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# A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1           SECTION 1. The legislature finds that Act 241, Session  
2 Laws of Hawaii 2015, codified as chapter 329D, Hawaii Revised  
3 Statutes, established a licensing framework for a statewide  
4 system of medical cannabis dispensaries to ensure access to  
5 medical cannabis for qualifying patients. Act 230, Session Laws  
6 of Hawaii 2016, Act 41, Session Laws of Hawaii 2017, and Act  
7 116, Session Laws of Hawaii 2018, made further amendments.

8           The legislature further finds that additional amendments to  
9 the law are warranted to clarify legislative intent, to ensure  
10 smooth administration of the law, to allow for adequate patient  
11 access to medical cannabis, and to resolve issues that have  
12 arisen under the current law.

13           The purpose of this Act is to:

14           (1) Allow physician assistants practicing under  
15           supervision to provide written certification for  
16           qualifying patients to improve patient access to  
17           medical cannabis;



- 1           (2) Allow licensed dispensaries to have manufacturing or
- 2           processing facilities separate from their production
- 3           facilities, while remaining subject to all regulations
- 4           under the law;
- 5           (3) Provide a process for the voluntary or involuntary
- 6           sale or transfer of a dispensary license;
- 7           (4) Allow dispensaries to operate on state and federal
- 8           holidays;
- 9           (5) Allow a licensed dispensary to purchase medical
- 10          cannabis or manufactured cannabis products from
- 11          another licensed dispensary, with approval from the
- 12          department of health, to ensure patient access to
- 13          cannabis in the event of a crop failure; and
- 14          (6) Allow licensed retail dispensaries to sell edible
- 15          cannabis and cannabidiol products.

16          SECTION 2. Section 328-1, Hawaii Revised Statutes, is  
 17 amended by amending the definition of "food" to read as follows:

18          ""Food" means:

- 19          (1) Articles used for food or drink by humans, dogs, or
- 20          cats[+], except edible cannabis products;
- 21          (2) Chewing gum; or



1 (3) Articles used for components of any such article."

2 SECTION 3. Chapter 329D, Hawaii Revised Statutes, is  
3 amended by adding a new section to be appropriately designated  
4 and to read as follows:

5 "§329D- Sale or transfer of dispensary license. (a) In  
6 the event of death, legal incapacity, or permanent disability of  
7 an individual dispensary licensee, the relevant entity licensee  
8 shall notify the department within thirty days of the individual  
9 licensee's inability to continue in the individual's capacity as  
10 a licensee, and shall provide to the department within another  
11 thirty days, a plan for the sale or transfer of the individual  
12 license to another individual who shall meet all the  
13 requirements under this chapter and shall have been a resident  
14 of the State for not less than five years preceding the date of  
15 transfer.

16 (b) In the event of a voluntary resignation by an  
17 individual licensee, termination of an individual licensee's  
18 employment with an entity licensee with or without cause, or any  
19 other permanent separation of the relationship between an  
20 individual licensee and an entity licensee, the relevant entity  
21 licensee shall submit a plan to the department for approval at



1 least thirty days prior to any sale or transfer of the  
2 individual license to another individual who shall meet all the  
3 requirements under this chapter and shall have been a resident  
4 of the state for not less than five years preceding the date of  
5 transfer.

6 (c) The department may deny a request for transfer of  
7 ownership if it deems the transferee has failed to meet all the  
8 requirements of section 329D-3 for ownership."

9 SECTION 4. Section 329-121, Hawaii Revised Statutes, is  
10 amended by amending the definition of "physician" to read as  
11 follows:

12 "Physician" means a person who is licensed to practice  
13 under chapter 453 and is licensed with authority to prescribe  
14 drugs and is registered under section 329-32. "Physician" [~~does~~  
15 ~~not~~] shall include a physician assistant as described in section  
16 453-5.3."

17 SECTION 5. Section 329D-1, Hawaii Revised Statutes, is  
18 amended by adding a new definition to be appropriately inserted  
19 and to read:

20 "Manufacturing or processing facility" means an enclosed  
21 indoor facility that meets the requirements of section 329D-6



1 where harvested cannabis is processed into manufactured medical  
2 cannabis products, packaged, and stored for retail sale."

3 SECTION 6. Section 329D-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (f) to read as follows:

5 "(f) A dispensary licensee may operate:

6 (1) Up to two production centers [~~shall be allowed~~] under  
7 each dispensary license; and

8 (2) Up to two separate manufacturing or processing  
9 facilities which shall meet all requirements of any  
10 dispensary facility, but shall not be considered as  
11 production center for the purposes of the two  
12 production center limit;

13 provided that, except as otherwise specified in subsection (k),  
14 each production center shall be limited to no more than three  
15 thousand cannabis plants. For purposes of this subsection,  
16 "plant" means a cannabis plant that is greater than twelve  
17 vertical inches in height from where the base of the stalk  
18 emerges from the growth medium to the tallest point of the  
19 plant, or greater than twelve horizontal inches in width from  
20 the end of one branch to the end of another branch; provided



1 that multiple stalks emanating from the same root ball or root  
2 system shall be considered part of the same single plant."

3 SECTION 7. Section 329D-3, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) A dispensary license shall not be sold or otherwise  
6 transferred from one person to another person[-] without  
7 approval from the department as provided in section 329D- ."

8 SECTION 8. Section 329D-6, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§329D-6 Dispensary operations.** (a) No person shall  
11 operate a dispensary, nor engage in the production, manufacture,  
12 or sale of cannabis or manufactured cannabis products, unless  
13 the person has obtained a license from the department pursuant  
14 to this chapter.

15 (b) No dispensary licensee, its officers, employees, or  
16 agents shall provide written certification for the use of  
17 medical cannabis or manufactured cannabis products for any  
18 person.

19 (c) No person under the age of twenty-one shall be  
20 employed by a dispensary licensee.



1 (d) Notwithstanding any other law to the contrary,  
2 including but not limited to sections 378-2 and 378-2.5,  
3 dispensaries:

4 (1) Shall deny employment to any individual who has been:

5 (A) Convicted of murder in any degree;

6 (B) Convicted of a class A or class B felony; or

7 (C) Convicted of a class C felony involving

8 trafficking, distributing, or promoting a

9 schedule I or II controlled substance other than

10 cannabis within the last ten years; and

11 (2) May deny employment to any individual who has been  
12 convicted of a class C felony involving:

13 (A) Fraud, deceit, misrepresentation, embezzlement,  
14 or theft; or

15 (B) Endangering the welfare of a minor.

16 Employment under this chapter shall be exempt from section  
17 378-2(a)(1), as it relates to arrest and court record  
18 discrimination, and section 378-2.5.

19 (e) Retail dispensing locations shall not be open for  
20 retail sales before 8:00 a.m. or after 8:00 p.m., Hawaii-  
21 Aleutian Standard Time, Monday through Sunday. [~~Retail~~



1 ~~dispensing locations shall be closed on official state and~~  
2 ~~federal holidays.]~~

3 (f) All dispensary facilities, including but not limited  
4 to production centers ~~[and]~~, retail dispensing locations, and  
5 manufacturing or processing facilities shall be enclosed indoor  
6 facilities and shall maintain twenty-four hour security  
7 measures, including but not limited to an alarm system, video  
8 monitoring and recording on the premises, and exterior lighting.  
9 A dispensary licensee who intends to utilize, as a production  
10 center, an enclosed indoor facility that includes a roof that is  
11 partially or completely transparent or translucent, as provided  
12 under section 329D-1, shall notify the department of that  
13 intention prior to altering or constructing the facility.  
14 Production centers and manufacturing or processing facilities  
15 shall remain locked at all times. Retail dispensing locations  
16 shall remain locked at all times, other than business hours as  
17 authorized by subsection (e), and shall only be opened for  
18 authorized persons.

19 (g) In all dispensary facilities, only the licensee, if an  
20 individual ~~[ ]~~; registered employees of the dispensary  
21 licensee ~~[ ]~~; registered employees of a subcontracted production





1 center [~~or~~], retail dispensing location, or manufacturing or  
 2 processing facility; employees of a certified laboratory for  
 3 testing purposes [~~and~~]; state employees authorized by the director  
 4 of health [~~and~~]; and law enforcement and other government officials  
 5 acting in their official capacity shall be permitted to touch or  
 6 handle any cannabis or manufactured cannabis products, except  
 7 that a qualifying patient, primary caregiver, qualifying out-of-  
 8 state patient, or caregiver of a qualifying out-of-state patient  
 9 may receive manufactured cannabis products at a retail  
 10 dispensing location following completion of a sale.

11 (h) A dispensary shall provide the department with the  
 12 address, tax map key number, and a copy of the premises lease,  
 13 if applicable, of the proposed location of a production center  
 14 or manufacturing or processing facility allowed under a license  
 15 for a county not later than thirty days prior to any medical  
 16 cannabis or manufactured cannabis products being produced [~~and~~],  
 17 manufactured, processed, packaged, or stored at that production  
 18 center [~~and~~] or manufacturing or processing facility.

19 (i) A dispensary shall provide the department with the  
 20 address, tax map key number, and a copy of the premises lease,  
 21 if applicable, of the proposed location of each retail



1 dispensing location allowed under a license not less than sixty  
2 days prior to opening for business.

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

6 (1) The computer software tracking system shall collect  
7 data relating to:

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

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



1           dispensing locations in the State in any fifteen-  
2           day period;

3           (C) The amount of waste produced by each plant at  
4           harvest; [~~and~~]

5           (D) The transport of cannabis and manufactured  
6           cannabis products between production centers and  
7           retail dispensing locations[~~7~~] and between  
8           dispensaries as permitted by subsection (r),  
9           including tracking identification issued by the  
10          tracking system, the identity of the person  
11          transporting the cannabis or manufactured  
12          cannabis products, and the make, model, and  
13          license number of the vehicle being used for the  
14          transport; and

15          (E) All sales and purchases of cannabis or  
16          manufactured cannabis products undertaken  
17          pursuant to subsection (r);

18          (2) The procurement of the computer software tracking  
19          system established pursuant to this subsection shall  
20          be exempt from chapter 103D; provided that:



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



1 tracking system from medical cannabis licensees. The  
2 alternate tracking system may operate as follows:

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

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

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

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

18 (2) Allow each licensed dispensary's production center to  
19 submit to the department in real time, by automatic  
20 identification and data capture, all cannabis,  
21 cannabis plants, and manufactured cannabis product



1 inventory in possession of that dispensary from either  
2 seed or immature plant state, including all plants  
3 that are derived from cuttings or cloning, until the  
4 cannabis or manufactured cannabis product is sold or  
5 destroyed pursuant to section 329D-7;

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



1           (4) Allow the licensed dispensary to submit all data  
2                   required by this subsection to the department and  
3                   permit the department to access the data if the  
4                   department's computer software tracking system is not  
5                   functioning properly and sales are made pursuant to  
6                   the alternate tracking system under subsection (j).

7           (1) No free samples of cannabis or manufactured cannabis  
8 products shall be provided at any time, and no consumption of  
9 cannabis or manufactured cannabis products shall be permitted on  
10 any dispensary premises.

11           (m) [A] Except as permitted pursuant to subsection (r), a  
12 dispensary shall not transport cannabis or manufactured cannabis  
13 products to another county or another island; provided that this  
14 subsection shall not apply to the transportation of cannabis or  
15 any manufactured cannabis product solely for the purposes of  
16 laboratory testing pursuant to section 329D-8, and subject to  
17 subsection (j), if no certified laboratory is located in the  
18 county or on the island where the dispensary is located;  
19 provided further that a dispensary shall only transport samples  
20 of cannabis and manufactured cannabis products for laboratory  
21 testing for purposes of this subsection in an amount and manner



1 prescribed by the department, in rules adopted pursuant to this  
2 chapter, and with the understanding that state law and its  
3 protections do not apply outside of the jurisdictional limits of  
4 the State.

5 (n) [A] Except for dispensary-to-dispensary sales as  
6 provided in subsection (r), a dispensary shall be prohibited  
7 from off-premises delivery of cannabis or manufactured cannabis  
8 products to a qualifying patient, primary caregiver, qualifying  
9 out-of-state patient, or caregiver of a qualifying out-of-state  
10 patient.

11 (o) A dispensary shall not:

12 (1) Display cannabis or manufactured cannabis products in  
13 windows or in public view; or

14 (2) Post any signage other than a single sign no greater  
15 than one thousand six hundred square inches bearing  
16 only the business or trade name in text without any  
17 pictures or illustrations; provided that if any  
18 applicable law or ordinance restricting outdoor  
19 signage is more restrictive, that law or ordinance  
20 shall govern.





1           (p) No cannabis or manufactured cannabis products shall be  
2 transported to, from, or within any federal fort or arsenal,  
3 national park or forest, any other federal enclave, or any other  
4 property possessed or occupied by the federal government.

5           (q) A dispensary licensed pursuant to this chapter shall  
6 be prohibited from providing written certification pursuant to  
7 section 329-122 for the use of medical cannabis for any person.

8           (r) In the event of a crop failure of cannabis plants that  
9 could affect patient access, the department may permit a  
10 dispensary to purchase medical cannabis and manufactured  
11 cannabis products from another dispensary in an amount and  
12 manner prescribed by the department by rules adopted pursuant to  
13 this chapter and chapter 91; provided that:

14           (1) The purchasing dispensary shall dispose of or destroy  
15 any failed cannabis plants in accordance with  
16 standards established pursuant to section 329D-7(15);

17           (2) All sales and purchases of cannabis and manufactured  
18 cannabis products pursuant to this subsection shall be  
19 subject to the data collection and reporting  
20 requirements of the computer software tracking system  
21 outlined in section 329D-6(j);



- 1        (3) The purchasing dispensary documents:
- 2            (A) The failure of the cannabis crops; and
- 3            (B) The disposal or destruction of any failed
- 4            product; and submits the documentation to the
- 5            department;
- 6        (4) The selling dispensary is permitted by the department
- 7            to transport cannabis or manufactured cannabis
- 8            products to another county or another island, for the
- 9            limited purpose of completing its sale to the
- 10           purchasing dispensary pursuant to this subsection, in
- 11           an amount and manner prescribed by the department by
- 12           rules adopted pursuant to this chapter and chapter 91
- 13           and with the understanding that state law and its
- 14           protections do not apply outside of the jurisdictional
- 15           limits of the State; and
- 16        (5) Nothing in this subsection shall relieve any
- 17           dispensary of its responsibilities and obligations
- 18           under this chapter and chapter 329."

19        SECTION 9. Section 329D-10, Hawaii Revised Statutes, is  
 20 amended to read as follows:



1           "§329D-10   Types of manufactured cannabis products.   (a)

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

4           (1)   Capsules;

5           (2)   Lozenges;

6           (3)   Pills;

7           (4)   Oils and oil extracts;

8           (5)   Tinctures;

9           (6)   Ointments and skin lotions;

10          (7)   Transdermal patches;

11          (8)   Pre-filled and sealed containers used to aerosolize  
12               and deliver cannabis orally, such as with an inhaler  
13               or nebulizer; provided that containers need not be  
14               manufactured by the licensed dispensary but shall be  
15               filled with cannabis, cannabis oils, or cannabis  
16               extracts manufactured by the licensed dispensary;  
17               shall not contain nicotine, tobacco-related products,  
18               or any other non-cannabis derived products; and shall  
19               be designed to be used with devices used to provide  
20               safe pulmonary administration of manufactured cannabis  
21               products;



- 1 (9) Devices that provide safe pulmonary administration;  
2 provided that:
- 3 (A) The heating element of the device, if any, is  
4 made of inert materials such as glass, ceramic,  
5 or stainless steel, and not of plastic or rubber;
- 6 (B) The device is distributed solely for use with  
7 single-use, pre-filled, tamper-resistant, sealed  
8 containers that do not contain nicotine or other  
9 tobacco products;
- 10 (C) The device is used to aerosolize and deliver  
11 cannabis by inhalation, such as an inhaler,  
12 medical-grade nebulizer, or other similar medical  
13 grade volitization device;
- 14 (D) There is a temperature control on the device that  
15 is regulated to prevent the combustion of  
16 cannabis oil; and
- 17 (E) The device need not be manufactured by the  
18 licensed dispensary; [~~and~~]
- 19 (10) Edible cannabis products, provided that such products  
20 shall be prepared in a commercial kitchen dedicated



1 solely to the preparation of edible cannabis products  
2 and no other food;

3 (11) Cannabidiol products, including products not  
4 manufactured by the licensee provided that:

5 (A) Licensed dispensaries clearly label all third-  
6 party cannabidiol products to indicate that  
7 third-party products are not manufactured by the  
8 licensee;

9 (B) Licensed dispensaries ensure that third-party  
10 cannabidiol products meet all laboratory  
11 standards required for licensee-manufactured  
12 products; and

13 (C) Licensed dispensaries ensure that third-party  
14 cannabidiol products meet all other requirements  
15 of chapter 329D on potency limitation, packaging,  
16 and other requirements; and

17 (12) Other products as specified by the department.

18 (b) As used in this section[, "lozenge"]:

19 "Lozenge" means a small tablet manufactured in a manner to  
20 allow for the dissolving of its medicinal or therapeutic  
21 component slowly in the mouth.



1       "Edible cannabis products" means products intended for  
2 human consumption that are infused with any cannabinoid  
3 extracted from the cannabis plant as regulated by administrative  
4 rules of the department.

5       "Cannabidiol products" means any products derived from the  
6 cannabis sativa which contain cannabidiol, including cannabidiol  
7 derived from hemp as defined in the Agriculture Improvement Act  
8 of 2018, Public Law. 115-334."

9       SECTION 10. Section 329D-16, Hawaii Revised Statutes, is  
10 amended to read as follows:

11       "~~+~~ §329D-16 ~~[+]~~ **Criminal offense; unauthorized access to**  
12 **production centers ~~[+]~~ or manufacturing or processing facilities.**

13 (a) No person shall intentionally or knowingly enter or remain  
14 upon the premises of a medical cannabis production center or  
15 manufacturing or processing facility unless the person is:

16       (1) An individual licensee or registered employee of the  
17       production center ~~[+]~~ or manufacturing or processing  
18       facility;

19       (2) A government employee or official acting in the  
20       person's official capacity; or



- 1 (3) Previously included on a current department-approved  
2 list provided to the department by the licensee of  
3 those persons who are allowed into that dispensary's  
4 facilities for a specific purpose for that dispensary,  
5 including but not limited to construction,  
6 maintenance, repairs, legal counsel, or investors;  
7 provided that:
- 8 (A) The person has been individually approved by the  
9 department to be included on the list;
  - 10 (B) The person is at least twenty-one years of age,  
11 as verified by a valid government issued  
12 identification card;
  - 13 (C) The department has confirmed that the person has  
14 no felony convictions;
  - 15 (D) The person is escorted by an individual licensee  
16 or registered employee of the dispensary at all  
17 times while in the dispensary facility;
  - 18 (E) The person is only permitted within those  
19 portions of the dispensary facility as necessary  
20 to fulfill the person's purpose for entering;



1 (F) The person is only permitted within the  
2 dispensary facility during the times and for the  
3 duration necessary to fulfill the person's  
4 purpose for entering;

5 (G) The dispensary shall keep an accurate record of  
6 each person's identity, date and times upon  
7 entering and exiting the dispensary facility,  
8 purpose for entering, and the identity of the  
9 escort; and

10 (H) The approved list shall be effective for one year  
11 from the date of department approval.

12 (b) No individual licensee or registered employee of a  
13 medical cannabis dispensary with control over or responsibility  
14 for a production center or manufacturing or processing facility  
15 shall intentionally or knowingly allow another to enter or  
16 remain upon the premises of the production center [7] or  
17 manufacturing or processing facility, unless the other is  
18 permitted to enter and remain as specified in subsection (a).

19 (c) Unauthorized access to a production center or  
20 manufacturing or processing facility is a class C felony."





1 SECTION 11. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4 SECTION 12. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 13. This Act shall take effect on July 1, 2050.



**Report Title:**

Department of Health; Cannabis; Cannabidiol Products; License;  
Dispensary

**Description:**

Allows physician assistants to provide written certification for qualifying patients. Allows licensed dispensaries to have up to two additional manufacturing or processing facilities separate from their production facilities. Provides a process for the voluntary or involuntary sale or transfer of an individual dispensary license. Allows retail dispensaries to operate on state and federal holidays. Allows a licensed dispensary to purchase medical cannabis or manufactured cannabis products from another licensed dispensary, with department approval, in the event of a crop failure. Allows licensed retail dispensaries to sell edible cannabis and cannabidiol products. (HB673 HD1)

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

