

JAN 29 2015

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# A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1           SECTION 1. Section 329-125, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[+] §329-125 [+~~ **Protections afforded to a qualifying**  
4 **patient or primary caregiver.** (a) A qualifying patient or the  
5 primary caregiver may assert the medical use of marijuana as an  
6 affirmative defense to any prosecution involving marijuana under  
7 this ~~[+]part[+]~~ or chapter 712; provided that the qualifying  
8 patient or the primary caregiver strictly complied with the  
9 requirements of this part.

10           (b) Any qualifying patient or primary caregiver not  
11 complying with the permitted scope of the medical use of  
12 marijuana shall not be afforded the protections against searches  
13 and seizures pertaining to the misapplication of the medical use  
14 of marijuana.

15           (c) No person shall be subject to arrest or prosecution  
16 for simply being in the presence or vicinity of the medical use  
17 of marijuana as permitted under this part.



1        (d) It shall be unlawful for any employer to discipline,  
2 suspend, discharge, or discriminate against any of the  
3 employer's employees solely because the employee tested positive  
4 for the presence of marijuana or its metabolites in a substance  
5 abuse test conducted in accordance with section 329B-5 or  
6 section 329B-5.5; provided that:

7        (1) The qualifying patient strictly complied with the  
8 requirements of this part;

9        (2) Nothing in this section shall be construed to  
10 authorize the use of medical marijuana in the  
11 workplace of an employee's employment; and

12        (3) Nothing in this section shall be construed to  
13 supersede any statute, rule, employment contract,  
14 collective bargaining agreement, or workplace  
15 regulation or policy prohibiting an employee from  
16 being under the influence of marijuana while working  
17 in the workplace of the employee's employment."

18        SECTION 2. Chapter 378, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:

1           "§378-        Medical marijuana.  It shall be unlawful for any  
2 employer to discipline, suspend, discharge, or discriminate  
3 against any of the employer's employees solely because the  
4 employee tested positive for the presence of marijuana or its  
5 metabolites in a substance abuse test conducted in accordance  
6 with section 329B-5 or section 329B-5.5; provided that:

7           (1)  The employee is a qualifying patient pursuant to  
8           section 329-121 and strictly complied with the  
9           requirements of part IX of chapter 329;

10          (2)  Nothing in this section shall be construed to  
11          authorize the use of medical marijuana in the  
12          workplace of an employee's employment; and

13          (3)  Nothing in this section shall be construed to  
14          supersede any statute, rule, employment contract,  
15          collective bargaining agreement, or workplace  
16          regulation or policy prohibiting an employee from  
17          being under the influence of marijuana while working  
18          in the workplace of the employee's employment."

19           SECTION 3.  This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: ~~Don SC. Ash-Adams~~

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# S.B. NO. 1291

**Report Title:**

Medical Marijuana; Employment; Protections

**Description:**

Prohibits an employer from disciplining, suspending, discharging, or discriminating against an employee who is a patient qualified to use medical marijuana solely because the employee tested positive for marijuana use.

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

