
A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

PART I

SECTION 1. 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- Qualifying patients from other states or countries; verification. (a) A person who has been authorized to medically use cannabis under the laws of another:

(1) State shall be recognized as a qualifying patient in this State; or

(2) Country may be recognized as a qualifying patient in this State;

provided that recognition as a qualifying patient in this State shall apply only to a person whose authorization to medically use cannabis in another state or country has been verified in this State.

(b) For purposes of this section, the department:



1 (1) Shall adopt rules pursuant to chapter 91 relating to
2 the verification of a patient's authorization to
3 medically use cannabis under the laws of another
4 state; and

5 (2) Shall consider and may adopt rules pursuant to chapter
6 91 relating to the verification of a patient's
7 authorization to medically use cannabis under the laws
8 of another country;

9 provided that the rules may authorize a health care provider,
10 dispensary, or certifying clinic to verify the patient's
11 authorization; provided further that the department shall
12 consider, and may require by rule, charging a fee to any person
13 seeking verification under this section.

14 (c) As used in this section, "another state" includes all
15 states and territories of the United States and the District of
16 Columbia."

17 SECTION 2. Chapter 378, Hawaii Revised Statutes, is
18 amended by adding a new section to part III to be appropriately
19 designated and to read as follows:

20 "§378- Unlawful discharge; medical cannabis qualifying
21 patient; medical use of cannabis. Notwithstanding any other law



1 to the contrary, it shall be unlawful for any employer to
2 discharge any of the employer's employees solely because the
3 employee:

4 (1) Is a qualifying patient, as defined in section 329-
5 121; or

6 (2) Is a qualifying patient, as defined in section
7 329-121, and tested positive for the presence of
8 cannabis or related metabolites in any substance use
9 test."

10 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
11 amended by amending the definition of "debilitating medical
12 condition" to read as follows:

13 ""Debilitating medical condition" means:

14 (1) Cancer, glaucoma, lupus, epilepsy, multiple sclerosis,
15 rheumatoid arthritis, positive status for human
16 immunodeficiency virus, acquired immune deficiency
17 syndrome, or the treatment of these conditions;

18 (2) A chronic or debilitating disease or medical condition
19 or its treatment that produces one or more of the
20 following:

21 (A) Cachexia or wasting syndrome;



(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including those characteristic of epilepsy;

(E) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease; or

(F) Post-traumatic stress disorder; ~~[or]~~

(3) Substance use disorder; or

~~[(3)]~~ (4) Any other medical condition approved by the department of health pursuant to administrative rules in response to a request from a physician or advanced practice registered nurse or potentially qualifying patient."

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

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

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



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

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

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

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

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

For purposes of interisland transportation, "transport" of cannabis, usable cannabis, or any manufactured cannabis



1 product[7] by any means is allowable only by a qualifying
2 patient or primary caregiver or between a production center or
3 retail dispensing location and a certified laboratory for the
4 sole purpose of laboratory testing pursuant to section 329D-8,
5 as permitted under section 329D-6(m) and subject to section
6 329D-6(j) [7, and with the understanding that state law and its
7 protections do not apply outside of the jurisdictional limits of
8 the State. Allowable transport pursuant to this section does
9 not include interisland transportation by any means or for any
10 purpose between a qualified patient or primary caregiver and any
11 other entity or individual, including an individual who is a
12 qualified patient or primary caregiver.]; provided that nothing
13 in this section shall be construed as applying state law and its
14 protections outside of the jurisdictional limits of the State."

15 SECTION 5. Section 329-129, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§329-129[+] Prohibited acts; flammable solvents[+];
18 volatilization devices. (a) No qualifying patient or primary
19 caregiver shall use butane to extract tetrahydrocannabinol from
20 cannabis plants.



1 (b) No qualifying patient shall utilize a portable or
2 hand-held volatilization device to use cannabis; provided that
3 this subsection shall not apply to a medical-grade
4 volatilization device that is designed to remain stationary
5 while in or out of use.

6 ~~[(b)]~~ (c) Any person who violates ~~[this section]~~
7 subsection (a) shall be guilty of a class C felony."

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

10 "(m) A dispensary shall not transport cannabis or
11 manufactured cannabis products to another county or another
12 island; provided that this subsection shall not apply to the
13 transportation of cannabis or any manufactured cannabis product
14 solely for the purposes of laboratory testing pursuant to
15 section 329D-8, and subject to subsection (j) ~~[, if no certified~~
16 ~~laboratory is located in the county or on the island where the~~
17 ~~dispensary is located]~~; provided further that a dispensary shall
18 only transport samples of cannabis and manufactured cannabis
19 products for laboratory testing for purposes of this subsection
20 in an amount and manner prescribed by the department, in rules
21 adopted pursuant to this chapter ~~[, and with the understanding~~



1 ~~that state law and its protections do not apply outside of the~~
2 ~~jurisdictional limits of the State.]; and provided further that~~
3 nothing in this section shall be construed as applying state law
4 and its protections outside of the jurisdictional limits of the
5 State."

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

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

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

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

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

21 (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);



- 1 (8) Standards and criminal background checks to ensure the
2 reputable and responsible character and fitness of all
3 license applicants, licensees, employees,
4 subcontractors and their employees, and prospective
5 employees of medical cannabis dispensaries to operate
6 a dispensary; provided that the standards, at a
7 minimum, shall exclude from licensure or employment
8 any person convicted of any felony;
- 9 (9) The training and certification of operators and
10 employees of production centers and dispensaries;
- 11 (10) The types of manufactured cannabis products that
12 dispensaries shall be authorized to manufacture and
13 sell pursuant to sections 329D-9 and 329D-10;
- 14 (11) Laboratory standards related to testing cannabis and
15 manufactured cannabis products for content,
16 contamination, and consistency;
- 17 (12) The quantities of cannabis and manufactured cannabis
18 products that a dispensary may sell or provide to a
19 qualifying patient or primary caregiver; provided that
20 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

20 (D) The distribution of cannabis or manufactured
21 cannabis products, for free, on the premises of a



1 retail dispensing location or production center;

2 and

3 (17) The establishment of a range of penalties for
4 violations of this chapter or rule adopted thereto[
5 and

6 ~~(18) A process to recognize and register patients who are~~
7 ~~authorized to purchase, possess, and use medical~~
8 ~~cannabis in another state, United States territory, or~~
9 ~~the District of Columbia as qualifying patients in~~
10 ~~this State; provided that this registration process~~
11 ~~may commence no sooner than January 1, 2018]. "~~

12 SECTION 8. Section 329D-10, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The types of medical cannabis products that may be
15 manufactured and distributed pursuant to this chapter shall be
16 limited to:

17 (1) Capsules;

18 (2) Lozenges;

19 (3) Pills;

20 (4) Oils and oil extracts;

21 (5) Tinctures;



1 (6) Ointments and skin lotions;

2 (7) Cannabinoid suppositories;

3 ~~[(7)]~~ (8) Transdermal ~~[patches,]~~ devices;

4 ~~[(8)]~~ (9) Pre-filled and sealed containers used to

5 aerosolize and deliver cannabis orally, such as with

6 an inhaler or nebulizer; and

7 ~~[(9)]~~ (10) Other products as specified by the department."

8 SECTION 9. Section 386-21.7, Hawaii Revised Statutes, is
9 amended by amending subsection (f) to read as follows:

10 "(f) For purposes of this section~~[-,"equivalent"]~~:

11 "Equivalent generic drug product" has the same meaning as
12 provided in section 328-91.

13 "Prescription drugs" shall include cannabis that is
14 available to a qualifying patient, as defined in section
15 329-121."

16 SECTION 10. Section 489-2, Hawaii Revised Statutes, is
17 amended by amending the definition of "disability" to read as
18 follows:

19 "'Disability" means the state of having a physical or
20 mental impairment which substantially limits one or more major
21 life activities, having a record of ~~[such an]~~ the impairment, or



1 being regarded as having [~~such an~~] the impairment. The term
2 does not include alcohol or drug use that impairs a person's
3 activities or threatens the property or safety of others[-];
4 provided that this sentence shall not prohibit the medical use
5 of cannabis, by means other than smoking, by a qualifying
6 patient, as defined in section 329-121."

7 SECTION 11. Section 489-3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§489-3 Discriminatory practices prohibition. Unfair
10 discriminatory practices that deny, or attempt to deny, a person
11 the full and equal enjoyment of the goods, services, facilities,
12 privileges, advantages, and accommodations of a place of public
13 accommodation on the basis of race, sex, including gender
14 identity or expression, sexual orientation, color, religion,
15 ancestry, [~~or~~] disability, or medical use of cannabis as allowed
16 by law are prohibited."

17 SECTION 12. The department of health shall collaborate
18 with all stakeholders to increase and strengthen public
19 information and education regarding medical cannabis, as
20 determined by the department; provided that these efforts shall
21 address public safety concerns and shall include, at a minimum:



(1) Collaboration with the department of transportation, the department of public safety, and other law enforcement agencies regarding:

(A) Effective and efficient training methods for law enforcement personnel to detect and quantify impairment of a motor vehicle operator who is under the influence of cannabis; and

(B) Training and support for law enforcement personnel and prosecutors to pursue criminal cases using available evidence; and

(2) The production of educational materials regarding personal responsibility and public safety, which medical cannabis dispensaries licensed by the State pursuant to chapter 329D, Hawaii Revised Statutes, shall be required to distribute to their clients.

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2018-2019 for the purposes of this Act.

The sum appropriated shall be expended by the department of health for the purposes of section 13 of this Act.



1 SECTION 14. The department of health shall review its
2 existing administrative rules that are applicable to its duties
3 and responsibilities relating to medical cannabis and, to the
4 extent necessary, shall adopt rules pursuant to chapter 91,
5 Hawaii Revised Statutes, to provide a reasonable accommodation
6 for the registration of prospective qualifying patients, as
7 defined in section 392-121, Hawaii Revised Statutes, who lack
8 proof of identification.

9 SECTION 15. The department of health shall evaluate the
10 potential inclusion of medical cannabis-infused foods among the
11 types of manufactured cannabis products that are authorized
12 pursuant to section 329D-10, Hawaii Revised Statutes, and shall
13 provide a report of its findings and recommendations, including
14 any proposed legislation, to the legislature no later than
15 twenty days prior to the convening of the regular session of
16 2019.

17 SECTION 16. The Hawaii public housing authority shall
18 provide guidance to the department of health and the medical
19 cannabis legislative oversight working group established
20 pursuant to Act 230, Session Laws of Hawaii 2016, regarding the
21 memorandum dated January 20, 2011, from the United States



1 Department of Housing and Urban Development regarding the
2 medical use of [cannabis] and reasonable accommodation in
3 federal public and assisted housing.

4 SECTION 17. (a) There is established within the public
5 policy center in the college of social sciences at the
6 University of Hawaii at Manoa for administrative purposes a
7 legislative working group to evaluate the need for medical
8 cannabis production or other non-retail dispensary licenses and
9 requirements for issuing those licenses.

10 (b) The working group shall include the following members:

11 (1) The director of business, economic development, and
12 tourism, or the director's designee, who shall serve
13 as chairperson;

14 (2) The dean and director of the University of Hawaii
15 college of tropical agriculture and human resources,
16 or the dean and director's designee;

17 (3) The attorney general or the attorney general's
18 designee;

19 (4) A member of the senate, who shall be designated by the
20 president of the senate; and



1 (5) A member of the house of representatives, who shall be
2 designated by the speaker of the house of
3 representatives.

4 A farmer, who may be a licensee under section 329D, Hawaii
5 Revised Statutes, shall also be invited to be a member of the
6 working group.

7 (c) The working group shall submit a report of its
8 findings and recommendations, including any proposed
9 legislation, to the legislature no later than twenty days prior
10 to the convening of the regular session of 2019.

11 (d) The members of the working group shall serve without
12 compensation.

13 (e) The working group shall cease to exist on June 30,
14 2019.

15 PART II

16 SECTION 18. The legislature finds that, currently, a
17 person relying upon a civil identification card as proof of
18 identification to register with the department of health as a
19 qualifying patient under part IX of chapter 329, Hawaii Revised
20 Statutes, must first apply for the card in person and wait until
21 the card is actually issued. This can result in delaying the



1 ability of a person experiencing a debilitating medical
2 condition from benefiting from the medical use of cannabis.

3 Accordingly, the purpose of this part is to:

4 (1) Authorize an adult to apply by mail for the issuance
5 or renewal of a civil identification card;

6 (2) Provide that a receipt issued for an application by
7 mail by an applicant with a qualifying physical or
8 mental disability for a civil identification card may
9 serve as identification for purposes of registering as
10 a qualifying patient; and

11 (3) Require the department of transportation to evaluate
12 potential ways to streamline the process of renewing a
13 civil identification card for an eligible applicant
14 who is bedridden or otherwise severely disabled, and
15 to adopt applicable rules as necessary.

16 SECTION 19. Section 286-303, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) Application for the identification card shall be made
19 in person [~~by any adult or minor.~~]; provided that any adult may
20 submit an application by mail. The minimum age for minors to
21 obtain an identification card shall be ten years of age. In the



1 case of a minor under the age of fourteen years, the application
2 shall be made on the minor's behalf by the parent, or by another
3 individual in loco parentis of the minor who can provide proof
4 of guardianship. In the case of an incompetent individual, the
5 application shall be made by the individual having the custody
6 or control of or maintaining the incompetent individual.

7 (b) Application for renewal of an identification card
8 issued after November 1, ~~[1998, for an individual eighty years~~
9 ~~of age or older]~~ 2018, may be done by mailing in a completed
10 application and fee ~~[, if there is]~~; provided there has been no
11 change [in] to the applicant's name [and] or citizenship
12 status[. The director shall adopt rules to allow for renewal by
13 mail for individuals with physical or intellectual disabilities
14 for whom application in person presents a serious burden.];
15 provided further that this subsection shall apply to the renewal
16 of identification cards that are valid or that expired no longer
17 than two years prior to the postmark date of the application for
18 renewal."

19 SECTION 20. Section 329-123, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) Qualifying patients shall register with the
2 department of health. The registration shall be effective until
3 the expiration of the certificate issued by the department of
4 health and signed by the physician or advanced practice
5 registered nurse. Every qualifying patient shall provide
6 sufficient identifying information to establish the personal
7 identities of the qualifying patient and the primary caregiver.
8 Qualifying patients shall report changes in information within
9 ten working days[-]; provided that a receipt issued for
10 submission of an application by mail for renewal of a civil
11 identification card for a person with a qualifying physical or
12 mental disability, pursuant to applicable rules adopted pursuant
13 to chapter 91, shall be an acceptable form of identification for
14 the purpose of registering as a qualifying patient; provided
15 further that the department may adopt rules pursuant to chapter
16 91 to provide for the registration of a qualifying patient who
17 lacks identification. Every qualifying patient shall have only
18 one primary caregiver at any given time. The department of
19 health shall issue to the qualifying patient a registration
20 certificate, and shall charge \$35 per year."



1 SECTION 21. The department of transportation shall review
2 its existing administrative rules that are applicable to its
3 duties and responsibilities relating to civil identification
4 cards and, to the extent necessary, shall adopt rules pursuant
5 to chapter 91, Hawaii Revised Statutes, to streamline the
6 process of renewing a state civil identification card for an
7 eligible applicant who is bedridden or otherwise severely
8 disabled.

9 PART III

10 SECTION 22. This Act does not affect rights and duties
11 that matured, penalties that were incurred, and proceedings that
12 were begun before its effective date.

13 SECTION 23. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 24. This Act shall take effect upon its approval.

16
INTRODUCED BY:

 Dale A. K. Smith
 John M. Smith

JAN 24 2018



Report Title:

Cannabis; Medical Use; Dispensaries; Transportation; Protections; Prohibitions; DOH; DOT; HPHA; Rules; Appropriation

Description:

Authorizes the recognition of out-of-state residents as qualifying patients for medical cannabis use in the State. Prohibits discharge of an employee solely for being a qualifying patient or testing positive for cannabis use. Adds substance use disorder as a qualifying condition for medical cannabis use. Authorizes transportation of medical cannabis between islands of the State. Prohibits utilization of a portable volatilization device to medically use cannabis. Authorizes utilization of a stationary volatilization device to medically use cannabis. Allows a dispensary to transport cannabis samples to a certified laboratory on another island for testing regardless of whether there is a laboratory on the same island as the dispensary. Authorizes the manufacture and distribution of cannabinoid suppositories. Includes cannabis as a prescription drug that an employer may be required to furnish to an injured employee under workers' compensation. Provides that a qualifying patient shall not be prohibited from using medical cannabis, in a way other than smoking, in a place of public accommodation. Requires public education and collaboration regarding public safety concerns and training of law enforcement agencies. Appropriates funds. Requires the Department of Health and the Department of Transportation to review and, as necessary, adopt various rules. Requires the Hawaii Public Housing Authority to provide guidance regarding federal regulations pertaining to medical use of cannabis on federally subsidized housing properties. Establishes a working group. Authorizes applications by mail for the issuance or renewal of a civil identification card.

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

