o~~]



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 medical cannabis 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 authorized 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) A person's cultivation, handling, or possession of a
 16 qualifying patient's medical cannabis, unless the
 17 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 The certifying physician or advanced practice registered nurse
16 shall be required to have a bona fide physician-patient
17 relationship or bona fide advanced practice registered
18 nurse-patient relationship, as applicable, with the qualifying
19 patient. All current active medical cannabis permits shall be
20 honored through their expiration date."
21 2. By amending subsection (c) to read:



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

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

20 "§329-125 Protections afforded to a qualifying patient,
21 primary caregiver, qualifying out-of-state patient, or caregiver



1 of a qualifying out-of-state patient. (a) A qualifying
2 patient, primary caregiver, qualifying out-of-state patient, or
3 caregiver of a qualifying out-of-state patient may assert the
4 medical use of cannabis authorized under this part as an
5 affirmative defense to any prosecution involving marijuana under
6 this part, part IV, or part IV of chapter 712; provided that the
7 qualifying patient, primary caregiver, qualifying out-of-state
8 patient, or caregiver of a qualifying out-of-state patient
9 strictly complied with the requirements of this part.

10 (b) Any qualifying patient, primary caregiver, qualifying
11 out-of-state patient, or caregiver of a qualifying out-of-state
12 patient not complying with the permitted scope of the medical
13 use of cannabis shall not be afforded the protections against
14 searches and seizures pertaining to the misapplication of the
15 medical use of cannabis. To the extent the department is
16 authorized by this chapter, the department may conduct onsite
17 inspections to verify a person's compliance with this chapter.

18 (c) A person who is not a qualifying patient, primary
19 caregiver, qualifying out-of-state patient, or caregiver of a
20 qualifying out-of-state patient or medical cannabis dispensary
21 under chapter 329D shall not:



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1 (1) Be afforded any protections against searches and
 2 seizures pertaining to the misapplication of the
 3 medical use of cannabis, other than the protections
 4 provided under constitutional law;

5 (2) Cultivate, produce, manufacture, distribute or
 6 dispense cannabis; or

7 (3) Receive compensation, cannabis or cannabis products,
 8 or engage in other related business transactions
 9 arising out of the production, manufacture, sale, or
 10 distribution of cannabis intended for medical use.

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

14 (e) No person shall mischaracterize or disguise
 15 transactions arising out of the production, manufacture, sale,
 16 or distribution of cannabis intended for medical use as another
 17 type of compensation or expense."

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

20 "(a) No qualifying patient, primary caregiver, qualifying
 21 out-of-state patient, or caregiver of a qualifying out-of-state

1 patient shall use butane or any other flammable solvent to
2 [~~extract tetrahydrocannabinol from~~] process cannabis plants[-]
3 or manufacture cannabis products."

4 SECTION 7. Section 328D-2, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Except as provided in subsection (a), bottled water,
7 including mineral water, shall not exceed any maximum
8 contaminant level (MCL) established by the EPA under the Safe
9 Drinking Water Act or standards established by the department or
10 other government agency or agencies having jurisdiction for any
11 organic or inorganic chemical. No person shall produce,
12 manufacture, or dispense cannabis or manufactured cannabis
13 products without a dispensary license."

14 SECTION 8. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 9. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



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1 SECTION 10. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Cannabis; Medical Use; Patients; Caregivers; Cultivation

Description:

Amends various statutory provisions for the purpose of strengthening the integrity of medical cannabis law.

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

