

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

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

3 "Food" means:

4 (1) Articles used for food or drink by humans, dogs, or  
5 cats;

6 (2) Chewing gum; or

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

8 "Food" does not include edible cannabis products, as defined in  
9 section 329D-10."

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

13 "Adequate supply" means an amount of marijuana jointly  
14 possessed between the qualifying patient and the primary  
15 caregiver that is not more than is reasonably necessary to  
16 ensure the uninterrupted availability of marijuana for the  
17 purpose of alleviating the symptoms or effects of a qualifying



1 patient's debilitating medical condition; provided that an  
2 "adequate supply" shall not exceed: seven marijuana plants,  
3 whether immature or mature, seven marijuana seedlings, and four  
4 ounces of usable marijuana at any given time. The four ounces  
5 of usable marijuana shall include any combination of usable  
6 marijuana and manufactured marijuana products, as provided in  
7 chapter 329D, with the marijuana in the manufactured marijuana  
8 products being calculated using information provided pursuant to  
9 section 329D-9(c). For the purposes of this definition, "plant"  
10 means a marijuana plant that is at least twelve vertical inches  
11 in height from where the base of the stalk emerges from the  
12 growth medium to the tallest point of the plant, or at least  
13 twelve horizontal inches in width from the end of one branch to  
14 the end of another branch; provided that multiple stalks  
15 emanating from the same root ball or root system shall be  
16 considered part of the same single plant. For the purposes of  
17 this definition, "seedling" means a marijuana plant that is less  
18 than twelve vertical inches in height from where the base of the  
19 stalk emerges from the growth medium to the tallest point, or  
20 less than twelve horizontal inches in width from the end of one  
21 branch to the end of another branch."



1 SECTION 3. Section 329-130, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) After December 31, 2018, a qualifying patient shall  
4 obtain medical marijuana or manufactured marijuana products  
5 only:

6 (1) From a dispensary licensed pursuant to chapter 329D;  
7 provided that the marijuana shall be purchased and  
8 paid for at the time of purchase; or

9 (2) By cultivating marijuana in an amount that does not  
10 exceed an adequate supply for the qualifying patient,  
11 pursuant to section 329-122.

12 ~~[After December 31, 2018, no primary caregiver shall be~~  
13 ~~authorized to cultivate marijuana for any qualifying patient.] "~~

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

16 "(b) The application shall be submitted to the department  
17 and shall include supporting documentation to establish the  
18 following:

19 (1) That the individual applicant:



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- 1 (A) Has been a legal resident of the State for not  
2 less than five years preceding the date of  
3 application;
- 4 (B) Is not less than twenty-one years of age; and
- 5 (C) Has [~~had no~~] not served time in prison for a  
6 felony [~~convictions,~~] conviction in the five  
7 years immediately preceding the application date;
- 8 (2) That the applying entity:
- 9 (A) Has been organized under the laws of the State;
- 10 (B) Has a Hawaii tax identification number;
- 11 (C) Has a department of commerce and consumer affairs  
12 business registration division number and suffix;
- 13 (D) Has a federal employer identification number;
- 14 (E) Is not less than fifty-one per cent held by  
15 Hawaii legal residents or entities wholly  
16 controlled by Hawaii legal residents who have  
17 been Hawaii legal residents for not less than  
18 five years immediately preceding the date the  
19 application was submitted;
- 20 (F) Has financial resources under its control of not  
21 less than \$1,000,000 for each license applied



1 for, plus not less than \$100,000 for each retail  
2 dispensing location allowed under the license  
3 applied for, in the form of bank statements or  
4 escrow accounts, and that the financial resources  
5 have been under the control of the applying  
6 entity for not less than ninety days immediately  
7 preceding the date the application was submitted;  
8 and

9 (G) Is composed of principals or members, each of  
10 whom has ~~[no]~~ not served time in prison for a  
11 felony ~~[convictions.]~~ conviction in the five  
12 years immediately preceding the application  
13 date."

14 SECTION 5. Section 329D-6, Hawaii Revised Statutes, is  
15 amended by amending subsection (d) to read as follows:

16 "(d) Notwithstanding any other law to the contrary,  
17 including but not limited to sections 378-2 and 378-2.5, no  
18 dispensary shall employ a person ~~[convicted of]~~ who has served  
19 time in prison for a felony[-] conviction in the five years  
20 immediately preceding the employment. Employment under this



1 chapter shall be exempt from section 378-2(a)(1), as it relates  
2 to arrest and court record discrimination, and section 378-2.5."

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

5 "§329D-7 **Medical marijuana dispensary rules.** The  
6 department shall establish standards with respect to:

7 (1) The number of medical marijuana dispensaries that  
8 shall be permitted to operate in the State;

9 (2) A fee structure for the submission of applications and  
10 renewals of licenses to dispensaries; provided that  
11 the department shall consider the market conditions in  
12 each county in determining the license renewal fee  
13 amounts;

14 (3) Criteria and procedures for the consideration and  
15 selection, based on merit, of applications for  
16 licensure of dispensaries; provided that the criteria  
17 shall include but not be limited to an applicant's:

18 (A) Ability to operate a business;

19 (B) Financial stability and access to financial  
20 resources; provided that applicants for medical  
21 marijuana dispensary licenses shall provide



1 documentation that demonstrates control of not  
2 less than \$1,000,000 in the form of escrow  
3 accounts, letters of credit, surety bonds, bank  
4 statements, lines of credit or the equivalent to  
5 begin operating the dispensary;

6 (C) Ability to comply with the security requirements  
7 developed pursuant to paragraph (6);

8 (D) Capacity to meet the needs of qualifying  
9 patients;

10 (E) Ability to comply with criminal background check  
11 requirements developed pursuant to paragraph (8);  
12 and

13 (F) Ability to comply with inventory controls  
14 developed pursuant to paragraph (13);

15 (4) Specific requirements regarding annual audits and  
16 reports required from each production center and  
17 dispensary licensed pursuant to this chapter;

18 (5) Procedures for announced and unannounced inspections  
19 by the department or its agents of production centers  
20 and dispensaries licensed pursuant to this chapter;



1 provided that inspections for license renewals shall  
2 be unannounced;

3 (6) Security requirements for the operation of production  
4 centers and retail dispensing locations; provided  
5 that, at a minimum, the following shall be required:

6 (A) For production centers:

7 (i) Video monitoring and recording of the  
8 premises;

9 (ii) Fencing that surrounds the premises and that  
10 is sufficient to reasonably deter intruders  
11 and prevent anyone outside the premises from  
12 viewing any marijuana in any form;

13 (iii) An alarm system; and

14 (iv) Other reasonable security measures to deter  
15 or prevent intruders, as deemed necessary by  
16 the department;

17 (B) For retail dispensing locations:

18 (i) Presentation of a valid government-issued  
19 photo identification and a valid  
20 identification as issued by the department  
21 pursuant to section 329-123, by a qualifying





- 1 patient or caregiver, upon entering the  
2 premises;
- 3 (ii) Video monitoring and recording of the  
4 premises;
- 5 (iii) An alarm system;
- 6 (iv) Exterior lighting; and
- 7 (v) Other reasonable security measures as deemed  
8 necessary by the department;
- 9 (7) Security requirements for the transportation of  
10 marijuana and manufactured marijuana products between  
11 production centers and retail dispensing locations;
- 12 (8) Standards and criminal background checks to ensure the  
13 reputable and responsible character and fitness of all  
14 license applicants, licensees, employees,  
15 subcontractors and their employees, and prospective  
16 employees of medical marijuana dispensaries to operate  
17 a dispensary; provided that the standards, at a  
18 minimum, shall exclude from licensure or employment  
19 any person [~~convicted of any~~] who has served time in  
20 prison for a felony[+] conviction in the five years  
21 immediately preceding the employment;



- 1           (9) The training and certification of operators and  
2           employees of production centers and dispensaries;
- 3           (10) The types of manufactured marijuana products that  
4           dispensaries shall be authorized to manufacture and  
5           sell pursuant to sections 329D-9 and 329D-10;
- 6           (11) Laboratory standards related to testing marijuana and  
7           manufactured marijuana products for content,  
8           contamination, and consistency;
- 9           (12) The quantities of marijuana and manufactured marijuana  
10           products that a dispensary may sell or provide to a  
11           qualifying patient or primary caregiver; provided that  
12           no dispensary shall sell or provide to a qualifying  
13           patient or primary caregiver any combination of  
14           marijuana and manufactured products that:
- 15           (A) During a period of fifteen consecutive days,  
16           exceeds the equivalent of four ounces of  
17           marijuana; or
- 18           (B) During a period of thirty consecutive days,  
19           exceeds the equivalent of eight ounces of  
20           marijuana;



- 1           (13)   Dispensary and production center inventory controls to  
2                   prevent the unauthorized diversion of marijuana or  
3                   manufactured marijuana products or the distribution of  
4                   marijuana or manufactured marijuana products to  
5                   qualifying patients or primary caregivers in  
6                   quantities that exceed limits established by this  
7                   chapter; provided that the controls, at a minimum,  
8                   shall include:
- 9                   (A)   A computer software tracking system as specified  
10                         in section 329D-6(j) and (k); and
- 11                   (B)   Product packaging standards sufficient to allow  
12                         law enforcement personnel to reasonably determine  
13                         the contents of an unopened package;
- 14           (14)   Limitation to the size or format of signs placed  
15                   outside a retail dispensing location or production  
16                   center; provided that the signage limitations, at a  
17                   minimum, shall comply with section 329D-6(o)(2) and  
18                   shall not include the image of a cartoon character or  
19                   other design intended to appeal to children;
- 20           (15)   The disposal or destruction of unwanted or unused  
21                   marijuana and manufactured marijuana products;



- 1           (16) The enforcement of the following prohibitions against:
- 2                   (A) The sale or provision of marijuana or
- 3                           manufactured marijuana products to unauthorized
- 4                           persons;
- 5                   (B) The sale or provision of marijuana or
- 6                           manufactured marijuana products to qualifying
- 7                           patients or primary caregivers in quantities that
- 8                           exceed limits established by this chapter;
- 9                   (C) Any use or consumption of marijuana or
- 10                           manufactured marijuana products on the premises
- 11                           of a retail dispensing location or production
- 12                           center; and
- 13                   (D) The distribution of marijuana or manufactured
- 14                           marijuana products, for free, on the premises of
- 15                           a retail dispensing location or production
- 16                           center;
- 17           (17) The establishment of a range of penalties for
- 18                   violations of this chapter or rule adopted thereto;
- 19                   and
- 20           (18) A process to recognize and register patients who are
- 21                   authorized to purchase, possess, and use medical



1 marijuana in another state, United States territory,  
 2 or the District of Columbia as qualifying patients in  
 3 this State; provided that this registration process  
 4 may commence no sooner than January 1, 2018."

5 SECTION 7. Section 329D-9, Hawaii Revised Statutes, is  
 6 amended by amending subsection (b) to read as follows:

7 "(b) The department shall establish health, safety, and  
 8 sanitation standards regarding the manufacture of manufactured  
 9 marijuana products[-]; provided that any area within a  
 10 dispensary or production center where marijuana will be  
 11 manufactured into an edible cannabis product as defined in  
 12 section 329D-10 shall comply with the food safety code adopted  
 13 by the department."

14 SECTION 8. Section 329D-10, Hawaii Revised Statutes, is  
 15 amended to read as follows:

16 "**§329D-10 Types of manufactured marijuana products.** (a)

17 The types of medical marijuana products that may be manufactured  
 18 and distributed pursuant to this chapter shall be limited to:

- 19 (1) Capsules;
- 20 (2) Lozenges;
- 21 (3) Pills;



- 1 (4) Oils and oil extracts;
- 2 (5) Tinctures;
- 3 (6) Ointments and skin lotions;
- 4 (7) Transdermal patches;
- 5 (8) Pre-filled and sealed containers used to aerosolize
- 6 and deliver marijuana orally, such as with an inhaler
- 7 or nebulizer; [and]
- 8 (9) Edible cannabis products; and

9 [~~9~~] (10) Other products as specified by the department.

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

11 (1) "Edible cannabis products" means manufactured cannabis  
 12 that is intended to be used, in whole or in part, for  
 13 human consumption, including but not limited to  
 14 chewing gum; and

15 (2) "Lozenge" means a small tablet manufactured in a  
 16 manner to allow for the dissolving of its medicinal or  
 17 therapeutic component slowly in the mouth."

18 SECTION 9. Section 329D-15, Hawaii Revised Statutes, is  
 19 amended by amending subsection (a) to read as follows:



1           "(a) No person shall intentionally or knowingly enter or  
2 remain upon the premises of a medical marijuana retail  
3 dispensing location unless the individual is:

4           (1) An individual licensee or registered employee of the  
5 dispensary;

6           (2) A qualifying patient or primary caregiver of a  
7 qualifying patient;

8           (3) A government employee or official acting in the  
9 person's official capacity; or

10          (4) Previously included on a current department-approved  
11 list provided to the department by the licensee of  
12 those persons who are allowed into that dispensary's  
13 facilities for a specific purpose for that dispensary,  
14 including but not limited to construction,  
15 maintenance, repairs, legal counsel, or investors;  
16 provided that:

17          (A) The person has been individually approved by the  
18 department to be included on the list;

19          (B) The person is at least twenty-one years of age,  
20 as verified by a valid government issued  
21 identification card;



- 1 (C) The department has confirmed that the person has  
2 [nø] not served time in prison for a felony  
3 [~~convictions,~~] conviction in the five years  
4 immediately preceding the entry upon the premises  
5 of the dispensary;
- 6 (D) The person is escorted by an individual licensee  
7 or registered employee of the dispensary at all  
8 times while in the dispensary facility;
- 9 (E) The person is only permitted within those  
10 portions of the dispensary facility as necessary  
11 to fulfill the person's purpose for entering;
- 12 (F) The person is only permitted within the  
13 dispensary facility during the times and for the  
14 duration necessary to fulfill the person's  
15 purpose for entering;
- 16 (G) The dispensary shall keep an accurate record of  
17 each person's first and last name, date and times  
18 upon entering and exiting the dispensary  
19 facility, purpose for entering, and the identity  
20 of the escort; and





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1           (H) The approved list shall be effective for one year  
 2                           from the date of the department approval."

3           SECTION 10. This Act does not affect rights and duties  
 4 that matured, penalties that were incurred, and proceedings that  
 5 were begun before its effective date.

6           SECTION 11. Statutory material to be repealed is bracketed  
 7 and stricken. New statutory material is underscored.

8           SECTION 12. This Act shall take effect upon its approval;  
 9 provided that sections 1, 7, and 8 shall take effect on July 1,  
 10 2018.

11

INTRODUCED BY: Will Engero

Paul & Bill  
Mike Hubbard

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**Report Title:**

Medical Marijuana; Plant; Seedling; Primary Caregivers; Felons; Employment; Edible Cannabis Products

**Description:**

Clarifies that an adequate supply of medical marijuana authorized for possession by a qualifying patient and the primary caregiver includes seven marijuana plants that are at least twelve inches in height or width, and seven marijuana seedlings that are less than twelve inches in height and width. Authorizes primary caregivers to continue cultivating marijuana for qualifying patients after December 31, 2018. Allows a felon to work in the medical marijuana industry if the individual has not served time in prison for a felony conviction in the five years immediately preceding the employment. Defines edible cannabis products as manufactured cannabis that is intended to be used, in whole or in part, for human consumption. Authorizes licensed medical marijuana dispensaries to manufacture and distribute edible cannabis products beginning July 1, 2018.

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

