
A BILL FOR AN ACT

RELATING TO CANNABIS.

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

1 SECTION 1. The legislature finds that current state laws
2 do not fully protect the rights of medical cannabis patients and
3 their primary caregivers. Even though Hawaii has established a
4 medical cannabis program, state law still prohibits patients and
5 primary caregivers from transporting medical cannabis between
6 islands of the State. The legislature finds that this
7 prohibition imposes an undue medical hindrance upon patients who
8 may need to transport cannabis among islands within the State
9 for medical use.

10 The legislature also finds that this prohibition is not
11 necessary to protect air carriers from liability under federal
12 law. Although title 14 Code of Federal Regulations section
13 91.19 generally prohibits pilots from operating civil aircraft
14 if they have knowledge that cannabis is aboard the aircraft, the
15 same regulation provides for an exemption to this prohibition if
16 the cannabis aboard the aircraft is authorized under state law.



1 The legislature further finds that authorizing medical
2 cannabis patients and their caregivers to engage in the
3 interisland transport of medical cannabis, in a reasonably
4 regulated matter, would help people with debilitating medical
5 conditions maintain their access to medical cannabis.

6 The purpose of this Act is to promote the health of medical
7 cannabis patients by authorizing:

8 (1) The department of transportation to adopt rules
9 regarding the interisland transportation of cannabis;
10 and

11 (2) Qualifying patients and their primary caregivers to
12 transport cannabis among islands within the State in
13 compliance with rules adopted by the department of
14 transportation and the department of public safety.

15 SECTION 2. Chapter 261, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§261- Interisland transportation of cannabis; rules.

19 (a) The department may adopt rules, pursuant to chapter 91,
20 regarding the interisland transportation of cannabis, usable
21 cannabis, and manufactured cannabis products.



(b) For the purposes of this section:

"Cannabis" and "usable cannabis" shall have the same meaning as in section 329-121.

"Manufactured cannabis product" shall have the same meaning as in section 329D-1."

SECTION 3. 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- Intraisland and interisland transportation of cannabis, usable cannabis, and manufactured cannabis products.

(a) A person who is otherwise authorized to possess cannabis, usable cannabis, or manufactured cannabis products under this part or chapter 329D, when transporting cannabis, usable cannabis, or any manufactured cannabis product in a public place, shall:

(1) Comply with subsection (b) or (c), as applicable; and

(2) Ensure that while the cannabis or product is in the public place, it:

(A) Remains in a sealed container;

(B) Is hidden from public view; and

(C) Is not consumed or used in any way.



1 (b) Cannabis, usable cannabis, or any manufactured
2 cannabis product may be transported within an island of the
3 State if the cannabis or product is transported between:

4 (1) A qualifying patient and the qualifying patient's
5 primary caregiver;

6 (2) The production centers and the retail dispensing
7 locations under a dispensary licensee's license; or

8 (3) A production center, retail dispensing location,
9 qualifying patient, or primary caregiver and a
10 certified laboratory for the purpose of laboratory
11 testing; provided that a qualifying patient or primary
12 caregiver may transport no more than one gram of
13 cannabis or product per test to a certified laboratory
14 for laboratory testing, and only if the qualifying
15 patient or primary caregiver:

16 (A) Secures an appointment for testing at a certified
17 laboratory;

18 (B) Obtains confirmation, which may be electronic,
19 that includes the specific time and date of the
20 appointment and a detailed description of the
21 cannabis or product and amount to be transported



1 to the certified laboratory for the appointment;

2 and

3 (C) Has the confirmation available in any readable

4 form, including electronic, during transport.

5 (c) Cannabis, usable cannabis, or any manufactured
6 cannabis product may be transported between islands of the State

7 if:

8 (1) The cannabis or product is transported between a
9 production center or retail dispensing location and a
10 certified laboratory for the sole purpose of
11 laboratory testing pursuant to section 329D-8, as
12 permitted under section 329D-6(m) and subject to
13 section 329D-6(j); or

14 (2) The person transporting the cannabis or product is a
15 qualifying patient or the primary caregiver of a
16 qualifying patient and complies with rules adopted
17 pursuant to chapter 91 by:

18 (A) The department; and

19 (B) The department of transportation under section

20 261- _____;



1 provided that nothing in this section or section 329D-6(m) shall
2 be construed as applying state law and its protections outside
3 of the jurisdictional limits of the State."

4 SECTION 4. Section 329-122, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§329-122 Medical use of cannabis; conditions of use. (a)

7 Notwithstanding any law to the contrary, the medical use of
8 cannabis by a qualifying patient shall be permitted only if:

9 (1) The qualifying patient has been diagnosed by a
10 physician or advanced practice registered nurse as
11 having a debilitating medical condition;

12 (2) The qualifying patient's physician or advanced
13 practice registered nurse has certified in writing
14 that, in the physician's or advanced practice
15 registered nurse's professional opinion, the potential
16 benefits of the medical use of cannabis would likely
17 outweigh the health risks for the particular
18 qualifying patient; and

19 (3) The amount of cannabis possessed by the qualifying
20 patient does not exceed an adequate supply.



(b) Subsection (a) shall not apply to a qualifying patient under the age of eighteen years, unless:

(1) The qualifying patient's physician or advanced practice registered nurse has explained the potential risks and benefits of the medical use of cannabis to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and

(2) A parent, guardian, or person having legal custody consents in writing to:

(A) Allow the qualifying patient's medical use of cannabis;

(B) Serve as the qualifying patient's primary caregiver; and

(C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

(c) The authorization for the medical use of cannabis in this section shall not apply to:

(1) The medical use of cannabis that endangers the health or well-being of another person;



1 (2) The medical use of cannabis:

2 (A) In a school bus, public bus, or any moving
3 vehicle;

4 (B) In the workplace of one's employment;

5 (C) On any school grounds;

6 (D) At any public park, public beach, public
7 recreation center, recreation or youth center; or

8 (E) At any other place open to the public; provided
9 that ~~[a qualifying patient, primary caregiver, or~~
10 ~~an owner or employee of a medical cannabis~~
11 ~~dispensary licensed under chapter 329D shall not~~
12 ~~be prohibited from transporting cannabis or any~~
13 ~~manufactured cannabis product, as that term is~~
14 ~~defined in section 329D-1, in any public place,~~
15 ~~provided further that the cannabis or~~
16 ~~manufactured cannabis product shall be~~
17 ~~transported in a sealed container, not be visible~~
18 ~~to the public, and shall not be removed from its~~
19 ~~sealed container or consumed or used in any way~~
20 ~~while it is in the public place;]~~ this paragraph
21 shall not be construed to prohibit the



1 transportation of cannabis, usable cannabis, or
2 manufactured cannabis products in compliance with
3 section 329- ; and

4 (3) The use of cannabis by a qualifying patient, parent,
5 or primary caregiver for purposes other than medical
6 use permitted by this part.

7 ~~[(d) For the purposes of this section, "transport" means~~
8 ~~the transportation of cannabis, usable cannabis, or any~~
9 ~~manufactured cannabis product between:~~

10 ~~(1) A qualifying patient and the qualifying patient's~~
11 ~~primary caregiver;~~

12 ~~(2) The production centers and the retail dispensing~~
13 ~~locations under a dispensary licensee's license; or~~

14 ~~(3) A production center, retail dispensing location,~~
15 ~~qualifying patient, or primary caregiver and a~~
16 ~~certified laboratory for the purpose of laboratory~~
17 ~~testing; provided that a qualifying patient or primary~~
18 ~~caregiver may only transport up to one gram of~~
19 ~~cannabis per test to a certified laboratory for~~
20 ~~laboratory testing and may only transport the product~~
21 ~~if the qualifying patient or primary caregiver:~~



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1 ~~(A) Secures an appointment for testing at a certified~~
2 ~~laboratory;~~

3 ~~(B) Obtains confirmation, which may be electronic,~~
4 ~~that includes the specific time and date of the~~
5 ~~appointment and a detailed description of the~~
6 ~~product and amount to be transported to the~~
7 ~~certified laboratory for the appointment; and~~

8 ~~(C) Has the confirmation, which may be electronic,~~
9 ~~available during transport.~~

10 ~~For purposes of interisland transportation, "transport" of~~
11 ~~cannabis, usable cannabis, or any manufactured cannabis product,~~
12 ~~by any means is allowable only between a production center or~~
13 ~~retail dispensing location and a certified laboratory for the~~
14 ~~sole purpose of laboratory testing pursuant to section 329D-8,~~
15 ~~as permitted under section 329D-6(m) and subject to section~~
16 ~~329D-6(j), and with the understanding that state law and its~~
17 ~~protections do not apply outside of the jurisdictional limits of~~
18 ~~the State. Allowable transport pursuant to this section does~~
19 ~~not include interisland transportation by any means or for any~~
20 ~~purpose between a qualified patient or primary caregiver and any~~



1 ~~other entity or individual, including an individual who is a~~
2 ~~qualified patient or primary caregiver.] "~~

3 SECTION 5. Section 329D-6, Hawaii Revised Statutes, is
4 amended by amending subsection (m) to read as follows:

5 "(m) A dispensary shall not transport cannabis or
6 manufactured cannabis products to another county or another
7 island; provided that ~~[this]~~:"

8 (1) This subsection shall not apply to the transportation
9 of cannabis or any manufactured cannabis product
10 solely for the purposes of laboratory testing pursuant
11 to section 329D-8, and subject to section 329- and
12 subsection (j), if no certified laboratory is located
13 in the county or on the island where the dispensary is
14 located; ~~[provided further that a]~~

15 (2) A dispensary shall only transport samples of cannabis
16 and manufactured cannabis products for laboratory
17 testing for purposes of this subsection in an amount
18 and manner prescribed by the department, in rules
19 adopted pursuant to this chapter~~[, and with the~~
20 ~~understanding that]~~ ; and



1 (3) Nothing in this subsection or section 329- shall be
2 construed as applying state law and its protections
3 ~~[do not apply]~~ outside of the jurisdictional limits of
4 the State."

5 SECTION 6. Section 329D-7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§329D-7 Medical cannabis dispensary rules.** The
8 department shall establish standards with respect to:

9 (1) The number of medical cannabis dispensaries that shall
10 be permitted to operate in the State;

11 (2) A fee structure for the submission of applications and
12 renewals of licenses to dispensaries; provided that
13 the department shall consider the market conditions in
14 each county in determining the license renewal fee
15 amounts;

16 (3) Criteria and procedures for the consideration and
17 selection, based on merit, of applications for
18 licensure of dispensaries; provided that the criteria
19 shall include but not be limited to an applicant's:

20 (A) Ability to operate a business;



1 (B) Financial stability and access to financial
2 resources; provided that applicants for medical
3 cannabis dispensary licenses shall provide
4 documentation that demonstrates control of not
5 less than \$1,000,000 in the form of escrow
6 accounts, letters of credit, surety bonds, bank
7 statements, lines of credit or the equivalent to
8 begin operating the dispensary;

9 (C) Ability to comply with the security requirements
10 developed pursuant to paragraph (6);

11 (D) Capacity to meet the needs of qualifying
12 patients;

13 (E) Ability to comply with criminal background check
14 requirements developed pursuant to paragraph (8);
15 and

16 (F) Ability to comply with inventory controls
17 developed pursuant to paragraph (13);

18 (4) Specific requirements regarding annual audits and
19 reports required from each production center and
20 dispensary licensed pursuant to this chapter;



1 (5) Procedures for announced and unannounced inspections
2 by the department or its agents of production centers
3 and dispensaries licensed pursuant to this chapter;
4 provided that inspections for license renewals shall
5 be unannounced;

6 (6) Security requirements for the operation of production
7 centers and retail dispensing locations; provided
8 that, at a minimum, the following shall be required:

9 (A) For production centers:

10 (i) Video monitoring and recording of the
11 premises; provided that recordings shall be
12 retained for fifty days;

13 (ii) Fencing that surrounds the premises and that
14 is sufficient to reasonably deter intruders
15 and prevent anyone outside the premises from
16 viewing any cannabis in any form;

17 (iii) An alarm system; and

18 (iv) Other reasonable security measures to deter
19 or prevent intruders, as deemed necessary by
20 the department;

21 (B) For retail dispensing locations:



- 1 (i) Presentation of a valid government-issued
2 photo identification and a valid
3 identification as issued by the department
4 pursuant to section 329-123, by a qualifying
5 patient or caregiver, upon entering the
6 premises;
- 7 (ii) Video monitoring and recording of the
8 premises; provided that recordings shall be
9 retained for fifty days;
- 10 (iii) An alarm system;
- 11 (iv) Exterior lighting; and
- 12 (v) Other reasonable security measures as deemed
13 necessary by the department;
- 14 (7) Security requirements for the transportation of
15 cannabis and manufactured cannabis products between
16 production centers and retail dispensing locations and
17 between a production center, retail dispensing
18 location, qualifying patient, or primary caregiver and
19 a certified laboratory, pursuant to section ~~[329-~~
20 ~~122(d)-]~~ 329-_____;



(8) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, subcontractors and their employees, and prospective employees of medical cannabis dispensaries to operate a dispensary; provided that the standards, at a minimum, shall exclude from licensure or employment any person convicted of any felony;

(9) The training and certification of operators and employees of production centers and dispensaries;

(10) The types of manufactured cannabis products that dispensaries shall be authorized to manufacture and sell pursuant to sections 329D-9 and 329D-10;

(11) Laboratory standards related to testing cannabis and manufactured cannabis products for content, contamination, and consistency;

(12) The quantities of cannabis and manufactured cannabis products that a dispensary may sell or provide to a qualifying patient or primary caregiver; provided that no dispensary shall sell or provide to a qualifying



1 patient or primary caregiver any combination of
2 cannabis and manufactured products that:

3 (A) During a period of fifteen consecutive days,
4 exceeds the equivalent of four ounces of
5 cannabis; or

6 (B) During a period of thirty consecutive days,
7 exceeds the equivalent of eight ounces of
8 cannabis;

9 (13) Dispensary and production center inventory controls to
10 prevent the unauthorized diversion of cannabis or
11 manufactured cannabis products or the distribution of
12 cannabis or manufactured cannabis products to
13 qualifying patients or primary caregivers in
14 quantities that exceed limits established by this
15 chapter; provided that the controls, at a minimum,
16 shall include:

17 (A) A computer software tracking system as specified
18 in section 329D-6(j) and (k); and

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



- 1 (14) Limitation to the size or format of signs placed
2 outside a retail dispensing location or production
3 center; provided that the signage limitations, at a
4 minimum, shall comply with section 329D-6(o)(2) and
5 shall not include the image of a cartoon character or
6 other design intended to appeal to children;
- 7 (15) The disposal or destruction of unwanted or unused
8 cannabis and manufactured cannabis products;
- 9 (16) The enforcement of the following prohibitions against:
10 (A) The sale or provision of cannabis or manufactured
11 cannabis products to unauthorized persons;
12 (B) The sale or provision of cannabis or manufactured
13 cannabis products to qualifying patients or
14 primary caregivers in quantities that exceed
15 limits established by this chapter;
16 (C) Any use or consumption of cannabis or
17 manufactured cannabis products on the premises of
18 a retail dispensing location or production
19 center; and



- 1 (D) The distribution of cannabis or manufactured
 2 cannabis products, for free, on the premises of a
 3 retail dispensing location or production center;
 4 (17) The establishment of a range of penalties for
 5 violations of this chapter or rule adopted thereto;
 6 and
 7 (18) A process to recognize and register patients who are
 8 authorized to purchase, possess, and use medical
 9 cannabis in another state, United States territory, or
 10 the District of Columbia as qualifying patients in
 11 this State; provided that this registration process
 12 may commence no sooner than January 1, 2018."

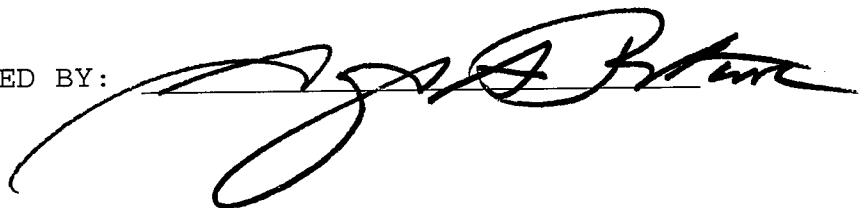
13 SECTION 7. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 8. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect on July 1, 2018.

19

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JAN 19 2018



H.B. NO.2031

Report Title:

Cannabis; Interisland Transportation

Description:

Authorizes the Department of Transportation to adopt rules regarding the interisland transportation of cannabis.

Authorizes qualifying patients and primary caregivers to transport cannabis to different islands within the State; provided that they comply with applicable rules.

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

