
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 PART I

2 SECTION 1. The legislature finds that the tobacco industry
3 spends more than \$12,000,000,000 annually on advertising and
4 marketing its products in the United States. Each year, tobacco
5 companies spend over \$42,000,000 promoting their brands in
6 stores throughout Hawaii. The National Cancer Institute has
7 reported that the total weight of evidence from multiple studies
8 demonstrates a causal relationship between tobacco advertising
9 and promotion and increased tobacco use.

10 The legislature additionally finds that retail stores are
11 given incentives to place tobacco advertisements and products in
12 strategic locations near the cash register, known as a point-of-
13 sale, or in self-service displays. Research indicates the
14 presence of these products and advertisements may stimulate
15 impulse purchases. Furthermore, a 2009 study found that
16 frequent visits to stores selling tobacco and a greater
17 awareness of cigarettes sold in stores increased the likelihood



1 of teenagers being susceptible to initiating smoking,
2 experimenting with smoking, or becoming smokers.

3 The legislature has a compelling interest in reducing the
4 number of children and teens in Hawaii who smoke. The
5 legislature finds that because of the documented connection
6 between children and youth exposure to tobacco advertisements
7 and youth tobacco initiation, regulations on the placement of
8 cigarette and tobacco products is needed.

9 The purpose of this part is to require cigarettes and
10 tobacco products to be sold, offered for sale, or displayed only
11 in a direct, face-to-face exchange between the retailer and the
12 consumer.

13 SECTION 2. Chapter 328J, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 **"§328J- Placement of cigarettes and tobacco products.**

17 (a) A person who owns, manages, operates, or otherwise controls
18 any establishment where cigarettes or tobacco products are sold
19 or offered for sale shall not sell, permit to be sold, offer for
20 sale, or display for sale any cigarettes or tobacco products
21 except only in a direct, face-to-face exchange between the
22 retailer and the consumer.



1 **(b) This section shall not apply to retail tobacco stores,**
2 **bars, or any establishment for which the minimum age for**
3 **admission is eighteen.**"

4 PART II

5 SECTION 3. The legislature finds that the State's medical
6 marijuana program was enacted into law in 2000 as a public
7 health program conceived out of compassion for the health and
8 welfare of the seriously ill. After twelve years, the
9 experience of the program indicates that improvements to the law
10 will help to fulfill its original intent by clarifying
11 provisions and removing serious obstacles to patient access and
12 physician participation.

13 The purpose of this part is to amend the medical use of
14 marijuana law to address the concerns of Hawaii's seriously ill
15 patients.

16 SECTION 4. Chapter 329, Hawaii Revised Statutes, is
17 amended by adding three new sections to part IX to be
18 appropriately designated and to read as follows:

19 "**§329- Transfers.** **A qualifying patient or primary**
20 **caregiver who is registered under section 329-123 may provide**
21 **usable marijuana or any part of the marijuana plant, including**
22 **seeds, seedlings, or clones, to any other qualifying patient or**



1 any other primary caregiver who is registered under section 329-
2 123; provided that no consideration is paid for the marijuana
3 and that the total amount of marijuana possessed by the
4 recipient does not exceed the adequate supply amount specified
5 in section 329-121.

6 **§329- Authorized conduct by a visiting qualifying**
7 **patient.** A qualifying patient who is visiting the State from
8 another jurisdiction of the United States that authorizes the
9 medical use of marijuana pursuant to a law recognized by the
10 department of health and who has in the qualified patient's
11 possession a valid registry identification card issued in
12 another jurisdiction of the United States or its equivalent and
13 photographic identification from that jurisdiction may for
14 thirty days after entering the State engage in conduct
15 authorized for a qualifying patient under this chapter; provided
16 that any qualifying patient who is visiting the State for
17 thirty-one days or more from another jurisdiction of the United
18 States shall register with the State medical use of marijuana
19 program pursuant to section 329-123 no later than thirty-one
20 days after entering the State.

21 **§329- Limitation of marijuana plants grown.**
22 Notwithstanding the adequate supply amount authorized for each



1 qualified patient and primary caregiver pursuant to this
2 chapter, there shall be no more than twenty-eight marijuana
3 plants located at a single property as defined by a single Tax
4 Map Key."

5 SECTION 5. Section 329-121, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By adding a new definition to be appropriately
8 inserted and to read:

9 "Reimbursement" means consideration provided to a primary
10 caregiver as compensation for costs associated with assisting
11 qualifying patients who are registered under section 329-123 to
12 obtain marijuana for medical use; provided that "reimbursement"
13 shall not include the sale of controlled substances."

14 2. By amending the definition of "adequate supply" to
15 read:

16 "Adequate supply" means an amount of marijuana jointly
17 possessed between the qualifying patient and the primary
18 caregiver that is not more than is reasonably necessary to
19 assure the uninterrupted availability of marijuana for the
20 purpose of alleviating the symptoms or effects of a qualifying
21 patient's debilitating medical condition; provided that an
22 "adequate supply" shall not exceed [~~three mature~~] seven



1 marijuana plants [~~, four immature marijuana plants, and one~~
2 ~~ounce~~], whether immature or mature, and five ounces of usable
3 marijuana [per each mature plant.] at any given time."

4 3. By amending the definition of "medical use" to read:

5 "Medical use" means the acquisition, possession,
6 cultivation, use, distribution, or transportation of marijuana
7 or paraphernalia relating to the administration of marijuana to
8 alleviate the symptoms or effects of a qualifying patient's
9 debilitating medical condition. For the purposes of "medical
10 use", the term distribution is limited to the transfer of
11 marijuana and paraphernalia [~~from the primary caregiver to the~~
12 ~~qualifying patient.~~] among qualifying patients and primary
13 caregivers."

14 4. By amending the definition of "primary caregiver" to
15 read:

16 "Primary caregiver" means a person[~~7~~] eighteen years of
17 age or older, other than the qualifying patient and the
18 qualifying patient's physician, [~~who is eighteen years of age or~~
19 ~~older~~] who has agreed, with or without reimbursement, to
20 undertake responsibility for managing the well-being of the
21 qualifying patient with respect to the medical use of marijuana.
22 In the case of a minor or an adult lacking legal capacity, the



1 primary caregiver shall be a parent, guardian, or person having
2 legal custody."

3 5. By amending the definition of "usable marijuana" to
4 read:

5 "Usable marijuana" means the dried leaves and flowers of
6 the plant Cannabis family Moraceae, and any mixture [†]or[†]
7 preparation thereof, that are appropriate for the medical use of
8 marijuana. "Usable marijuana" does not include the seeds,
9 stalks, and roots of the plant."

10 6. By amending the definition of "written certification"
11 to read:

12 "Written certification" means the qualifying patient's
13 medical records or a statement signed by a qualifying patient's
14 physician, stating that in the physician's professional opinion,
15 the qualifying patient has a debilitating medical condition and
16 the potential benefits of the medical use of marijuana would
17 likely outweigh the health risks for the qualifying patient.
18 The department of [~~public safety~~] health may require, through
19 its rulemaking authority, that all written certifications comply
20 with a designated form. "Written certifications" are valid for
21 only one year from the time of signing."



1 SECTION 6. Section 329-122, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Notwithstanding any law to the contrary, the medical
4 use of marijuana by a qualifying patient shall be permitted only
5 if:

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

15 SECTION 7. Section 329-123, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§329-123 Registration requirements.** (a) Physicians who
18 issue written certifications shall [~~register the names,~~
19 ~~addresses, patient identification numbers,~~] provide, in each
20 written certification, the name, address, patient identification
21 number, and other identifying information of the [patients
22 ~~issued written certifications with the department of public~~



1 ~~safety.]~~ qualifying patient. The department of health may
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 only
5 require information from the applicant, primary caregiver, and
6 certifying physician as specifically required or permitted by
7 this chapter. The form may request the address of the location
8 where the marijuana is grown, but that information shall be
9 confidential and shall not appear on the registry card issued by
10 the department of health. The information required shall
11 include the physician's attestation that the qualifying patient
12 has one of the debilitating medical conditions defined in
13 section 329-121 but shall not name or describe the particular
14 condition. The certifying physician shall not be required to be
15 the qualifying patient's primary care physician. If the
16 physician issuing the written certification is not the
17 qualifying patient's primary care physician, the issuing
18 physician shall send a copy of the written certification to the
19 qualifying patient's primary care physician, if any.

20 (b) Qualifying patients shall register with the department
21 of ~~public safety.]~~ health. The registration shall be effective
22 until the expiration of the certificate issued by the department



1 of health and signed by the physician. Every qualifying patient
2 shall provide sufficient identifying information to establish
3 the personal identities of the qualifying patient and the
4 primary caregiver. Qualifying patients shall report changes in
5 information within [~~five~~] ten working days. Every qualifying
6 patient shall have only one primary caregiver at any given time.
7 The department of health shall [~~then~~] issue to the qualifying
8 patient a registration certificate[~~7~~] and may charge a
9 reasonable fee not to exceed \$35[~~7~~] per year.

10 (c) Primary caregivers shall register with the department
11 of [~~public safety~~] health. Every primary caregiver shall be
12 responsible for the care of [~~only one~~] not more than three
13 qualifying [~~patient~~] patients at any given time[~~7~~]; provided
14 that a primary caregiver shall disclose the number of qualifying
15 patients for whom the primary caregiver is responsible upon
16 registration and that number shall be included in any
17 registration card provided to the primary caregiver. The
18 primary caregiver shall notify the department of health in
19 writing of any changes to the number of the qualifying patients
20 for whom the primary caregiver is responsible.

21 (d) Upon [~~an~~] inquiry by a law enforcement agency, the
22 department of [~~public safety~~] health shall verify whether the



1 ~~[particular qualifying patient]~~ subject of the inquiry has
2 registered with the department of health and may provide
3 reasonable access to the registry information for official law
4 enforcement purposes."

5 PART III

6 SECTION 8. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 9. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Tobacco; Tobacco Product Placement; Medical Use of Marijuana

Description:

Requires cigarettes and tobacco products to be sold, offered for sale, or displayed only in a direct, face-to-face exchange between the retailer and the consumer. Amends the Medical Use of Marijuana Law. Effective July 1, 2050. (SB642 HD1)

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