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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 existing state law  
2 recognizes the beneficial use of cannabis in treating certain  
3 debilitating medical conditions, their symptoms, and certain  
4 side effects of treatment of these conditions, including severe  
5 pain, nausea, muscle spasms, and seizures. Act 241, Session  
6 Laws of Hawaii 2015 (Act 241), provided patient access to  
7 medical cannabis beyond the access that existed prior to the  
8 creation of the dispensary system authorized by Act 241.  
9 However, the intent of the legislature as expressed in Act 241  
10 was, and continues to be, to expand qualifying patients' access  
11 to cannabis rather than to replace existing access routes.  
12 According to the rapid survey of Hawaii medical cannabis  
13 patients and providers conducted by the department of health in  
14 2022, fifty-five per cent of patients indicated that they  
15 obtained their cannabis exclusively from a licensed medical  
16 cannabis dispensary. This means that up to forty-five per cent  
17 of patients obtain their cannabis for medical use from other



1 sources, including cultivation. Part of the justification for  
2 establishing the medical cannabis dispensary system was that  
3 some patients may not be able to grow their own supply of  
4 medical cannabis due to limitations such as disability or lack  
5 of space. These patients should continue to have multiple  
6 options for obtaining medical cannabis, including having a  
7 primary caregiver grow an adequate supply of cannabis for  
8 medical use on their behalf.

9 Accordingly, the purpose of this Act is to maintain and  
10 clarify the multiple options currently available for qualifying  
11 patients to access a safe and legal supply of medical cannabis.

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

15 "§329- Violations; penalties. (a) In addition to any  
16 other penalties allowed by law, any person who violates this  
17 part or rules adopted pursuant to this part shall be fined no  
18 more than \$5,000 for each separate violation. Each day on which  
19 a violation occurs or continues shall constitute a separate  
20 offense.



1        (b) The department of health may impose an administrative  
2 penalty on a person pursuant to subsection (a) or rules adopted  
3 pursuant to this part. The department of health shall serve the  
4 person with written notice of the administrative penalty and the  
5 basis for the administrative penalty. Any notice of an  
6 administrative penalty may be accompanied by a cease and desist  
7 order or order for corrective action, or both. The  
8 administrative penalty, cease and desist order, and order for  
9 corrective action shall become final twenty calendar days after  
10 the date of the written notice, unless a contested case hearing  
11 is requested pursuant to subsection (c). The violation of the  
12 cease and desist order or order for corrective action shall  
13 constitute a further violation of this part.

14        (c) Any person aggrieved by the imposition of an  
15 administrative penalty, cease and desist order, or order for  
16 corrective action may request a contested case hearing pursuant  
17 to chapter 91. To request a contested case hearing, the person  
18 shall submit a written request to the department of health  
19 within twenty calendar days of the date of the written notice.  
20 Appeal to the circuit court under section 91-14 or any other



1 applicable statute shall only be taken from the department of  
2 health's final order pursuant to a contested case.

3 (d) Any action taken to recover, collect, or enforce the  
4 penalty provided for in this section shall be considered a civil  
5 action. For any judicial proceeding to recover or collect an  
6 administrative penalty imposed pursuant to subsection (a) or to  
7 enforce a cease and desist order or order for corrective action  
8 issued pursuant to subsection (b), the department of health may  
9 petition any court of appropriate jurisdiction and need only  
10 show that:

11 (1) Notice was served upon the person;

12 (2) A hearing was held, or the time granted for requesting  
13 a hearing has expired without such a request;

14 (3) The administrative penalty, cease and desist order, or  
15 order for corrective action was imposed on the person;  
16 and

17 (4) The penalty remains unpaid, or the order was not complied  
18 with."

19 SECTION 3. Section 329-130, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       "**§329-130 Authorized sources of medical cannabis.** (a)

2   ~~[After December 31, 2024, a]~~ A qualifying patient shall obtain  
3   medical cannabis or manufactured cannabis products only:

4       (1) From a dispensary licensed pursuant to chapter 329D;  
5       provided that the cannabis shall be purchased and paid  
6       for at the time of purchase; ~~[or]~~

7       (2) By cultivating cannabis in an amount that does not  
8       exceed an adequate supply for the qualifying  
9       patient~~[,]~~ pursuant to section 329-122; provided that  
10      each location used to cultivate cannabis shall be used  
11      by no more than five qualifying patients~~[,]~~; or

12      (3) From the qualifying patient's primary caregiver, who  
13      may cultivate cannabis in an amount that does not  
14      exceed an adequate supply for the qualifying patient  
15      pursuant to section 329-121.

16   ~~[After December 31, 2024, no primary caregiver shall be~~  
17   ~~authorized to cultivate cannabis for any qualifying patient.]~~

18      ~~(b) This section shall not apply to:~~

19      ~~(1) A qualifying patient who is a minor or an adult~~  
20      ~~lacking legal capacity and the primary caregiver is~~



1           ~~the parent, guardian, or person having legal custody~~  
2           ~~of a qualifying patient described in the paragraph; or~~  
3           ~~(2) A qualifying patient on any island on which there is~~  
4           ~~no medical cannabis dispensary licensed pursuant to~~  
5           ~~chapter 329D.~~

6           ~~(e)]~~ (b) A qualifying out-of-state patient and a caregiver  
7 of a qualifying out-of-state patient shall be authorized to  
8 obtain cannabis for medical use only from retail dispensing  
9 locations of dispensaries licensed pursuant to chapter 329D."

10           SECTION 4. Section 329D-27, Hawaii Revised Statutes, is  
11 amended by amending subsections (b) and (c) to read as follows:

12           "(b) No later than January 4, 2016, the department shall  
13 adopt interim rules, which shall be exempt from chapter 91 and  
14 chapter 201M, to effectuate the purposes of this chapter;  
15 provided that the interim rules shall remain in effect until  
16 July 1, [2025,] 2027, or until rules are adopted pursuant to  
17 subsection (a), whichever occurs sooner.

18           (c) The department may amend the interim rules, and the  
19 amendments shall be exempt from chapters 91 and 201M, to  
20 effectuate the purposes of this chapter; provided that any  
21 amended interim rules shall remain in effect until July 1,



1   ~~[2025,]~~ 2027, or until rules are adopted pursuant to subsection  
2   (a), whichever occurs sooner."

3           SECTION 5. Act 241, Session Laws of Hawaii 2015, section  
4   14, as amended by Act 41, Session Laws of Hawaii 2017, section  
5   11, as amended by Act 159, Session Laws of Hawaii 2018, section  
6   4, is amended to read as follows:

7           "SECTION 14. For the purposes of effectuating this Act,  
8   the personnel hired and the contracts entered into by the  
9   department of health, pursuant to this Act, shall be exempt from  
10  chapter 76, Hawaii Revised Statutes, for a period beginning on  
11  July 1, 2015, and ending on June 30, ~~[2025,]~~ 2029; provided  
12  that:

13           (1) All personnel actions taken pursuant to this Act by  
14           the department of health after June 30, ~~[2025,]~~ 2029,  
15           shall be subject to chapter 76, Hawaii Revised  
16           Statutes, as appropriate; and

17           (2) Any employee hired by the department of health to  
18           effectuate this Act, who occupies a position exempt  
19           from civil service on July 1, ~~[2025,]~~ 2029, shall:

20           (A) Be appointed to a civil service position; and



1 (B) Not suffer any loss of prior service credit,  
2 vacation or sick leave credits previously earned,  
3 or other employee benefits or privileges;  
4 provided that the employee possesses the minimum  
5 qualifications and public employment requirements for  
6 the class or position to which appointed; provided  
7 further that subsequent changes in status shall be  
8 made pursuant to applicable civil service and  
9 compensation laws."

10 SECTION 6. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect retroactive to  
13 December 31, 2050.



**Report Title:**

DOH; Office of Medical Cannabis Control and Regulation;  
Caregivers; Medical Cannabis; Cultivation; Penalties; Rules;  
Civil Service Exemptions

**Description:**

Authorizes the Department of Health to impose penalties and take enforcement actions for violations of the medical cannabis laws. Retroactively repeals the prohibition against primary caregivers cultivating medical cannabis for their qualifying patients. Authorizes primary caregivers to cultivate cannabis in an amount not to exceed an adequate supply for the qualifying patient. Extends for two years the effective date of certain interim rules adopted by the Department of Health. Extends for four years the sunset date for the exemption from civil service of personnel hired by, or contracts entered into by, the Department of Health. Effective 12/31/2050. (HD1)

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

