
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 as licensed medical
2 cannabis dispensaries have only been established since 2015,
3 they are still a new and emerging industry and most production
4 centers and facilities have only been operating for less than
5 two years. The legislature further finds that there may be
6 situations where the leadership within a licensed dispensary has
7 changed; however, existing law does not provide a process for
8 the sale or transfer of any significant interest in a licensed
9 dispensary.

10 The legislature also finds that although the medical use of
11 cannabis by a qualifying patient to alleviate the symptoms or
12 effects of the qualifying patient's debilitating medical
13 condition is permitted under state law, there are no
14 corresponding employment protections for qualifying patients. A
15 qualifying patient can therefore be discriminated against in the
16 hiring process, merely because of the patient's status as a
17 qualifying patient, or fired at an employer's discretion for



1 failing a drug test, even if the qualifying patient is not
2 exhibiting any symptoms of being impaired.

3 Accordingly, the purpose of this Act is to:

4 (1) Provide a process for the voluntary or involuntary
5 sale or transfer of a dispensary license;

6 (2) Prohibit an employer from discriminating against an
7 employee based on the employee's status as a
8 qualifying patient;

9 (3) Prohibit an employer from taking action against an
10 employee based solely on the employee's status as a
11 qualifying patient or if the results of the employee's
12 drug test are positive for cannabis; and

13 (4) Specify permissible and impermissible actions by
14 employers and employees.

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

18 "§329D- Sale or transfer of dispensary license. (a) In
19 the event of death, legal incapacity, or permanent disability of
20 an individual dispensary licensee, the relevant entity licensee
21 shall notify the department within thirty days of the individual



1 licensee's inability to continue in the individual's capacity as
2 a licensee, and shall provide to the department within thirty
3 days of the notice a plan for the sale or transfer of the
4 individual license to another individual who meets all the
5 requirements under this chapter and has been a resident of the
6 State for not less than five years preceding the proposed date
7 of transfer.

8 (b) In the event of a voluntary resignation by an
9 individual licensee, termination of an individual licensee's
10 employment with an entity licensee with or without cause, or any
11 other permanent separation of the relationship between an
12 individual licensee and an entity licensee, the relevant entity
13 licensee shall submit a plan to the department for approval at
14 least thirty days prior to any sale or transfer of the
15 individual license to another individual who shall meet all the
16 requirements under this chapter and shall have been a resident
17 of the State for not less than five years preceding the date of
18 transfer.

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



1 SECTION 3. Chapter 378, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§378- Qualifying patient; employment; employees;
5 employers; nondiscrimination; prohibitions. (a) An employer
6 shall not:

7 (1) Discriminate against a person in hiring, termination,
8 or imposing any term or condition of employment or
9 otherwise penalize a person based on that person's
10 status as a qualifying patient; or

11 (2) Take action against an employee solely based upon the
12 employee's status as a qualifying patient or if the
13 results of such employee's drug test show positive for
14 cannabis or its components;

15 unless the employee is a law enforcement officer in the State or
16 the employee works in a state correctional facility, or unless a
17 failure to do so would cause an employer to lose a monetary or
18 licensing related benefit under federal law or regulations.

19 (b) This section shall not prohibit an employer from:

20 (1) Enforcing a workplace drug policy; provided the policy
21 is applied in a nondiscriminatory manner and does not



1 conflict with the nondiscrimination provisions under
2 subsection (a); or

3 (2) Disciplining an employee who is a qualifying patient
4 if the employee is impaired as defined in subsection
5 (e); provided that an employer that elects to
6 discipline an employee under this paragraph shall
7 afford the employee a reasonable opportunity to
8 contest the basis of the determination.

9 (c) Nothing in this section shall be construed to create
10 or imply a cause of action for any person against an employer
11 for injury or loss to a third party based on an employee's being
12 impaired, but only if the employer neither knew nor had reason
13 to know that the employee was impaired.

14 (d) Nothing in this section shall be construed to
15 interfere with any federal restrictions on employment, including
16 but not limited to the United States Department of
17 Transportation regulations pursuant to title 49 Code of Federal
18 Regulations section 40.151(e).

19 (e) For purposes of this section:

20 "Impaired" means that an employee who is a qualifying
21 patient manifests specific, articulable symptoms while working



1 that decrease or lessen the employee's performance of the duties
 2 or tasks of the employee's job position, including symptoms of
 3 the employee's speech, physical dexterity, agility,
 4 coordination, demeanor, irrational or unusual behavior;
 5 negligence or carelessness in operating equipment or machinery;
 6 disregard for the safety of the employee or others; involvement
 7 in an accident that results in serious damage to equipment or
 8 property; disruption of a production or manufacturing process;
 9 or carelessness that results in any injury to the employee or
 10 others.

11 "Qualifying patient" shall have the same meaning as in
 12 section 329-121."

13 SECTION 4. Chapter 378, Hawaii Revised Statutes, is
 14 amended by amending the title of part III to read as follows:

15 "PART III. UNLAWFUL [~~SUSPENSION OR DISCHARGE~~] EMPLOYMENT
 16 ACTIONS"

17 SECTION 5. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on March 15, 2094.



Report Title:

Department of Health; Cannabis; License; Dispensary; Sale or Transfer of License; Employment Discrimination; Qualifying Patient

Description:

Provides a process for the voluntary or involuntary sale or transfer of an individual dispensary license. Prohibits an employer from discriminating against a person in hiring, termination, or conditions of employment based on the person's status as a qualifying patient and from taking action against an employee based solely on the employee's status as a qualifying patient or if the results of the employee's drug test are positive for cannabis, subject to certain exceptions. Specifies permissible and impermissible actions by employers and employees. Effective 3/15/2094. (SD2)

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