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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 PART I

2 SECTION 1. The legislature finds that the tobacco industry  
3 spends more than \$12,000,000,000 annually on advertising and  
4 marketing its products in the United States. Each year, tobacco  
5 companies spend over \$42,000,000 promoting their brands in  
6 stores throughout Hawaii. The National Cancer Institute has  
7 reported that the total weight of evidence from multiple studies  
8 demonstrates a causal relationship between tobacco advertising  
9 and promotion and increased tobacco use.

10 The legislature additionally finds that retail stores are  
11 given incentives to place tobacco advertisements and products in  
12 strategic locations near the cash register, known as a point-of-  
13 sale, or in self-service displays. Research indicates the  
14 presence of these products and advertisements may stimulate  
15 impulse purchases. Furthermore, a 2009 study found that  
16 frequent visits to stores selling tobacco and a greater  
17 awareness of cigarettes sold in stores increased the likelihood



1 of teenagers being susceptible to initiating smoking,  
2 experimenting with smoking, or becoming smokers.

3 The legislature has a compelling interest in reducing the  
4 number of children and teens in Hawaii who smoke. The  
5 legislature finds that because of the documented connection  
6 between children and youth exposure to tobacco advertisements  
7 and youth tobacco initiation, regulations on the placement of  
8 cigarette and tobacco products is needed.

9 The purpose of this part is to require cigarettes and  
10 tobacco products to be sold, offered for sale, or displayed only  
11 in a direct, face-to-face exchange between the retailer and the  
12 consumer.

13 SECTION 2. Chapter 328J, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16 **"§328J- Placement of cigarettes and tobacco products.**

17 (a) A person who owns, manages, operates, or otherwise controls  
18 any establishment where cigarettes or tobacco products are sold  
19 or offered for sale shall not sell, permit to be sold, offer for  
20 sale, or display for sale any cigarettes or tobacco products  
21 except only in a direct, face-to-face exchange between the  
22 retailer and the consumer.



1        (b) This section shall not apply to retail tobacco stores,  
2 bars, or any establishment for which the minimum age for  
3 admission is eighteen."

4    PART II

5             SECTION 3. The legislature finds that the State's medical  
6 marijuana program was enacted into law in 2000 as a public  
7 health program conceived out of compassion for the health and  
8 welfare of the seriously ill. After twelve years, the  
9 experience of the program indicates that improvements to the law  
10 will help to fulfill its original intent by clarifying  
11 provisions and removing serious obstacles to patient access and  
12 physician participation.

13            The purpose of this part is to amend the medical use of  
14 marijuana law to address the concerns of Hawaii's seriously ill  
15 patients.

16            SECTION 4. Chapter 329, Hawaii Revised Statutes, is  
17 amended by adding two new sections to part IX to be  
18 appropriately designated and to read as follows:

19            "§329-       **Transfers.**    A qualifying patient or primary  
20 caregiver who is registered under section 329-123 may provide  
21 usable marijuana or any part of the marijuana plant, including  
22 seeds, seedlings, or clones, to any other qualifying patient or



1 any other primary caregiver who is registered under section 329-  
2 123; provided that no consideration is paid for the marijuana  
3 and that the total amount of marijuana possessed by the  
4 recipient does not exceed the adequate supply amount specified  
5 in section 329-121.

6 **§329- Authorized conduct by a visiting qualifying**  
7 **patient.** A qualifying patient who is visiting the State from  
8 another jurisdiction of the United States that authorizes the  
9 medical use of marijuana pursuant to a law recognized by the  
10 department of health and who has in their possession a valid  
11 registry identification card issued in another jurisdiction of  
12 the United States or its equivalent and photographic  
13 identification from that jurisdiction may for thirty days after  
14 entering the State engage in conduct authorized for a qualifying  
15 patient under this chapter; provided that any qualifying patient  
16 who is visiting the State for thirty-one days or more from  
17 another jurisdiction of the United States shall register with  
18 the State medical use of marijuana program pursuant to section  
19 329-123 no later than thirty-one days after entering the State."

20 SECTION 5. Section 329-121, Hawaii Revised Statutes, is  
21 amended as follows:



1           1.    By adding a new definition to be appropriately  
2 inserted and to read:

3           "Reimbursement" means consideration provided to a primary  
4 caregiver as compensation for costs associated with assisting  
5 qualifying patients who are registered under section 329-123 to  
6 obtain marijuana for medical use; provided that "reimbursement"  
7 shall not include the sale of controlled substances."

8           2.    By amending the definition of "adequate supply" to  
9 read:

10           "Adequate supply" means an amount of marijuana jointly  
11 possessed between the qualifying patient and the primary  
12 caregiver that is not more than is reasonably necessary to  
13 assure the uninterrupted availability of marijuana for the  
14 purpose of alleviating the symptoms or effects of a qualifying  
15 patient's debilitating medical condition; provided that an  
16 "adequate supply" shall not exceed [~~three mature~~] seven  
17 marijuana plants [~~, four immature marijuana plants, and one~~  
18 ~~ounce~~], whether immature or mature, and five ounces of usable  
19 marijuana [~~per each mature plant.~~] at any given time."

20           3.    By amending the definition of "medical use" to read:

21           "Medical use" means the acquisition, possession,  
22 cultivation, use, distribution, or transportation of marijuana



1 or paraphernalia relating to the administration of marijuana to  
2 alleviate the symptoms or effects of a qualifying patient's  
3 debilitating medical condition. For the purposes of "medical  
4 use", the term distribution is limited to the transfer of  
5 marijuana and paraphernalia [~~from the primary caregiver to the~~  
6 ~~qualifying patient.~~] among qualifying patients and primary  
7 caregivers."

8 4. By amending the definition of "primary caregiver" to  
9 read:

10 ""Primary caregiver" means a person[~~7~~] eighteen years of  
11 age or older, other than the qualifying patient and the  
12 qualifying patient's physician, [~~who is eighteen years of age or~~  
13 ~~older~~] who has agreed, with or without reimbursement, to  
14 undertake responsibility for managing the well-being of the  
15 qualifying patient with respect to the medical use of marijuana.  
16 In the case of a minor or an adult lacking legal capacity, the  
17 primary caregiver shall be a parent, guardian, or person having  
18 legal custody."

19 5. By amending the definition of "usable marijuana" to  
20 read:

21 ""Usable marijuana" means the dried leaves and flowers of  
22 the plant Cannabis family Moraceae, and any mixture [~~+~~]or[~~+~~]



1 preparation thereof, that are appropriate for the medical use of  
2 marijuana. "Usable marijuana" does not include the seeds,  
3 stalks, and roots of the plant."

4 6. By amending the definition of "written certification"  
5 to read:

6 ""Written certification" means the qualifying patient's  
7 medical records or a statement signed by a qualifying patient's  
8 physician, stating that in the physician's professional opinion,  
9 the qualifying patient has a debilitating medical condition and  
10 the potential benefits of the medical use of marijuana would  
11 likely outweigh the health risks for the qualifying patient.  
12 The department of [~~public safety~~] health may require, through  
13 its rulemaking authority, that all written certifications comply  
14 with a designated form. "Written certifications" are valid for  
15 only one year from the time of signing."

16 SECTION 6. Section 329-122, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Notwithstanding any law to the contrary, the medical  
19 use of marijuana by a qualifying patient shall be permitted only  
20 if:

21 (1) The qualifying patient has been diagnosed by a  
22 physician as having a debilitating medical condition;



1 (2) The qualifying patient's physician has certified in  
2 writing that, in the physician's professional opinion,  
3 the potential benefits of the medical use of marijuana  
4 would likely outweigh the health risks for the  
5 particular qualifying patient; and

6 (3) The amount of marijuana possessed by the qualifying  
7 patient does not exceed an adequate supply."

8 SECTION 7. Section 329-123, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§329-123 Registration requirements.** (a) Physicians who  
11 issue written certifications shall [~~register the names,~~  
12 ~~addresses, patient identification numbers,~~] provide, in each  
13 written certification, the name, address, patient identification  
14 number, and other identifying information of the [patients  
15 ~~issued written certifications with the department of public~~  
16 ~~safety.] qualifying patient. The department of health may~~  
17 require, in rules adopted pursuant to chapter 91, that all  
18 written certifications comply with a designated form completed  
19 by or on behalf of a qualifying patient. The form shall only  
20 require information from the applicant, primary caregiver, and  
21 certifying physician as specifically required or permitted by  
22 this chapter. The form may request the address of the location





1 where the marijuana is grown, but that information shall be  
2 confidential and shall not appear on the registry card issued by  
3 the department of health. The information required shall  
4 include the physician's attestation that the qualifying patient  
5 has one of the debilitating medical conditions defined in  
6 section 329-121 but shall not name or describe the particular  
7 condition. The certifying physician shall not be required to be  
8 the qualifying patient's primary care physician. If the  
9 physician issuing the written certification is not the  
10 qualifying patient's primary care physician, the issuing  
11 physician shall send a copy of the written certification to the  
12 qualifying patient's primary care physician, if any.

13 (b) Qualifying patients shall register with the department  
14 of [~~public safety~~] health. The registration shall be effective  
15 until the expiration of the certificate issued by the department  
16 of health and signed by the physician. Every qualifying patient  
17 shall provide sufficient identifying information to establish  
18 the personal identities of the qualifying patient and the  
19 primary caregiver. Qualifying patients shall report changes in  
20 information within [~~five~~] ten working days. Every qualifying  
21 patient shall have only one primary caregiver at any given time.  
22 The department of health shall [~~then~~] issue to the qualifying



1 patient a registration certificate[~~7~~] and may charge a  
2 reasonable fee not to exceed \$35[~~7~~] per year.

3 (c) Primary caregivers shall register with the department  
4 of [~~public safety.~~] health. Every primary caregiver shall be  
5 responsible for the care of [~~only one~~] not more than three  
6 qualifying [~~patient~~] patients at any given time[~~7~~]; provided  
7 that a primary caregiver shall disclose the number of qualifying  
8 patients for whom the primary caregiver is responsible upon  
9 registration and that number shall be included in any  
10 registration card provided to the primary caregiver. The  
11 primary caregiver shall notify the department of health in  
12 writing of any changes to the number of the qualifying patients  
13 for whom the primary caregiver is responsible.

14 (d) Upon [~~an~~] inquiry by a law enforcement agency, the  
15 department of [~~public safety~~] health shall verify whether the  
16 [~~particular qualifying patient~~] subject of the inquiry has  
17 registered with the department of health and may provide  
18 reasonable access to the registry information for official law  
19 enforcement purposes."

20



1 PART III

2 SECTION 8. This Act does not affect rights and duties that  
3 matured, penalties that were incurred, and proceedings that were  
4 begun before its effective date.

5 SECTION 9. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect upon its approval.



**Report Title:**

Tobacco; Tobacco Product Placement; Medical Use of Marijuana

**Description:**

Requires cigarettes and tobacco products to be sold, offered for sale, or displayed only in a direct, face-to-face exchange between the retailer and the consumer. Amends the Medical Use of Marijuana Program. (PROPOSED SB642 HD1)

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

