
A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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

1 SECTION 1. The legislature finds that Hawaii has long been
2 a pioneer in offering its residents the benefits of medical
3 marijuana. By enacting Act 228, Session Laws of Hawaii 2000
4 (Act 228), Hawaii became the first state to authorize the use of
5 medical marijuana to treat "debilitating medical condition[s]"
6 including cancer, glaucoma, human immunodeficiency virus,
7 acquired immune deficiency syndrome, as well as other chronic or
8 debilitating diseases. In Act 228, the legislature recognized
9 that there was substantial evidence to show that medical
10 marijuana helps to alleviate pain and has other benefits for
11 severely ill patients. However, the legislature also
12 acknowledged that federal law expressly prohibits the use of
13 marijuana.

14 The lack of clarity between state and federal marijuana
15 laws has repercussions for both medical marijuana patients and
16 the State's medical marijuana dispensaries. Patients who use
17 medical marijuana in compliance with state law may still lose



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1 employment or job opportunities because their use violates the
2 federal drug-free workplace act. State-authorized medical
3 marijuana patients may also be discriminated against in child
4 custody hearings, federally subsidized housing, and in their
5 applications for federal firearms permits, life insurance, and
6 disability insurance. The State's medical marijuana
7 dispensaries risk potential federal criminal charges for drug
8 distribution.

9 Accordingly, the purpose of this Act is to require the
10 department of health to submit a request for an exception to
11 regulations and a petition to initiate proceedings for federal
12 rulemaking to clarify that the state-authorized use of cannabis
13 does not violate federal controlled substances laws.

14 SECTION 2. No later than September 1, 2021, the department
15 of health shall submit:

16 (1) A request for an exception to regulations, in
17 accordance with title 21 C.F.R. 1307.03, arguing that
18 part IX of chapter 329, Hawaii Revised Statutes, and
19 chapter 329D, Hawaii Revised Statutes, are consistent
20 with title 21 U.S.C. 903 and do not create any
21 positive conflict with state or federal drug laws and



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1 requesting written acknowledgement that the listing of
2 marijuana as a controlled substance in federal
3 schedule I does not apply to the non-prescription use
4 of cannabis under the medical cannabis registry and
5 dispensary programs established pursuant to chapters
6 329 and 329D, Hawaii Revised Statutes; and

7 (2) A petition to initiate proceedings for federal
8 rulemaking, in accordance with title 21 C.F.R.
9 1308.43, offering the following proposed addition to
10 title 21 C.F.R. 1307:

11 "§1307. State Authorization. The listing of
12 marijuana as a controlled substance in Schedule I does
13 not apply to the state-authorized use of marijuana,
14 and persons using marijuana in compliance with state
15 law are exempt from registration."

16 SECTION 3. This Act shall take effect upon its approval.

17

INTRODUCED BY:



JAN 22 2021



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Report Title:

DOH; Controlled Substances; Marijuana; Exception; Federal Rulemaking

Description:

Requires the department of health to submit a request for an exception to regulations and a petition to initiate proceedings for federal rulemaking to the drug enforcement administration to clarify that the state-authorized use of cannabis does not violate federal controlled substances laws.

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