

JAN 20 2012

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 the State's medical
2 marijuana, or cannabis, program was enacted in 2000 as a public
3 health program conceived out of compassion for the health and
4 welfare of the seriously ill. After eleven years, the
5 experience of the program indicates that improvements to the law
6 will help to fulfill its original intent by clarifying
7 provisions and removing serious obstacles to patient access and
8 physician participation.

9 The purpose of this Act is to allow the transfer and
10 transport of medical cannabis under certain conditions.

11 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
12 amended by amending the definition of "medical use" to read as
13 follows:

14 "Medical use" means the acquisition, possession,
15 cultivation, use, distribution, or transportation of marijuana
16 or paraphernalia relating to the administration of marijuana, to
17 alleviate the symptoms or effects of a qualifying patient's
18 debilitating medical condition. For the purposes of "medical



1 use", the term distribution is limited to the transfer of
2 marijuana and paraphernalia from the primary caregiver to the
3 qualifying patient[-] or the transfer of marijuana from a
4 qualifying person to another qualifying person pursuant to
5 section 329-122."

6 SECTION 3. Section 329-122, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§329-122 Medical use of marijuana; conditions of use.**

9 (a) Notwithstanding any law to the contrary, the medical use of
10 marijuana by a qualifying patient shall be permitted only if:

- 11 (1) The qualifying patient has been diagnosed by a
12 physician as having a debilitating medical condition;
- 13 (2) The qualifying patient's physician has certified in
14 writing that, in the physician's professional opinion,
15 the potential benefits of the medical use of marijuana
16 would likely outweigh the health risks for the
17 particular qualifying patient; and
- 18 (3) The amount of marijuana does not exceed an adequate
19 supply.

20 (b) Subsection (a) shall not apply to a qualifying patient
21 under the age of eighteen years, unless:



1 (1) The qualifying patient's physician has explained the
2 potential risks and benefits of the medical use of
3 marijuana to the qualifying patient and to a parent,
4 guardian, or person having legal custody of the
5 qualifying patient; and

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

8 (A) Allow the qualifying patient's medical use of
9 marijuana;

10 (B) Serve as the qualifying patient's primary
11 caregiver; and

12 (C) Control the acquisition of the marijuana, the
13 dosage, and the frequency of the medical use of
14 marijuana by the qualifying patient.

15 (c) The authorization for the medical use of marijuana in
16 this section shall not apply to:

17 (1) The medical use of marijuana that endangers the health
18 or well-being of another person;

19 (2) The medical use of marijuana:

20 (A) In a school bus, public bus, or any moving
21 vehicle;

22 (B) In the workplace of one's employment;



- 1 (C) On any school grounds;
- 2 (D) At any public park, public beach, public
- 3 recreation center, recreation or youth center; or
- 4 (E) Other place open to the public; and
- 5 (3) The use of marijuana by a qualifying patient, parent,
- 6 or primary caregiver for purposes other than medical
- 7 use permitted by this part.

8 (d) A qualifying patient or primary caregiver who is
 9 registered under section 329-123 may transfer usable cannabis or
 10 any part of the cannabis plant, including the seeds, seedlings,
 11 or clones, to any other qualifying patient or any other
 12 registered primary caregiver who is registered under section
 13 329-123; provided that no consideration is paid for the cannabis
 14 and that the recipient does not exceed the adequate supply
 15 amount specified in section 329-121."

16 SECTION 4. Section 329-125, Hawaii Revised Statutes, is
 17 amended by amending subsection (c) to read as follows:

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

21 A qualifying patient who is registered under section
 22 329-123 and who transports cannabis that is intended for medical



1 use shall be immune from searches, seizures, and prosecution for
2 offenses under part IV of chapter 712 while in the course of the
3 transport."

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

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect upon its approval.

10

INTRODUCED BY:

Will Engro
Amundson
Carol Fulkerson



S.B. NO. 2405

Report Title:

Medical Marijuana; Transfer; Transport

Description:

Allows, under certain conditions, the transfer and transport of medical cannabis.

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

