

JAN 19 2018

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

13       The legislature further finds that in 2013, the Hawaii  
14 Supreme Court ruled in *State v. Woodhall* that "Chapter 329,  
15 Part IX, as enacted does not clearly carry out its purpose,  
16 leaving qualified patients vulnerable to prosecution", and  
17 further asserts that it is "reasonably necessary to assure the



1 uninterrupted availability of [cannabis] for the purpose of  
2 alleviating the symptoms or effects of a qualifying patient's  
3 debilitating medical condition".

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

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

18 Amending existing law is necessary to protect the majority  
19 of qualifying patients who have a medical need to use cannabis  
20 from criminal activity and risk of arrest, while ensuring that



1 qualifying patients are provided a safe, reliable, and  
2 uninterrupted cannabis supply as intended by the legislature.

3 The purpose of this Act is to promote the interest of  
4 public health and safety; expressly restate, reiterate, and  
5 declare the intent of the legislature in enacting chapter 329,  
6 part IX, Hawaii Revised Statutes, concerning the medical use of  
7 cannabis; reduce the burden on the judicial system related to  
8 cannabis offenses; permit the distribution of cannabis between  
9 qualifying patients for medical use; and change the affirmative  
10 defense to a defense.

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

14 "§329- Registration requirements for medical cannabis  
15 collectives. (a) Each county shall establish a registration  
16 system for medical cannabis collectives for the purpose of  
17 regulating and taxing the distribution of cannabis for medical  
18 use.

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



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

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

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

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

19       "(a) A qualifying patient or the primary caregiver may  
20 assert the medical use of cannabis authorized under this part as  
21 ~~[an affirmative]~~ a defense to any prosecution involving



1   [+]cannabis or marijuana[+] under this part or part IV; or part  
2   IV of chapter 712; provided that the qualifying patient or the  
3   primary caregiver strictly complied with the requirements of  
4   this part."

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

- 11       (1) County of Hawaii:   \$                   ;  
12       (2) County of Kauai:   \$                   ;  
13       (3) County of Maui:     \$                   ; and  
14       (4) City and county of Honolulu: \$                   .

15       The sum appropriated shall be expended by the counties for  
16  the purposes of this Act.

17       SECTION 6. This Act does not affect rights and duties that  
18  matured, penalties that were incurred, and proceedings that were  
19  begun before its effective date.



20       SECTION 7. Statutory material to be repealed is bracketed  
21  and stricken. New statutory material is underscored.



1       SECTION 8.   This Act shall take effect upon its approval.

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INTRODUCED BY:



# S.B. NO. 2467

**Report Title:**

Medical Cannabis; Medical Use; County Regulated Medical Cannabis Collectives; Appropriation

**Description:**

Requires and appropriates funds to the counties to establish medical cannabis collectives to regulate and tax the distribution of medical cannabis. Amends primary caregivers' and qualifying patients' defense related to medical cannabis. Defines distribution to allow qualifying patients to transfer medical cannabis between themselves. Defines medical cannabis collective as a county-licensed entity that provides cannabis to qualifying patients.

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

