
A BILL FOR AN ACT

RELATING TO CANNABIS FOR MEDICAL USE.

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

1 PART I

2 SECTION 1. The legislature finds that any reciprocity
3 process for out-of-state medical cannabis patients must meet
4 specific criteria that uphold the integrity and rigor of the
5 State's medical cannabis program. A reciprocity program in
6 Hawaii must: not significantly diminish the safety and security
7 aspects of Hawaii's approach to medical cannabis; be implemented
8 in a way that is fair and equitable to Hawaii medical cannabis
9 patients, and not confer greater access to out-of-state medical
10 cannabis patients than to Hawaii medical cannabis patients;
11 provide a timely process for qualifying out-of-state patients
12 who visit Hawaii to legally obtain medical cannabis from Hawaii-
13 licensed medical cannabis dispensaries; and provide protection
14 from state law enforcement for registered qualifying out-of-
15 state patients who possess medical cannabis in Hawaii.

16 The legislature further finds that under existing law, a
17 qualifying patient's written certification for the medical use



1 of cannabis is valid for only one year from the time of signing.
2 However, many of the debilitating medical conditions that
3 qualify a patient for a written certification are chronic in
4 nature, and there is some concern that annual renewal
5 requirements may result in a lapse in treatment for some
6 qualifying patients.

7 The legislature also finds that certain other amendments to
8 the State's existing laws on cannabis for medical use and
9 medical cannabis dispensaries are necessary to ensure
10 appropriate safeguards and protections for qualifying patients
11 and primary caregivers and provide medical cannabis dispensaries
12 with a mechanism to retest batches of cannabis or manufactured
13 cannabis products in certain situations.

14 Accordingly, the purpose of this part is to:

15 (1) Establish a reciprocity process for medical cannabis
16 patients, which requires the department of health to
17 register qualifying out-of-state patients and
18 caregivers of qualifying out-of-state patients under
19 certain conditions;



1 (2) Clarify certain safeguards for qualifying out-of-state
2 patients and caregivers of qualifying out-of-state
3 patients;

4 (3) Authorize the department of health to extend the
5 maximum period of validity of any written
6 certification to three years for debilitating medical
7 conditions that are chronic;

8 (4) Clarify a dispensary licensee's ability to retest, at
9 its own expense, a batch of cannabis or manufactured
10 cannabis products that do not meet the department of
11 health's standards for patient safety; and

12 (5) Prohibit an employer from suspending, discharging, or
13 discriminating against an employee for testing
14 positive for cannabis if the employee is a registered
15 qualifying patient who is authorized for the medical
16 use of cannabis, with certain exceptions.

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

20 "§329- Registration requirements; qualifying out-of-
21 state patient; caregiver of a qualifying out-of-state patient.



1 (a) Notwithstanding section 329-123, a qualifying out-of-state
2 patient and a caregiver of a qualifying out-of-state patient
3 shall register with the department of health as established by
4 rule. The registration shall be effective for no more than
5 sixty days and may be renewed for no more than one additional
6 sixty-day period that begins no later than twelve months after
7 the preceding registration date; provided that the department
8 shall not register any qualifying out-of-state patient for a
9 period that exceeds the term of validity of the qualifying out-
10 of-state patient's authority to use medical cannabis in the
11 qualifying out-of-state patient's home jurisdiction.

12 (b) A qualifying out-of-state patient aged eighteen or
13 older, at a minimum, shall meet the following criteria for
14 registration:

15 (1) Provide a valid government-issued medical cannabis
16 card issued to the qualifying out-of-state patient by
17 another state, United States territory, or the
18 District of Columbia; provided that the medical
19 cannabis card has an expiration date and has not
20 expired;



1 (2) Provide a valid photographic identification card or
2 driver's license issued to the qualifying out-of-state
3 patient by the same jurisdiction that issued the
4 medical cannabis card; and

5 (3) Have a debilitating medical condition, as defined in
6 section 329-121.

7 (c) A qualifying out-of-state patient under eighteen years
8 of age may be registered pursuant to this section only if the
9 caregiver of the qualifying out-of-state patient, at a minimum,
10 meets the requirements of subsection (b) and consents in writing
11 to:

12 (1) Allow the qualifying out-of-state patient's medical
13 use of cannabis;

14 (2) Undertake the responsibility for managing the well-
15 being of the qualifying out-of-state patient who is
16 under eighteen years of age, with respect to the
17 medical use of cannabis; and

18 (3) Control the acquisition of the cannabis, the dosage,
19 and the frequency of the medical use of cannabis by
20 the qualifying out-of-state patient who is under
21 eighteen years of age.



1 (d) In the case of any qualifying out-of-state patient who
2 is under eighteen years of age, the department shall register
3 the qualifying out-of-state patient and the caregiver of the
4 qualifying out-of-state patient.

5 (e) Each qualifying out-of-state patient shall pay a fee
6 of \$45 for each registration and renewal.

7 (f) Upon inquiry by a law enforcement agency, the
8 department of health shall immediately verify whether the
9 subject of the inquiry has registered with the department of
10 health and may provide reasonable access to the registry
11 information for official law enforcement purposes. The inquiry
12 under this subsection may be made twenty-four hours a day, seven
13 days a week.

14 (g) The department of health may temporarily suspend the
15 registration of a qualifying out-of-state patient or a
16 registered caregiver of a qualifying out-of-state patient for a
17 period of up to thirty days if the department of health
18 determines that the registration process for qualifying patients
19 or primary caregivers is being adversely affected or the supply
20 of cannabis for medical use available in licensed dispensaries
21 is insufficient to serve qualifying patients and qualifying out-



1 of-state patients. A temporary suspension may be extended by
2 thirty-day periods until the department of health determines
3 that:

- 4 (1) Adequate capacity exists to register qualifying out-
5 of-state patients and caregivers of qualifying out-of-
6 state patients in addition to qualifying patients and
7 primary caregivers; and
- 8 (2) The licensed dispensaries are able to meet the demands
9 of qualifying patients."

10 SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The department, upon completion of the transfer of
13 the medical use of cannabis program, shall charge a medical
14 cannabis registration fee to each qualifying ~~[patients]~~ patient,
15 other than a qualifying out-of-state patient, of no more than
16 \$35[-] per year."

17 SECTION 4. Section 329-121, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding two new definitions to be appropriately
20 inserted and to read:



1 "Caregiver of a qualifying out-of-state patient" means a
2 parent, guardian, or person having legal custody of a qualifying
3 out-of-state patient who is under the age of eighteen years.

4 "Qualifying out-of-state patient" or "registered qualifying
5 out-of-state patient" means a person who is registered for the
6 medical use of cannabis in another state, a United States
7 territory, or the District of Columbia."

8 2. By amending the definition of "medical use" to read:

9 "Medical use" means the acquisition, possession,
10 cultivation, use, distribution, or transportation of cannabis or
11 paraphernalia relating to the administration of cannabis to
12 alleviate the symptoms or effects of a qualifying patient's
13 debilitating medical condition[-]; provided that "medical use"
14 does not include the cultivation, distribution, or
15 transportation of cannabis or paraphernalia by a qualifying out-
16 of-state patient or the caregiver of a qualifying out-of-state
17 patient. For the purposes of "medical use", the term
18 [~~distribution~~] "distribution" is limited to the transfer of
19 cannabis and paraphernalia."

20 3. By amending the definition of "written certification"
21 to read:



1 "Written certification" means the qualifying patient's
 2 medical records or a statement signed by a qualifying patient's
 3 physician or advanced practice registered nurse, stating that in
 4 the physician's or advanced practice registered nurse's
 5 professional opinion, the qualifying patient has a debilitating
 6 medical condition and the potential benefits of the medical use
 7 of cannabis would likely outweigh the health risks for the
 8 qualifying patient. The department of health may require,
 9 through its rulemaking authority, that all written
 10 certifications comply with a designated form. "Written
 11 certifications" are valid for [~~only~~] one year from the time of
 12 signing[~~-~~]; provided that the department of health may allow any
 13 written certification to be valid for up to three years if the
 14 qualifying patient's physician or advanced practice registered
 15 nurse states that the debilitating medical condition is chronic
 16 in nature."

17 SECTION 5. Section 329-122, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "**§329-122 Medical use of cannabis; conditions of use.** (a)
 20 Notwithstanding any law to the contrary, the medical use of
 21 cannabis by a qualifying patient shall be permitted only if:



- 1 (1) The qualifying patient has been diagnosed by a
2 physician or advanced practice registered nurse as
3 having a debilitating medical condition;
- 4 (2) The qualifying patient's physician or advanced
5 practice registered nurse has certified in writing
6 that, in the physician's or advanced practice
7 registered nurse's professional opinion, the potential
8 benefits of the medical use of cannabis would likely
9 outweigh the health risks for the particular
10 qualifying patient; and
- 11 (3) The amount of cannabis possessed by the qualifying
12 patient does not exceed an adequate supply.
- 13 (b) Subsection (a) shall not apply to a qualifying patient
14 under the age of eighteen years, unless:
- 15 (1) The qualifying patient's physician or advanced
16 practice registered nurse has explained the potential
17 risks and benefits of the medical use of cannabis to
18 the qualifying patient and to a parent, guardian, or
19 person having legal custody of the qualifying patient;
20 and



1 (2) A parent, guardian, or person having legal custody
2 consents in writing to:

3 (A) Allow the qualifying patient's medical use of
4 cannabis;

5 (B) Serve as the qualifying patient's primary
6 caregiver; and

7 (C) Control the acquisition of the cannabis, the
8 dosage, and the frequency of the medical use of
9 cannabis by the qualifying patient.

10 (c) Notwithstanding any law to the contrary, the medical
11 use of cannabis within the State by a qualifying out-of-state
12 patient aged eighteen years or older legally authorized to use
13 cannabis for medical purposes in another state, a United States
14 territory, or the District of Columbia shall be permitted only
15 if the qualifying out-of-state patient:

16 (1) Provides to the department of health a valid medical
17 use of cannabis card with an explicit expiration date
18 that has not yet passed from the issuing jurisdiction
19 and a valid photographic identification card or
20 driver's license issued by the same jurisdiction;



- 1 (2) Attests under penalty of law pursuant to section
2 710-1063 that the condition for which the qualifying
3 out-of-state patient is legally authorized to use
4 cannabis for medical purposes is a debilitating
5 medical condition as defined in section 329-121;
- 6 (3) Provides consent for the department of health to
7 obtain information from the qualifying out-of-state
8 patient's certifying medical provider and from the
9 entity that issued the medical cannabis card for the
10 purpose of allowing the department of health to verify
11 the information provided in the registration process;
- 12 (4) Pays the required fee for out-of-state registration to
13 use cannabis for medical purposes;
- 14 (5) Registers with the department of health pursuant to
15 section 329- to use cannabis for medical purposes;
- 16 (6) Receives a medical cannabis registry card from the
17 department of health; and
- 18 (7) Abides by all laws relating to the medical use of
19 cannabis, including not possessing an amount of
20 cannabis that exceeds an adequate supply.



1 (d) Notwithstanding any law to the contrary, the medical
2 use of cannabis by a qualifying out-of-state patient under
3 eighteen years of age shall only be permitted if:

4 (1) The caregiver of the qualifying out-of-state patient
5 provides the information required pursuant to
6 subsection (c); and

7 (2) The caregiver of the qualifying out-of-state patient
8 consents in writing to:

9 (A) Allow the qualifying out-of-state patient's
10 medical use of cannabis;

11 (B) Undertake the responsibility for managing the
12 well-being of the qualifying out-of-state patient
13 who is under eighteen years of age with respect
14 to the medical use of cannabis; and

15 (C) Control the acquisition of the cannabis, the
16 dosage, and the frequency of the medical use of
17 cannabis by the qualifying out-of-state patient
18 who is under eighteen years of age.

19 [~~e~~] (e) The authorization for the medical use of
20 cannabis in this section shall not apply to:



- 1 (1) The medical use of cannabis that endangers the health
- 2 or well-being of another person;
- 3 (2) The medical use of cannabis:
- 4 (A) In a school bus, public bus, or any moving
- 5 vehicle;
- 6 (B) In the workplace of one's employment;
- 7 (C) On any school grounds;
- 8 (D) At any public park, public beach, public
- 9 recreation center, recreation or youth center; or
- 10 (E) At any other place open to the public; provided
- 11 that a qualifying patient, primary caregiver,
- 12 qualifying out-of-state patient, caregiver of a
- 13 qualifying out-of-state patient, or an owner or
- 14 employee of a medical cannabis dispensary
- 15 licensed under chapter 329D shall not be
- 16 prohibited from transporting cannabis or any
- 17 manufactured cannabis product, as that term is
- 18 defined in section 329D-1, in any public place;
- 19 provided further that the cannabis or
- 20 manufactured cannabis product shall be
- 21 transported in a sealed container, not be visible



1 to the public, and shall not be removed from its
2 sealed container or consumed or used in any way
3 while it is in the public place; and

4 (3) The use of cannabis by a qualifying patient, parent,
5 ~~[or]~~, primary caregiver, qualifying out-of-state
6 patient, or caregiver of a qualifying out-of-state
7 patient, for purposes other than medical use permitted
8 by this part.

9 ~~[(d)]~~ (f) For the purposes of this section, "transport"
10 means the transportation of cannabis, usable cannabis, or any
11 manufactured cannabis product between:

12 (1) A qualifying patient and the qualifying patient's
13 primary caregiver;

14 (2) A qualifying out-of-state patient under eighteen years
15 of age and the caregiver of a qualifying out-of-state
16 patient;

17 ~~[(2)]~~ (3) The production centers and the retail dispensing
18 locations under a dispensary licensee's license; or

19 ~~[(3)]~~ (4) A production center, retail dispensing location,
20 qualifying patient, ~~[or]~~ primary caregiver, qualifying
21 out-of-state patient, or caregiver of a qualifying



1 out-of-state patient and a certified laboratory for
 2 the purpose of laboratory testing; provided that a
 3 qualifying patient [~~or~~], primary caregiver, qualifying
 4 out-of-state patient, or caregiver of a qualifying
 5 out-of-state patient may only transport up to one gram
 6 of cannabis per test to a certified laboratory for
 7 laboratory testing and may only transport the product
 8 if the qualifying patient [~~or~~], primary caregiver[+],
 9 qualifying out-of-state patient, or caregiver of a
 10 qualifying out-of-state patient:

11 (A) Secures an appointment for testing at a certified
 12 laboratory;

13 (B) Obtains confirmation, which may be electronic,
 14 that includes the specific time and date of the
 15 appointment and a detailed description of the
 16 product and amount to be transported to the
 17 certified laboratory for the appointment; and

18 (C) Has the confirmation, which may be electronic,
 19 available during transport.

20 For purposes of interisland transportation, "transport" of
 21 cannabis, usable cannabis, or any manufactured cannabis product,



1 by any means is allowable only between a production center or
 2 retail dispensing location and a certified laboratory for the
 3 sole purpose of laboratory testing pursuant to section 329D-8,
 4 as permitted under section 329D-6(m) and subject to section
 5 329D-6(j), and with the understanding that state law and its
 6 protections do not apply outside of the jurisdictional limits of
 7 the State. Allowable transport pursuant to this section does
 8 not include interisland transportation by any means or for any
 9 purpose between a qualified patient [~~or~~], primary caregiver,
 10 qualifying out-of-state patient, or caregiver of a qualifying
 11 out-of-state patient and any other entity or individual,
 12 including an individual who is a qualified patient [~~or~~], primary
 13 caregiver[~~-~~], qualifying out-of-state patient, or caregiver of a
 14 qualifying out-of-state patient."

15 SECTION 6. Section 329-123, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§329-123 Registration requirements[~~-~~]; qualifying**
 18 **patients; primary caregivers.** (a) Physicians or advanced
 19 practice registered nurses who issue written certifications
 20 shall provide, in each written certification, the name, address,
 21 patient identification number, and other identifying information



1 of the qualifying patient. The department of health shall
2 require, in rules adopted pursuant to chapter 91, that all
3 written certifications comply with a designated form completed
4 by or on behalf of a qualifying patient. The form shall require
5 information from the applicant, primary caregiver, and physician
6 or advanced practice registered nurse as specifically required
7 or permitted by this chapter. The form shall require the
8 address of the location where the cannabis is grown and shall
9 appear on the registry card issued by the department of health.
10 The certifying physician or advanced practice registered nurse
11 shall be required to have a bona fide physician-patient
12 relationship or bona fide advanced practice registered nurse-
13 patient relationship, as applicable, with the qualifying
14 patient. All current active medical cannabis permits shall be
15 honored through their expiration date.

16 (b) Qualifying patients shall register with the department
17 of health. The registration shall be effective until the
18 expiration of the certificate issued by the department of health
19 and signed by the physician or advanced practice registered
20 nurse. Every qualifying patient shall provide sufficient
21 identifying information to establish the personal identities of



1 the qualifying patient and the primary caregiver. Qualifying
2 patients shall report changes in information within ten working
3 days. Every qualifying patient shall have only one primary
4 caregiver at any given time. The department of health shall
5 issue to the qualifying patient a registration certificate, and
6 shall charge \$35 per year.

7 (c) Primary caregivers shall register with the department
8 of health. Every primary caregiver shall be responsible for the
9 care of only one qualifying patient at any given time[-], unless
10 the primary caregiver is the parent, guardian, or person having
11 legal custody of more than one minor qualifying patient, in
12 which case the primary caregiver may be responsible for the care
13 of more than one minor qualifying patient at any given time;
14 provided that the primary caregiver is the parent, guardian, or
15 person having legal custody of all of the primary caregiver's
16 qualifying patients. The department of health may permit
17 registration of up to two primary caregivers for a minor qualifying
18 patient; provided that both primary caregivers are the parent,
19 guardian, or person having legal custody of the minor qualifying
20 patient.



1 (d) Upon inquiry by a law enforcement agency, which
2 inquiry may be made twenty-four hours a day, seven days a week,
3 the department of health shall immediately verify whether the
4 subject of the inquiry has registered with the department of
5 health and may provide reasonable access to the registry
6 information for official law enforcement purposes.

7 (e) This section shall not apply to registration of a
8 qualifying out-of-state patient or a caregiver of a qualifying
9 out-of-state patient."

10 SECTION 7. Section 329-125, Hawaii Revised Statutes, is
11 amended by amending its title and subsections (a) and (b) to
12 read as follows:

13 "**§329-125 Protections afforded to a qualifying patient**
14 **[~~o~~], primary caregiver[~~-~~], qualifying out-of-state patient, or**
15 **caregiver of a qualifying out-of-state patient.** (a) A
16 qualifying patient [~~o~~], the primary caregiver, qualifying out-
17 of-state patient, or caregiver of a qualifying out-of-state
18 patient may assert the medical use of cannabis authorized under
19 this part as an affirmative defense to any prosecution involving
20 [+]cannabis or marijuana[+] under this part or part IV; or part
21 IV of chapter 712; provided that the qualifying patient [~~o~~



1 ~~the~~, primary caregiver, qualifying out-of-state patient, or
2 caregiver of a qualifying out-of-state patient strictly complied
3 with the requirements of this part.

4 (b) Any qualifying patient [~~o~~], primary caregiver,
5 qualifying out-of-state patient, or caregiver of a qualifying
6 out-of-state patient not complying with the permitted scope of
7 the medical use of cannabis shall not be afforded the
8 protections against searches and seizures pertaining to the
9 misapplication of the medical use of cannabis."

10 SECTION 8. Section 329-125.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~]**329-125.5**[~~§~~] **Medical cannabis patient and caregiver**
13 **protections.** (a) No school shall refuse to enroll or otherwise
14 penalize, and no landlord shall refuse to lease property to or
15 otherwise penalize, a person solely for the person's status as a
16 qualifying patient or primary caregiver in the medical cannabis
17 program under this part, unless failing to do so would cause the
18 school or landlord to lose a monetary or licensing-related
19 benefit under federal law or regulation; provided that the
20 qualifying patient or primary caregiver strictly complied with
21 the requirements of this part; provided further that the



1 qualifying patient or primary caregiver shall present a medical
2 cannabis registry card or certificate and photo identification,
3 to ensure that the qualifying patient or primary caregiver is
4 validly registered with the department of health pursuant to
5 section 329-123.

6 (b) For the purposes of medical care, including organ
7 transplants, a registered qualifying patient's use of cannabis
8 in compliance with this part shall be considered the equivalent
9 of the use of any other medication under the direction of a
10 physician and shall not constitute the use of an illicit
11 substance or otherwise disqualify a registered qualifying
12 patient from medical care.

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



1 (d) No employer shall suspend, discharge, or discriminate
2 against any of the employer's employees solely because an
3 employee who is a registered qualifying patient authorized for
4 the medical use of cannabis, pursuant to sections 329-122 and
5 329-123, tested positive for the presence of cannabis in a
6 substance abuse on-site screening test conducted in accordance
7 with section 329B-5.5; provided that this subsection shall not
8 apply to:

9 (1) An employee who fails or refuses to report to a
10 laboratory for a substance abuse test pursuant to
11 section 329B-5.5;

12 (2) An employee who is in violation of section 329-
13 122(e)(2)(B);

14 (3) An employee who is a law enforcement officer with the
15 State or a county or who works in any state
16 correctional facility;

17 (4) An employee whose job requires the employee to not be
18 under the influence of substances, such as a bus
19 driver, a heavy machinery operator, a construction
20 worker, or other employee with a job that has safety
21 issues; or



1 (5) An employee whose employer would be in violation of
2 any federal law or regulation by having an employee
3 who tested positive for the presence of cannabis as
4 set forth in this subsection.

5 (e) This section shall apply to qualifying patients,
6 primary caregivers, qualifying out-of-state patients, and
7 caregivers of qualifying out-of-state patients who are validly
8 registered with the department of health pursuant to this part
9 and the administrative rules of the department of health."

10 SECTION 9. Section 329-127, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**[+]§329-127[+]** **Protection of cannabis and other seized**
13 **property.** (a) Cannabis, paraphernalia, or other property
14 seized from a qualifying patient or primary caregiver in
15 connection with a claimed medical use of cannabis under this
16 part shall be returned immediately upon the determination by a
17 court that the qualifying patient or primary caregiver is
18 entitled to the protections of this part, as evidenced by a
19 decision not to prosecute, dismissal of charges, or an
20 acquittal; provided that law enforcement agencies seizing live



1 plants as evidence shall not be responsible for the care and
2 maintenance of such plants.

3 (b) This section shall also apply to qualifying out-of-
4 state patients and caregivers of qualifying out-of-state
5 patients who are validly registered with the department of
6 health pursuant to this part and the administrative rules of the
7 department of health; provided that notwithstanding subsection
8 (a) to the contrary, under no circumstances shall cannabis,
9 paraphernalia, or other property be returned to any location
10 outside of the island from which it was seized."

11 SECTION 10. Section 329-128, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§329-128 Fraudulent misrepresentation; penalty.** (a)
14 Notwithstanding any law to the contrary, fraudulent
15 misrepresentation to a law enforcement official of any fact or
16 circumstance relating to the medical use of cannabis to avoid
17 arrest or prosecution under this part or chapter 712 shall be a
18 petty misdemeanor and subject to a fine of \$500.

19 (b) Notwithstanding any law to the contrary, fraudulent
20 misrepresentation to a law enforcement official of any fact or
21 circumstance relating to the issuance of a written certificate



1 by a physician or advanced practice registered nurse not covered
2 under section 329-126 for the medical use of cannabis shall be a
3 misdemeanor. This penalty shall be in addition to any other
4 penalties that may apply for the non-medical use of cannabis.

5 ~~[Nothing in this section is intended to preclude the conviction~~
6 ~~of any person under section 710-1060 or for any other offense~~
7 ~~under part V of chapter 710.]~~

8 (c) Notwithstanding any law to the contrary, fraudulent
9 misrepresentation to the department of an entitlement to use
10 cannabis for medical purposes in another state, a United States
11 territory, or the District of Columbia for the purpose of
12 registering as a qualifying out-of-state patient or caregiver of
13 a qualifying out-of-state patient shall be a misdemeanor. This
14 penalty shall be in addition to any other penalties that may
15 apply for the non-medical use of cannabis.

16 (d) Nothing in this section is intended to preclude the
17 conviction of any person under section 710-1060 or for any other
18 offense under part V of chapter 710 or any other offense."

19 SECTION 11. Section 329-129, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) No qualifying patient [~~or~~], primary caregiver,
2 qualifying out-of-state patient, or caregiver of a qualifying
3 out-of-state patient shall use butane to extract
4 tetrahydrocannabinol from cannabis plants."

5 SECTION 12. Section 329-130, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§329-130 Authorized sources of medical cannabis.** (a)
8 After December 31, 2023, a qualifying patient shall obtain
9 medical cannabis or manufactured cannabis products only:

10 (1) From a dispensary licensed pursuant to chapter 329D;
11 provided that the cannabis shall be purchased and paid
12 for at the time of purchase; or

13 (2) By cultivating cannabis in an amount that does not
14 exceed an adequate supply for the qualifying patient,
15 pursuant to section 329-122; provided that each
16 location used to cultivate cannabis shall be used by
17 no more than five qualifying patients.

18 After December 31, 2023, no primary caregiver shall be
19 authorized to cultivate cannabis for any qualifying patient.

20 (b) This section shall not apply to:



1 (1) A qualifying patient who is a minor or an adult
2 lacking legal capacity and the primary caregiver is
3 the parent, guardian, or person having legal custody
4 of a qualifying patient described in this paragraph;
5 or

6 (2) A qualifying patient on any island on which there is
7 no medical cannabis dispensary licensed pursuant to
8 chapter 329D.

9 (c) A qualifying out-of-state patient and a caregiver of a
10 qualifying out-of-state patient shall be authorized to obtain
11 cannabis for medical use only from retail dispensing locations
12 of dispensaries licensed pursuant to chapter 329D."

13 SECTION 13. Section 329D-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By adding two new definitions to be appropriately
16 inserted and to read:

17 "Caregiver of a qualifying out-of-state patient" shall
18 have the same meaning as in section 329-121.

19 "Qualifying out-of-state patient" and "registered
20 qualifying out-of-state patient" shall have the same meaning as
21 in section 329-121."



1 2. By amending the definition of "dispense" or
2 "dispensing" to read:

3 "Dispense" or "dispensing" means the act of a licensed
4 dispensary providing cannabis or manufactured cannabis products
5 to a qualifying patient [~~or a~~], primary caregiver, qualifying
6 out-of-state patient, or caregiver of a qualifying out-of-state
7 patient for a fee."

8 3. By amending the definition of "manufacture" to read:

9 "Manufacture" means the preparation, propagation,
10 compounding, conversion, or processing of a substance containing
11 cannabis or its principal psychoactive constituent
12 tetrahydrocannabinol, either directly or indirectly, by a person
13 other than a qualifying patient [~~or~~], primary caregiver,
14 qualifying out-of-state patient, or caregiver of a qualifying
15 out-of-state patient for the qualifying patient's or qualifying
16 out of state patient's use, by extraction from substances of
17 natural origin, or independently by means of chemical synthesis,
18 or by a combination of extraction and chemical synthesis, and
19 includes any packaging or repackaging of the substance or
20 labeling or relabeling of its container."



1 4. By amending the definition of "retail dispensing
2 location" to read:

3 "Retail dispensing location" means an establishment owned,
4 operated, or subcontracted by a medical cannabis dispensary
5 where cannabis and manufactured cannabis are made available for
6 retail sale to a qualifying [patients or] patient, primary
7 [caregivers.] caregiver, qualifying out-of-state patient, or
8 caregiver of a qualifying out-of-state patient."

9 SECTION 14. Section 329D-6, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (g) to read:

12 "(g) In all dispensary facilities, only the licensee, if
13 an individual, registered employees of the dispensary licensee,
14 registered employees of a subcontracted production center or
15 retail dispensing location, employees of a certified laboratory
16 for testing purposes, state employees authorized by the director
17 of health, and law enforcement and other government officials
18 acting in their official capacity shall be permitted to touch or
19 handle any cannabis or manufactured cannabis products, except
20 that a qualifying patient [~~or the~~], primary caregiver [~~of a~~
21 ~~qualifying patient~~], qualifying out-of-state patient, or



1 caregiver of a qualifying out-of-state patient may receive
2 manufactured cannabis products at a retail dispensing location
3 following completion of a sale."

4 2. By amending subsections (j) and (k) to read:

5 "(j) The department shall establish, maintain, and control
6 a computer software tracking system that shall have real time,
7 twenty-four-hour access to the data of all dispensaries.

8 (1) The computer software tracking system shall collect
9 data relating to:

10 (A) The total amount of cannabis in possession of all
11 dispensaries from either seed or immature plant
12 state, including all plants that are derived from
13 cuttings or cloning, until the cannabis, cannabis
14 plants, or manufactured cannabis product is sold
15 or destroyed pursuant to section 329D-7;

16 (B) The total amount of manufactured cannabis product
17 inventory, including the equivalent physical
18 weight of cannabis that is used to manufacture
19 manufactured cannabis products, purchased by a
20 qualifying patient [~~and~~], primary caregiver,
21 qualifying out-of-state patient, and caregiver of



- 1 a qualifying out-of-state patient from all retail
2 dispensing locations in the State in any fifteen-
3 day period;
- 4 (C) The amount of waste produced by each plant at
5 harvest; and
- 6 (D) The transport of cannabis and manufactured
7 cannabis products between production centers and
8 retail dispensing locations, including tracking
9 identification issued by the tracking system, the
10 identity of the person transporting the cannabis
11 or manufactured cannabis products, and the make,
12 model, and license number of the vehicle being
13 used for the transport;
- 14 (2) The procurement of the computer software tracking
15 system established pursuant to this subsection shall
16 be exempt from chapter 103D; provided that:
- 17 (A) The department shall publicly solicit at least
18 three proposals for the computer software
19 tracking system; and



1 (B) The selection of the computer software tracking
2 system shall be approved by the director of the
3 department and the chief information officer; and
4 (3) Notwithstanding any other provision of this subsection
5 to the contrary, once the department has authorized a
6 licensed dispensary to commence sales of cannabis or
7 manufactured cannabis products, if the department's
8 computer software tracking system is inoperable or is
9 not functioning properly, as an alternative to
10 requiring dispensaries to temporarily cease
11 operations, the department may implement an alternate
12 tracking system that will enable a qualifying
13 [patients] patient, primary caregiver, qualifying out-
14 of-state patient, and caregiver of a qualifying out-
15 of-state patient to purchase cannabis or manufactured
16 cannabis products from a licensed dispensary on a
17 temporary basis. The department shall seek input
18 regarding the alternate tracking system from medical
19 cannabis licensees. The alternate tracking system may
20 operate as follows:



1 (A) The department may immediately notify all
2 licensed dispensaries that the computer software
3 tracking system is inoperable; and

4 (B) Once the computer software tracking system is
5 operational and functioning to meet the
6 requirements of this subsection, the department
7 may notify all licensed dispensaries, and the
8 alternate tracking system in this subsection
9 shall be discontinued.

10 (k) A dispensary licensed pursuant to this chapter shall
11 purchase, operate, and maintain a computer software tracking
12 system that shall:

13 (1) Interface with the department's computer software
14 tracking system established pursuant to subsection
15 (j);

16 (2) Allow each licensed dispensary's production center to
17 submit to the department in real time, by automatic
18 identification and data capture, all cannabis,
19 cannabis plants, and manufactured cannabis product
20 inventory in possession of that dispensary from either
21 seed or immature plant state, including all plants



1 that are derived from cuttings or cloning, until the
2 cannabis or manufactured cannabis product is sold or
3 destroyed pursuant to section 329D-7;

4 (3) Allow the licensed dispensary's retail dispensing
5 location to submit to the department in real time for
6 the total amount of cannabis and manufactured cannabis
7 product purchased by a qualifying patient [~~and~~],
8 primary caregiver, qualifying out-of-state patient,
9 and caregiver of a qualifying out-of-state patient
10 from the dispensary's retail dispensing locations in
11 the State in any fifteen day period; provided that the
12 software tracking system shall impose an automatic
13 stopper in real time, which cannot be overridden, on
14 any further purchases of cannabis or manufactured
15 cannabis products, if the maximum allowable amount of
16 cannabis has already been purchased for the applicable
17 fifteen day period; provided further that additional
18 purchases shall not be permitted until the next
19 applicable period; and

20 (4) Allow the licensed dispensary to submit all data
21 required by this subsection to the department and



1 permit the department to access the data if the
2 department's computer software tracking system is not
3 functioning properly and sales are made pursuant to
4 the alternate tracking system under subsection (j)."

5 3. By amending subsection (n) to read:

6 "(n) A dispensary shall be prohibited from off-premises
7 delivery of cannabis or manufactured cannabis products to a
8 qualifying [~~patients or to~~] patient, primary [~~caregivers of~~
9 ~~qualifying patients.~~] caregiver, qualifying out-of-state
10 patient, or caregiver of a qualifying out-of-state patient."

11 SECTION 15. Section 329D-7, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§329D-7 Medical cannabis dispensary rules.** The
14 department shall establish standards with respect to:

- 15 (1) The number of medical cannabis dispensaries that shall
16 be permitted to operate in the State;
- 17 (2) A fee structure for the submission of applications and
18 renewals of licenses to dispensaries; provided that
19 the department shall consider the market conditions in
20 each county in determining the license renewal fee
21 amounts;



- 1 (3) Criteria and procedures for the consideration and
2 selection, based on merit, of applications for
3 licensure of dispensaries; provided that the criteria
4 shall include but not be limited to an applicant's:
- 5 (A) Ability to operate a business;
- 6 (B) Financial stability and access to financial
7 resources; provided that applicants for medical
8 cannabis dispensary licenses shall provide
9 documentation that demonstrates control of not
10 less than \$1,000,000 in the form of escrow
11 accounts, letters of credit, surety bonds, bank
12 statements, lines of credit or the equivalent to
13 begin operating the dispensary;
- 14 (C) Ability to comply with the security requirements
15 developed pursuant to paragraph (6);
- 16 (D) Capacity to meet the needs of qualifying
17 patients[+] and qualifying out-of-state patients;
- 18 (E) Ability to comply with criminal background check
19 requirements developed pursuant to paragraph (8);
20 and



- 1 (F) Ability to comply with inventory controls
2 developed pursuant to paragraph (13);
- 3 (4) Specific requirements regarding annual audits and
4 reports required from each production center and
5 dispensary licensed pursuant to this chapter;
- 6 (5) Procedures for announced and unannounced inspections
7 by the department or its agents of production centers
8 and dispensaries licensed pursuant to this chapter;
9 provided that inspections for license renewals shall
10 be unannounced;
- 11 (6) Security requirements for the operation of production
12 centers and retail dispensing locations; provided
13 that, at a minimum, the following shall be required:
- 14 (A) For production centers:
- 15 (i) Video monitoring and recording of the
16 premises; provided that recordings shall be
17 retained for fifty days;
- 18 (ii) Fencing that surrounds the premises and that
19 is sufficient to reasonably deter intruders
20 and prevent anyone outside the premises from
21 viewing any cannabis in any form;



- 1 (iii) An alarm system; and
- 2 (iv) Other reasonable security measures to deter
- 3 or prevent intruders, as deemed necessary by
- 4 the department;
- 5 (B) For retail dispensing locations:
- 6 (i) Presentation of a valid government-issued
- 7 photo identification and a valid
- 8 identification as issued by the department
- 9 pursuant to section 329-123[7] by a
- 10 qualifying patient or caregiver, or section
- 11 329- by a qualifying out-of-state patient
- 12 or caregiver of a qualifying out-of-state
- 13 patient, upon entering the premises;
- 14 (ii) Video monitoring and recording of the
- 15 premises; provided that recordings shall be
- 16 retained for fifty days;
- 17 (iii) An alarm system;
- 18 (iv) Exterior lighting; and
- 19 (v) Other reasonable security measures as deemed
- 20 necessary by the department;



- 1 (7) Security requirements for the transportation of
2 cannabis and manufactured cannabis products between
3 production centers and retail dispensing locations and
4 between a production center, retail dispensing
5 location, qualifying patient, [~~or~~] primary caregiver,
6 qualifying out-of-state patient, or caregiver of a
7 qualifying out-of-state patient and a certified
8 laboratory, pursuant to section [~~329-122(d);~~]
9 329-122(f);
- 10 (8) Standards and criminal background checks to ensure the
11 reputable and responsible character and fitness of all
12 license applicants, licensees, employees,
13 subcontractors and their employees, and prospective
14 employees of medical cannabis dispensaries to operate
15 a dispensary; provided that the standards, at a
16 minimum, shall exclude from licensure or employment
17 any person convicted of any felony;
- 18 (9) The training and certification of operators and
19 employees of production centers and dispensaries;



- 1 (10) The types of manufactured cannabis products that
2 dispensaries shall be authorized to manufacture and
3 sell pursuant to sections 329D-9 and 329D-10;
- 4 (11) Laboratory standards related to testing cannabis and
5 manufactured cannabis products for content,
6 contamination, and consistency;
- 7 (12) The quantities of cannabis and manufactured cannabis
8 products that a dispensary may sell or provide to a
9 qualifying patient [~~or~~], primary caregiver[+],
10 qualifying out-of-state patient, or caregiver of a
11 qualifying out-of-state patient; provided that no
12 dispensary shall sell or provide to a qualifying
13 patient [~~or~~], primary caregiver, qualifying out-of-
14 state patient, or caregiver of a qualifying out-of-
15 state patient any combination of cannabis and
16 manufactured products that:
- 17 (A) During a period of fifteen consecutive days,
18 exceeds the equivalent of four ounces of
19 cannabis; or



1 (B) During a period of thirty consecutive days,
2 exceeds the equivalent of eight ounces of
3 cannabis;

4 (13) Dispensary and production center inventory controls to
5 prevent the unauthorized diversion of cannabis or
6 manufactured cannabis products or the distribution of
7 cannabis or manufactured cannabis products to a
8 qualifying [~~patients or~~] patient, primary [~~caregivers~~]
9 caregiver, qualifying out-of-state patient, or
10 caregiver of a qualifying out-of-state patient in
11 quantities that exceed limits established by this
12 chapter; provided that the controls, at a minimum,
13 shall include:

14 (A) A computer software tracking system as specified
15 in section 329D-6(j) and (k); and

16 (B) Product packaging standards sufficient to allow
17 law enforcement personnel to reasonably determine
18 the contents of an unopened package;

19 (14) Limitation to the size or format of signs placed
20 outside a retail dispensing location or production
21 center; provided that the signage limitations, at a



- 1 minimum, shall comply with section 329D-6(o)(2) and
2 shall not include the image of a cartoon character or
3 other design intended to appeal to children;
- 4 (15) The disposal or destruction of unwanted or unused
5 cannabis and manufactured cannabis products;
- 6 (16) The enforcement of the following prohibitions against:
- 7 (A) The sale or provision of cannabis or manufactured
8 cannabis products to unauthorized persons;
- 9 (B) The sale or provision of cannabis or manufactured
10 cannabis products to a qualifying [patients or]
11 patient, primary [caregivers] caregiver,
12 qualifying out-of-state patient, or caregiver of
13 a qualifying out-of-state patient in quantities
14 that exceed limits established by this chapter;
- 15 (C) Any use or consumption of cannabis or
16 manufactured cannabis products on the premises of
17 a retail dispensing location or production
18 center; and
- 19 (D) The distribution of cannabis or manufactured
20 cannabis products, for free, on the premises of a
21 retail dispensing location or production center;



1 (17) The establishment of a range of penalties for
2 violations of this chapter or rule adopted thereto;
3 and

4 (18) A process to recognize and register patients who are
5 authorized to purchase, possess, and use medical
6 cannabis in another state, a United States territory,
7 or the District of Columbia as qualifying out-of-state
8 patients [~~in this State~~]; provided that this
9 registration process may commence no sooner than
10 January 1, 2018."

11 SECTION 16. Section 329D-8, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§329D-8 Laboratory standards and testing; laboratory**
14 **certification.** (a) The department shall establish and enforce
15 standards for laboratory-based testing of cannabis and
16 manufactured cannabis products for content, contamination, and
17 consistency; provided that in establishing these standards, the
18 department shall:

19 (1) Review and take guidance from the testing programs and
20 standards utilized in other jurisdictions;



- 1 (2) Consider the impact of the standards on the retail
2 cost of the product to the qualifying patient;
- 3 (3) Review and take guidance from the testing programs and
4 standards for pesticides under the regulations of the
5 United States Environmental Protection Agency;
- 6 (4) For the testing for microbiological impurities,
7 consider the benefits of organically grown cannabis
8 that features the use of bacteria in lieu of
9 pesticides; and
- 10 (5) Include permission for qualifying patients and primary
11 caregivers to obtain testing services directly from
12 certified laboratories on the island where the
13 qualifying patient and primary caregiver reside.
- 14 (b) The department may certify laboratories that can test
15 cannabis and manufactured cannabis products prior to the sale of
16 cannabis and manufactured cannabis products.
- 17 (c) If a dispensary licensee obtains a laboratory result
18 indicating that a sample of a batch of its cannabis or
19 manufactured cannabis products does not meet the department's
20 standards for patient safety, the dispensary licensee, at its
21 own expense, may have the same sample or a different sample from



1 the same batch retested by the same laboratory or a different
2 laboratory. If a retest at a different laboratory yields a
3 different result, the department shall determine which result
4 controls whether the batch may be approved for sale or whether
5 further testing shall be required."

6 SECTION 17. Section 329D-12, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) This section shall not apply to:

- 9 (1) ~~[Qualifying patients and their]~~ A qualifying patient,
10 primary [caregivers] caregiver, qualifying out-of-
11 state patient, or caregiver of a qualifying out-of-
12 state patient who ~~[enter]~~ enters or ~~[remain]~~ remains
13 on the premises of a retail dispensing location for
14 the purpose of a transaction conducted pursuant to
15 sections 329D-6 and 329D-13; or
- 16 (2) Government officials and employees acting in an
17 official capacity and employees of a certified
18 laboratory who enter or remain on the premises of a
19 retail dispensing location or production center for
20 any purpose authorized by this chapter."



1 SECTION 18. Section 329D-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§329D-13[+] Qualifying patients and primary caregivers,~~
4 ~~dispensing] Dispensing limits[, ~~other states]~~. (a) A
5 qualifying patient ~~[or a]~~, primary caregiver ~~[on behalf of a~~
6 ~~qualifying patient]~~, qualifying out-of-state patient, or
7 caregiver of a qualifying out-of-state patient shall be allowed
8 to purchase no more than four ounces of cannabis within a
9 consecutive period of fifteen days, or no more than eight ounces
10 of cannabis within a consecutive period of thirty days.~~

11 (b) A qualifying patient ~~[or a]~~, primary caregiver ~~[on~~
12 ~~behalf of a qualifying patient]~~, qualifying out-of-state
13 patient, or caregiver of a qualifying out-of-state patient may
14 purchase cannabis from any dispensary location in the State,
15 subject to the limits set forth in subsection (a).

16 (c) Beginning on January 1, 2018, this section may apply
17 to qualifying out-of-state patients from other states,
18 territories of the United States, or the District of Columbia;
19 provided that the patient ~~[is verified as a patient in their~~
20 ~~home state and registers with the department through a~~



1 ~~registration process established by the department.]~~ meets the
2 registration requirements of section 329- ."

3 SECTION 19. Section 329D-15, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) No person shall intentionally or knowingly enter or
6 remain upon the premises of a medical cannabis retail dispensing
7 location unless the individual is:

8 (1) An individual licensee or registered employee of the
9 dispensary;

10 (2) A qualifying patient ~~[or],~~ primary caregiver ~~[of a~~
11 ~~qualifying patient,]~~ qualifying out-of-state patient,
12 or caregiver of a qualifying out-of-state patient;

13 (3) A government employee or official acting in the
14 person's official capacity; or

15 (4) Previously included on a current department-approved
16 list provided to the department by the licensee of
17 those persons who are allowed into that dispensary's
18 facilities for a specific purpose for that dispensary,
19 including but not limited to construction,
20 maintenance, repairs, legal counsel, providers of
21 paratransit or other assistive services required by a



- 1 qualifying patient to access a retail dispensary
2 location, or investors; provided that:
- 3 (A) The person has been individually approved by the
4 department to be included on the list;
 - 5 (B) The person is at least twenty-one years of age,
6 as verified by a valid government issued
7 identification card;
 - 8 (C) The department has confirmed that the person has
9 no felony convictions;
 - 10 (D) The person is escorted by an individual licensee
11 or registered employee of the dispensary at all
12 times while in the dispensary facility;
 - 13 (E) The person is only permitted within those
14 portions of the dispensary facility as necessary
15 to fulfill the person's purpose for entering;
 - 16 (F) The person is only permitted within the
17 dispensary facility during the times and for the
18 duration necessary to fulfill the person's
19 purpose for entering;
 - 20 (G) The dispensary shall keep an accurate record of
21 each person's first and last name, date and times



1 upon entering and exiting the dispensary
2 facility, purpose for entering, and the identity
3 of the escort; and

4 (H) The approved list shall be effective for one year
5 from the date of the department approval."

6 SECTION 20. Section 329D-17, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) A person commits the offense of promoting medical
9 cannabis or medical cannabis products to a minor if the person
10 intentionally or knowingly distributes any amount of cannabis or
11 manufactured cannabis products that came from a dispensary or
12 production center to a minor who is not a registered qualifying
13 patient[~~-~~] or a registered qualifying out-of-state patient under
14 eighteen years of age."

15 SECTION 21. Section 329D-24, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**[+]§329D-24[+] Cultivation of medical cannabis by**
18 **qualifying patients and primary caregivers.** Nothing in this
19 chapter shall be construed as prohibiting a qualifying patient
20 or primary caregiver from cultivating or possessing an adequate
21 supply of medical cannabis pursuant to part IX of chapter 329.



1 A qualifying out-of-state patient or a caregiver of a
2 qualifying out-of-state patient shall not be authorized to
3 cultivate cannabis."

4 SECTION 22. Section 329D-25, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~f~~]**§329D-25**[~~+~~] **Coordination among state and federal**
7 **agencies.** The department shall initiate ongoing dialogue among
8 relevant state and federal agencies to identify processes and
9 policies that ensure the privacy of qualifying patients and
10 qualifying out-of-state patients and the compliance of
11 qualifying patients, primary caregivers, qualifying out-of-state
12 patients, and caregivers of qualifying out-of-state patients and
13 medical cannabis dispensaries with state laws and regulations
14 related to medical cannabis."

15 SECTION 23. Section 378-32, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) It shall be unlawful for any employer to suspend,
18 discharge, or discriminate against any of the employer's
19 employees:

20 (1) Solely because the employer was summoned as a
21 garnishee in a cause where the employee is the debtor



1 or because the employee has filed a petition in
2 proceedings for a wage earner plan under chapter XIII
3 of the Bankruptcy Act;

4 (2) Solely because the employee has suffered a work injury
5 which arose out of and in the course of the employee's
6 employment with the employer and which is compensable
7 under chapter 386 unless the employee is no longer
8 capable of performing the employee's work as a result
9 of the work injury and the employer has no other
10 available work which the employee is capable of
11 performing. Any employee who is discharged because of
12 the work injury shall be given first preference of
13 reemployment by the employer in any position which the
14 employee is capable of performing and which becomes
15 available after the discharge and during the period
16 thereafter until the employee secures new employment.
17 This paragraph shall not apply to any employer in
18 whose employment there are less than three employees
19 at the time of the work injury or who is a party to a
20 collective bargaining agreement which prevents the



1 continued employment or reemployment of the injured
2 employee;

3 (3) Because the employee testified or was subpoenaed to
4 testify in a proceeding under this part; [~~or~~]

5 (4) Because an employee tested positive for the presence
6 of drugs, alcohol, or the metabolites of drugs in a
7 substance abuse on-site screening test conducted in
8 accordance with section 329B-5.5; provided that this
9 [~~provision~~] paragraph shall not apply to an employee
10 who fails or refuses to report to a laboratory for a
11 substance abuse test pursuant to section 329B-5.5[~~-~~];
12 or

13 (5) Solely because an employee, who is a registered
14 qualifying patient authorized for the medical use of
15 cannabis pursuant to sections 329-122 and 329-123,
16 tested positive for the presence of cannabis in a
17 substance abuse laboratory test conducted in
18 accordance with section 329B-5.5; provided that this
19 paragraph shall not apply to:



- 1 (A) An employee who fails or refuses to report to a
2 laboratory for a substance abuse test pursuant to
3 section 329B-5.5;
- 4 (B) An employee who is in violation of section
5 329-122(c)(2)(B);
- 6 (C) An employee whose job requires the employee to
7 not be under the influence of substances, such as
8 a bus driver, a heavy machinery operator, a
9 construction worker, or other person employed in
10 a position having safety requirements; or
- 11 (D) An employee whose employer would be in violation
12 of any federal law or regulation by having an
13 employee who tested positive for the presence of
14 cannabis as set forth in this paragraph."

PART II

16 SECTION 24. The legislature finds that Act 241, Session
17 Laws of Hawaii 2015, codified as chapter 329D, Hawaii Revised
18 Statutes, established a license scheme for a statewide system of
19 medical cannabis dispensaries to ensure access to medical
20 cannabis for qualifying patients and was later amended by



1 Act 230, Session Laws of Hawaii 2016, and Acts 41 and 170,
2 Session Laws of Hawaii 2017.

3 The legislature further finds that additional amendments to
4 the law are necessary to allow for adequate patient access based
5 on discussions of the working group established by Act 230,
6 Session Laws of Hawaii 2016.

7 The purpose of this part is to allow a bona fide physician-
8 patient or advanced practice registered nurse-patient
9 relationship to be established via telehealth.

10 SECTION 25. Section 329-126, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§329-126 Protections afforded to a treating physician or**
13 **advanced practice registered nurse. (a)** No physician or
14 advanced practice registered nurse shall be subject to arrest or
15 prosecution, penalized in any manner, or denied any right or
16 privilege for providing written certification for the medical
17 use of cannabis for a qualifying patient; provided that:

18 (1) The physician or advanced practice registered nurse
19 has diagnosed the patient as having a debilitating
20 medical condition, as defined in section 329-121;



1 (2) The physician or advanced practice registered nurse
2 has explained the potential risks and benefits of the
3 medical use of cannabis, as required under section
4 329-122;

5 (3) The written certification is based upon the
6 physician's or advanced practice registered nurse's
7 professional opinion after having completed a full
8 assessment of the patient's medical history and
9 current medical condition made in the course of a bona
10 fide physician-patient relationship or bona fide
11 advanced practice registered nurse-patient
12 relationship, as applicable; and

13 (4) The physician or advanced practice registered nurse
14 has complied with the registration requirements of
15 section 329-123.

16 (b) For purposes of this section, a bona fide physician-
17 patient relationship may be established via telehealth, as
18 defined in section 453-1.3(j), and a bona fide advanced practice
19 registered nurse-patient relationship may be established via
20 telehealth, as defined in section 457-2; provided that treatment
21 recommendations that include certifying a patient for the



1 medical use of cannabis via telehealth shall be allowed only
2 after an initial in-person consultation between the certifying
3 physician or advanced practice registered nurse and the
4 patient."

5 SECTION 26. Section 453-1.3, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) Treatment recommendations made via telehealth,
8 including issuing a prescription via electronic means, shall be
9 held to the same standards of appropriate practice as those in
10 traditional physician-patient settings that do not include a
11 face-to-face visit but in which prescribing is appropriate,
12 including on-call telephone encounters and encounters for which
13 a follow-up visit is arranged. Issuing a prescription based
14 solely on an online questionnaire is not treatment for the
15 purposes of this section and does not constitute an acceptable
16 standard of care. For the purposes of prescribing opiates or
17 certifying a patient for the medical use of cannabis, a
18 physician-patient relationship shall only be established after
19 an in-person consultation between the prescribing physician and
20 the patient."



1 PART III

2 SECTION 27. The legislature finds that studies have shown
3 the benefits of using cannabis to alleviate certain serious
4 illnesses. The legislature further finds that several states
5 permit the sales of edible cannabis products, either for
6 recreational use or for medical use. These states generally
7 place restrictions on the edible cannabis products, such as
8 limiting the amount of psychoactive ingredients per serving,
9 banning manufacturers from making candy-like edibles that might
10 attract children, and requiring proper labeling.

11 The legislature additionally finds that medical cannabis
12 products that provide safe pulmonary administration can allow
13 for more precise dosage administration and can be more effective
14 for certain patients. The legislature also finds that, as with
15 all packaged products, smaller sizes are always more expensive
16 for consumers than larger products. Under existing law, the
17 tetrahydrocannabinol limit per pack or container of certain
18 manufactured cannabis products may impact certain patients, many
19 of whom may have conditions and symptoms that require larger
20 doses of tetrahydrocannabinol for relief.

21 Accordingly, the purpose of this part is to:



- 1 (1) Legalize the manufacturing of edible cannabis products
- 2 for medical purposes;
- 3 (2) Establish basic regulations on edible cannabis
- 4 products;
- 5 (3) Add certain devices that provide safe pulmonary
- 6 administration to the list of medical cannabis
- 7 products that may be manufactured and distributed; and
- 8 (4) Increase the tetrahydrocannabinol limit per pack or
- 9 container of certain manufactured cannabis products.

10 SECTION 28. Section 328-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "food" to read as follows:

12 "Food" means:

- 13 (1) Articles used for food or drink by humans, dogs, or
- 14 cats;
- 15 (2) Chewing gum; or
- 16 (3) Articles used for components of any such article.

17 "Food" does not include edible cannabis products, as defined in
18 section 329D-10."

19 SECTION 29. Section 329D-1, Hawaii Revised Statutes, is
20 amended by amending the definition of "manufactured cannabis
21 product" to read as follows:



1 "Manufactured cannabis product" means any [~~capsule,~~
2 ~~lozenge, oil or oil extract, tincture, ointment or skin lotion,~~
3 ~~pill, transdermal patch, or pre-filled and sealed container used~~
4 ~~to aerosolize and deliver cannabis orally, such as an inhaler or~~
5 ~~nebulizer,~~] product that has been manufactured using cannabis[~~-~~
6 ~~or any other products as specified by the department]~~ pursuant
7 to section [~~329D-10(a)(9)-~~] 329D-10."

8 SECTION 30. Section 329D-9, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The department shall establish health, safety, and
11 sanitation standards regarding the manufacture of manufactured
12 cannabis products[~~-~~]; provided that:

13 (1) Manufactured cannabis products shall only be
14 manufactured in a facility that meets the minimum
15 sanitary requirements adopted by the department that
16 are at least equivalent to the standards for food
17 establishments adopted by the department pursuant to
18 section 321-11 or other applicable law.

19 (2) Cannabis products shall not be manufactured in any
20 facility permitted by the department as a food
21 establishment; and



1 (3) Cannabis products shall not be manufactured in any
2 home kitchen."

3 SECTION 31. Section 329D-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§329D-10 Types of manufactured cannabis products. (a)**

6 The types of medical cannabis products that may be manufactured
7 and distributed pursuant to this chapter shall be limited to:

8 (1) Capsules;

9 (2) Lozenges;

10 (3) Pills;

11 (4) Oils and oil extracts;

12 (5) Tinctures;

13 (6) Ointments and skin lotions;

14 (7) Transdermal patches;

15 (8) Pre-filled and sealed containers used to aerosolize
16 and deliver cannabis orally, such as with an inhaler
17 or nebulizer; [~~and~~]

18 (9) Edible cannabis products;

19 (10) Devices that provide safe pulmonary administration;
20 provided that:



- 1 (A) The heating element of the device is made of
2 inert materials such as glass, ceramic, or
3 stainless steel, and not of plastic or rubber;
- 4 (B) The device is distributed solely for use with
5 single-use, disposable, pre-filled, tamper-
6 resistant, sealed containers that do not contain
7 nicotine or other tobacco products;
- 8 (C) The device is used to aerosolize and deliver
9 cannabis orally, such as a medical-grade inhaler,
10 medical-grade nebulizer, or other medical grade
11 volitization device; and
- 12 (D) There is a temperature control on the device that
13 is regulated to prevent the combustion of
14 cannabis oil; and
- 15 [+9+] (11) Other products as specified by the department.
- 16 (b) As used in this section[~~,"lozenge"~~]:
- 17 "Edible cannabis products" means manufactured cannabis
18 products that are intended to be used, in whole or in part, for
19 human consumption, including chewing gum, drinks, baked
20 products, and candy; provided that edible cannabis products:



- 1 (1) Shall be tested and specifically labeled for each
- 2 product's dosage and strength;
- 3 (2) Shall not include products such as gummies, brightly
- 4 colored candies, or other products designed to appeal
- 5 to children or bear resemblance to other commercially
- 6 available products; and
- 7 (3) May include liquid products that contain no more than
- 8 ten milligrams of activated tetrahydrocannabinol per
- 9 serving.

10 "Lozenge" means a small tablet manufactured in a manner to
 11 allow for the dissolving of its medicinal or therapeutic
 12 component slowly in the mouth."

13 SECTION 32. Section 329D-11, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "~~+~~**§329D-11**~~+~~ **Advertising and packaging.** (a) The
 16 department shall establish standards regarding the advertising
 17 and packaging of cannabis and manufactured cannabis products;
 18 provided that the standards, at a minimum, shall require the use
 19 of packaging that:

- 20 (1) Is child-resistant and opaque so that the product
- 21 cannot be seen from outside the packaging;



- 1 (2) Uses only black lettering on a white background with
2 no pictures or graphics;
- 3 (3) Is clearly labeled with the phrase "For medical use
4 only";
- 5 (4) Is clearly labeled with the phrase "Not for resale or
6 transfer to another person";
- 7 (5) Includes instructions for use and "use by date";
- 8 (6) Contains information about the contents and potency of
9 the product;
- 10 (7) Includes the name of the production center where
11 cannabis in the product was produced, including the
12 batch number and date of packaging;
- 13 (8) Includes a barcode generated by tracking software; and
- 14 (9) In the case of a manufactured cannabis product, [~~a~~
15 ~~listing~~] includes a:
- 16 (A) Listing of the equivalent physical weight of the
17 cannabis used to manufacture the amount of the
18 product that is within the packaging, pursuant to
19 section 329D-9(c) [~~+~~];
- 20 (B) Clearly labeled warning stating that the product:



1 (i) Is a medication that contains cannabis, and
2 is not a food;

3 (ii) Should be kept away from children; and

4 (iii) Contains nuts or other known allergens, if
5 applicable; and

6 (C) Date of manufacture.

7 (b) Any capsule, lozenge, or pill containing cannabis or
8 its principal psychoactive constituent tetrahydrocannabinol
9 shall be packaged so that one dose, serving, or single wrapped
10 item contains no more than ten milligrams of
11 tetrahydrocannabinol; provided that no manufactured cannabis
12 product that is sold in a pack of multiple doses, servings, or
13 single wrapped items, nor any containers of oils, shall contain
14 more than a total of one [~~hundred~~] thousand milligrams of
15 tetrahydrocannabinol per pack or container[-]; provided further
16 that no dispensary shall exceed the dispensing limits imposed by
17 section 329D-7.

18 (c) All manufactured cannabis products shall be
19 individually wrapped at the original point of manufacture."



1 PART IV

2 SECTION 33. The legislature finds that section 329D-6(d),
3 Hawaii Revised Statutes, restricts Hawaii medical cannabis
4 dispensaries from employing an individual if the person was
5 convicted of a felony. This appears unduly restrictive, as
6 other states that have legalized medical cannabis dispensaries
7 allow the employment of felons unless convicted for a limited
8 set of offenses. Section 329D-6(d), Hawaii Revised Statutes,
9 does not provide the opportunity for any exceptions based on the
10 nature of the individual's felony record.

11 The purpose of this part is to specify certain felonies and
12 conditions that will preclude employment, and other felonies
13 that may preclude employment, at medical cannabis dispensaries,
14 rather than make ineligible for employment all individuals who
15 have been convicted of any felony at any time.

16 SECTION 34. Section 329D-6, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

18 "(d) Notwithstanding any other law to the contrary,
19 including but not limited to sections 378-2 and 378-2.5, [~~no~~
20 ~~dispensary shall employ a person convicted of a felony.]~~
21 dispensaries:



- 1 SECTION 36. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 37. This Act shall take effect on July 1, 2050.



Report Title:

Medical Cannabis; Reciprocity; DOH; Qualifying Patient; Employment; Employment Practices; Substance Abuse Testing; Telehealth; Manufactured Cannabis Products; Edible Cannabis Products; Medical Cannabis Dispensaries; Employees

Description:

Part I: Establishes a reciprocity process for medical cannabis patients that requires the Department of Health to register qualifying out-of-state patients and caregivers of qualifying out-of-state patients under certain conditions. Clarifies certain safeguards for qualifying out-of-state patients and caregivers of qualifying out-of-state patients. Authorizes the Department of Health to extend the maximum period of validity of any written certification to three years for debilitating medical conditions that are chronic. Clarifies a dispensary licensee's ability to retest, at its own expense, batches of cannabis or manufactured cannabis products that do not meet the Department of Health's standards for patient safety. Prohibits an employer from suspending, discharging, or discriminating against an employee for testing positive for cannabis if the employee is a registered qualifying patient who is authorized for the medical use of cannabis, with certain exceptions. Part II: Authorizes a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth. Part III: Authorizes and regulates the manufacturing of edible cannabis products as manufactured cannabis products by licensed medical cannabis dispensaries. Establishes requirements for manufacturing, handling, labeling, and packaging of manufactured cannabis products. Adds certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed. Increases the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products. Part IV: Specifies certain felonies and conditions that will preclude employment, and other felonies and conditions that may preclude employment, at a medical cannabis dispensary. Effective 7/1/2050. (HB2729 SD2)

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

