
A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1 SECTION 1. The legislature finds that there are
2 approximately twenty thousand cannabis patients currently
3 registered in Hawaii. In 2000, the State enacted chapter 329,
4 part IX, Hawaii Revised Statutes, authorizing the use of
5 cannabis by patients with a qualifying medical condition. The
6 legislature intended to assure the uninterrupted availability of
7 medical cannabis to alleviate the symptoms or effects of a
8 patient's medical condition. However, qualifying patients in
9 the State have not been able to maintain an uninterrupted supply
10 of medical cannabis solely utilizing the State dispensary
11 system. As a result many qualifying patients have to obtain
12 cannabis illegally.

13 The legislature further finds that in 2013, the Hawaii
14 Supreme Court ruled in *State v. Woodhall*, 129 Haw. 397 (2013)
15 that "Chapter 329, Part IX, as enacted does not clearly carry
16 out its purpose, leaving qualified patients vulnerable to
17 prosecution."



1 Chapter 329, part IX, Hawaii Revised Statutes, does not
2 squarely address the question of how qualifying patients who are
3 most in need may obtain medical cannabis. Furthermore, the
4 inconsistencies between chapters 329 and 712, Hawaii Revised
5 Statutes, undermine the affirmative defense currently provided
6 for in the medical cannabis program, thus compromising the
7 health and safety of the community.

8 The legislature further finds that qualifying patients
9 seeking to acquire and maintain an adequate supply of medical
10 cannabis have no legal option for the acquisition of the
11 substance and thus cannot comply with chapter 329, part IX,
12 Hawaii Revised Statutes. The burden and risk posed to
13 qualifying patients results in the inability of chapter 329,
14 part IX, Hawaii Revised Statutes, to meet its intent.

15 Amending existing law is necessary to protect the majority
16 of qualifying patients who have a medical need to use cannabis
17 from criminal activity and risk of arrest, while ensuring that
18 qualifying patients are provided a safe, reliable, and
19 uninterrupted cannabis supply as intended by the legislature.



1 The purpose of this Act is to promote the interest of
2 public health and safety, and reduce the burden on the judicial
3 system related to cannabis offenses by:

4 (1) Requiring the counties to establish a medical cannabis
5 collectives registration system for regulating and
6 taxing the distribution of medical cannabis;

7 (2) Allowing primary caregivers and qualifying patients to
8 assert the medical use of cannabis as a defense rather
9 than an affirmative defense under the medical use of
10 cannabis law;

11 (3) Allowing qualifying patients to transfer medical
12 cannabis between themselves; and

13 (4) Appropriating funds to the counties to establish and
14 administer medical cannabis collectives.

15 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§329- Registration requirements for medical cannabis
19 collectives. (a) Each county shall establish a registration
20 system for medical cannabis collectives for the purpose of



1 regulating and taxing the distribution of cannabis for medical
2 use.

3 (b) At least one medical cannabis collective in each
4 county shall be functional no later than January 1, 2019."

5 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
6 amended by adding two new definitions to be appropriately
7 inserted and to read as follows:

8 "Distribution" for the purpose of medical use, means the
9 transfer of cannabis and paraphernalia from a primary caregiver
10 to the qualifying patient, or between qualifying patients. A
11 primary caregiver or qualifying patient may be reimbursed for
12 the expenses they incurred related to their time expenditure,
13 fertilizer, soil, and electricity costs, relative to the amount
14 of cannabis being transferred. No more than an adequate amount
15 of cannabis may be transferred at a time.

16 "Medical cannabis collective" or "collective" means a
17 county-licensed enterprise or organization jointly owned or
18 managed by those who use its facilities or services for the
19 purpose of providing cannabis to qualifying patients in
20 compliance with the law."



1 SECTION 4. Section 329-125, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

10 SECTION 5. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so much
12 thereof as may be necessary for fiscal year 2018-2019 for the
13 counties to establish and administer medical cannabis
14 collectives pursuant to this Act. The sum appropriated shall be
15 distributed as follows:

- 16 (1) County of Hawaii: \$;
17 (2) County of Kauai: \$;
18 (3) County of Maui: \$; and
19 (4) City and county of Honolulu: \$.

20 The sum appropriated shall be expended by the counties for
21 the purposes of this Act.



1 SECTION 6. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 3000.



Report Title:

Medical Cannabis; Counties; Medical Cannabis Collectives;
Appropriation

Description:

Requires the counties to establish a medical cannabis collectives registration system for regulating and taxing the distribution of medical cannabis. Allows primary caregivers and qualifying patients to assert the medical use of cannabis as a defense rather than an affirmative defense under the medical use of cannabis law. Allows qualifying patients to transfer medical cannabis between themselves. Appropriates funds to the counties to establish and administer medical cannabis collectives.

(HB2664 HD1)

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