

ACT 242

S.B. NO. 1291

A Bill for an Act Relating to Medical Marijuana.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that support for the medical use of marijuana in the State is strong and that the experience of the State with the medical use of marijuana has been favorable, but that existing protections for patients are very weak regarding civil penalties. Patients within the medical marijuana program should not be less secure in their housing, school enrollment, or supplemental medical care than patients who have made different private decisions with their doctors concerning medication or treatment.

The legislature is mindful of the difficult position of medical marijuana patients under federal law and seeks to ensure that the rights of patients are protected, while at the same time respecting the needs of institutions and individuals to protect themselves from federal penalties. For this reason, the rights afforded under this Act are limited to those situations in which a school or landlord would not lose a monetary or licensing-related benefit for compliance with state law, and to those situations in which patients and caregivers are in strict compliance with the State's medical marijuana law.

SECTION 2. 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- Medical marijuana patient and caregiver protections. (a) No school shall refuse to enroll or otherwise penalize, and no landlord shall refuse to lease property to or otherwise penalize, a person solely for the person's status as a qualifying patient or primary caregiver in the medical marijuana program under this part, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation; provided that the qualifying patient or primary caregiver strictly complied with the requirements of this part; provided further that the qualifying patient or primary caregiver shall present a medical marijuana registry card or certificate and photo identification, to ensure that the qualifying patient or primary caregiver is validly registered with the department of health pursuant to section 329-123.

(b) For the purposes of medical care, including organ transplants, a registered qualifying patient's use of marijuana in compliance with this part

shall be considered the equivalent of the use of any other medication under the direction of a physician and shall not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

(c) No qualifying patient or primary caregiver under this part shall be denied custody of, visitation with, or parenting time with a minor, and there shall be no presumption of neglect or child endangerment, for conduct allowed under this part; provided that this subsection shall not apply if the qualifying patient's or primary caregiver's conduct created a danger to the safety of the minor, as established by a preponderance of the evidence."

SECTION 3. Chapter 421J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§421J- Medical marijuana; discrimination. A provision in any association document allowing for any of the discriminatory practices listed in paragraphs (1) to (7) of section 515-3 against a person residing in a unit who has a valid certificate for the medical use of marijuana as provided in section 329-123 in any form is void, unless the association document prohibits the smoking of tobacco and the medical marijuana is used by means of smoking. Nothing herein shall be construed to diminish the obligation of a planned community association to provide reasonable accommodations for persons with disabilities pursuant to section 515-3(9)."

SECTION 4. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§514A- Medical marijuana; discrimination. A provision in any articles of incorporation, declaration, bylaws, administrative rules, house rules, association documents, or a similar document of a condominium property regime allowing for any of the discriminatory practices listed in paragraphs (1) to (7) of section 515-3 against a person residing in an apartment who has a valid certificate for the medical use of marijuana as provided in section 329-123 in any form is void, unless the document prohibits the smoking of tobacco and the medical marijuana is used by means of smoking. Nothing herein shall be construed to diminish the obligation of a condominium property regime to provide reasonable accommodations for persons with disabilities pursuant to section 515-3(9)."

SECTION 5. Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§514B- Medical marijuana; discrimination. A provision in any articles of incorporation, declaration, bylaws, administrative rules, house rules, or association documents of a condominium allowing for any of the discriminatory practices listed in paragraphs (1) to (7) of section 515-3 against a person residing in a unit who has a valid certificate for the medical use of marijuana as provided in section 329-123 in any form is void, unless the documents prohibit the smoking of tobacco and the medical marijuana is used by means of smoking. Nothing herein shall be construed to diminish the obligation of a condominium association to provide reasonable accommodations for persons with disabilities pursuant to section 515-3(9)."

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

SECTION 7. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.
(Approved July 14, 2015.)

Note

1. Edited pursuant to HRS §23G-16.5.