
A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

PART I

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

"§378- Medical marijuana. Unless a failure to do so would cause an employer to lose a monetary or licensing-related benefit under federal law, no employer shall discipline, suspend, discharge, or discriminate against any of the employer's employees or applicants for employment solely because the employee or applicant tested positive for the presence of marijuana or its metabolites in a substance abuse test conducted in accordance with section 329B-5 or section 329B-5.5; provided that:

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



- 1 (2) Nothing in this section shall be construed to
- 2 authorize the use of medical marijuana in the
- 3 workplace of an employee's employment; and
- 4 (3) Nothing in this section shall be construed to
- 5 supersede any statute, rule, employment contract,
- 6 collective bargaining agreement, or workplace
- 7 regulation or policy prohibiting an employee from
- 8 being under the influence of marijuana while working
- 9 in the workplace of the employee's employment."

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

12 "[+]§329-125[+] Protections afforded to a qualifying
 13 patient or primary caregiver. (a) A qualifying patient or the
 14 primary caregiver may assert the medical use of marijuana as an
 15 affirmative defense to any prosecution involving marijuana under
 16 this [+]part[+] or chapter 712; provided that the qualifying
 17 patient or the primary caregiver strictly complied with the
 18 requirements of this part.

19 (b) Any qualifying patient or primary caregiver not
 20 complying with the permitted scope of the medical use of
 21 marijuana shall not be afforded the protections against searches

1 and seizures pertaining to the misapplication of the medical use
2 of marijuana.

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

6 (d) A qualifying patient or primary caregiver shall not be
7 subject to any civil penalty or disciplinary action by a court
8 or occupational or professional licensing board or bureau for
9 any behavior that is in strict compliance with this part.

10 (e) Unless a failure to do so would cause an employer to
11 lose a monetary or licensing-related benefit under federal law,
12 no employer shall discipline, suspend, discharge, or
13 discriminate against any of the employer's employees or
14 applicants for employment solely because the employee or
15 applicant tested positive for the presence of marijuana or its
16 metabolites in a substance abuse test conducted in accordance
17 with section 329B-5 or section 329B-5.5; provided that:

18 (1) The employee or applicant is a qualifying patient
19 pursuant to section 329-121 and strictly complied with
20 the requirements of this part;



- 1 (2) Nothing in this section shall be construed to
- 2 authorize the use of medical marijuana in the
- 3 workplace of an employee's employment; and
- 4 (3) Nothing in this section shall be construed to
- 5 supersede any statute, rule, employment contract,
- 6 collective bargaining agreement, or workplace
- 7 regulation or policy prohibiting an employee from
- 8 being under the influence of marijuana while working
- 9 in the workplace of the employee's employment."

PART II

11 SECTION 3. The legislature finds that support for the

12 medical use of marijuana in the State is strong and that the

13 experience of the State with the medical use of marijuana has

14 been favorable, but that existing protections for patients are

15 very weak regarding civil penalties. Patients within the

16 medical marijuana program should not be less secure in their

17 housing, school enrollment, or supplemental medical care than

18 patients who have made different private decisions with their

19 doctors concerning medication.

20 The legislature is mindful of the difficult position of

21 medical marijuana patients under federal law and seeks to ensure



1 that the rights of patients are protected, while at the same
2 time respecting the needs of institutions and individuals to
3 protect themselves from federal penalties. For this reason, the
4 rights afforded under this part are limited to those situations
5 in which no monetary or licensing-related benefit would be
6 revoked for compliance with state law, and to those situations
7 in which patients and caregivers are in strict compliance with
8 the State's medical marijuana law.

9 SECTION 4. Chapter 329, Hawaii Revised Statutes, is
10 amended by adding a new section to part IX to be appropriately
11 designated and to read as follows:

12 "§329- Medical marijuana 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 marijuana
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.



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

8 (c) No person shall be denied:

9 (1) Custody of;

10 (2) Visitation with; or

11 (3) Parenting time with

12 a minor, and there shall be no presumption of neglect or child
 13 endangerment, for conduct allowed under this part; provided that
 14 this subsection shall not apply if the person's conduct created
 15 an unreasonable danger to the safety of the minor as established
 16 by clear and convincing evidence."

17 PART III

18 SECTION 5. This Act does not affect rights and duties that
 19 matured, penalties that were incurred, and proceedings that were
 20 begun before its effective date.

1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Medical Marijuana; Employment; Discrimination; Schools;
Landlords; Medical Care; Parental Rights; Protections

Description:

Prohibits an employer from disciplining, suspending, discharging, or discriminating against an employee who is a patient qualified to use medical marijuana solely because the employee tested positive for marijuana use. Prohibits discrimination against medical marijuana patients and caregivers by schools, landlords, and courts with regard to medical care or parental rights. Effective July 1, 2050. (Proposed SD2)

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

