
A BILL FOR AN ACT

RELATING TO CANNABIS FOR MEDICAL USE.

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

PART I

1
2 SECTION 1. The legislature finds that any reciprocity
3 process for out-of-state medical cannabis patients must meet
4 specific criteria that upholds the integrity and rigor of the
5 State's medical cannabis program. A reciprocity program in
6 Hawaii must: not significantly diminish the safety and security
7 aspects of Hawaii's approach to medical cannabis; be implemented
8 in a way that is fair and equitable to Hawaii medical cannabis
9 patients, and not confer greater access to out-of-state medical
10 cannabis patients than to Hawaii medical cannabis patients;
11 provide a timely process for qualifying out-of-state patients
12 who visit Hawaii to legally obtain medical cannabis from Hawaii-
13 licensed medical cannabis dispensaries; and provide protection
14 from state law enforcement for registered qualifying out-of-
15 state patients who possess medical cannabis in Hawaii.

16 The legislature further finds that under existing law, a
17 qualifying patient's written certification for the medical use



1 of cannabis is valid for only one year from the time of signing.
2 However, many of the debilitating medical conditions that
3 qualify a patient for a written certification are chronic in
4 nature, and there is some concern that annual renewal
5 requirements may result in a lapse in treatment for some
6 qualifying patients.

7 The legislature also finds that certain other amendments to
8 the State's existing laws on cannabis for medical use and
9 medical cannabis dispensaries are necessary to ensure
10 appropriate safeguards and protections for qualifying patients
11 and primary caregivers and provide medical cannabis dispensaries
12 with a mechanism to retest batches of cannabis or manufactured
13 cannabis products in certain situations.

14 Accordingly, the purpose of this part is to:

15 (1) Establish a reciprocity process for medical cannabis
16 patients, which requires the department of health to
17 register qualifying out-of-state patients and
18 caregivers of qualifying out-of-state patients under
19 certain conditions;



1 (2) Clarify certain safeguards for qualifying out-of-state
2 patients and caregivers of qualifying out-of-state
3 patients;

4 (3) Authorize the department of health to extend the
5 maximum period of validity of any written
6 certification to three years for debilitating medical
7 conditions that are chronic;

8 (4) Clarify a dispensary licensee's ability to retest, at
9 its own expense, a batch of cannabis or manufactured
10 cannabis products that do not meet the department of
11 health's standards for patient safety; and

12 (5) Prohibit an employer from suspending, discharging, or
13 discriminating against an employee for testing
14 positive for cannabis if the employee is a registered
15 qualifying patient who is authorized for the medical
16 use of cannabis, with certain exceptions.

17 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
18 amended by adding a new section to part IX to be appropriately
19 designated and to read as follows:

20 "§329- Registration requirements; qualifying out-of-
21 state patient; caregiver of a qualifying out-of-state patient.



1 (a) Notwithstanding section 329-123, a qualifying out-of-state
2 patient and a caregiver of a qualifying out-of-state patient
3 shall register with the department of health as established by
4 rule. The registration shall be effective for no more than
5 sixty days and may be renewed for no more than one additional
6 sixty-day period within twelve months of the preceding
7 registration date; provided that the department shall not
8 register any qualifying out-of-state patient for a period that
9 exceeds the term of validity of the qualifying out-of-state
10 patient's authority to use medical cannabis in the qualifying
11 out-of-state patient's home jurisdiction.

12 (b) Qualifying out-of-state patients shall, at a minimum,
13 meet the following criteria for registration:

14 (1) Provide a valid government-issued medical cannabis
15 card issued by another state, United States territory,
16 or the District of Columbia; provided that the medical
17 cannabis card has an expiration date and has not
18 expired;

19 (2) Provide a valid photographic identification card or
20 driver's license issued by the same jurisdiction that
21 issued the medical cannabis card; and



1 (3) Have a debilitating medical condition, as defined in
2 section 329-121.

3 (c) Subsection (b) shall not apply to a qualifying out-of-
4 state patient under eighteen years of age, unless the caregiver
5 of a qualifying out-of-state patient consents in writing to:

6 (1) Allow the qualifying out-of-state patient's medical
7 use of cannabis;

8 (2) Undertake the responsibility for managing the well-
9 being of the qualifying out-of-state patient who is
10 under eighteen years of age, with respect to the
11 medical use of cannabis; and

12 (3) Control the acquisition of the cannabis, the dosage,
13 and the frequency of the medical use of cannabis by
14 the qualifying out-of-state patient who is under
15 eighteen years of age.

16 (d) In the case of qualifying out-of-state patients who
17 are under eighteen years of age, the department shall register
18 the qualifying out-of-state patient and the caregiver of a
19 qualifying out-of-state patient.

20 (e) Qualifying out-of-state patients shall pay a
21 registration or renewal fee of \$45.



1 (f) Upon inquiry by a law enforcement agency, the
2 department of health shall immediately verify whether the
3 subject of the inquiry has registered with the department of
4 health and may provide reasonable access to the registry
5 information for official law enforcement purposes. The inquiry
6 under this subsection may be made twenty-four hours a day, seven
7 days a week.

8 (g) The department of health may temporarily suspend the
9 registration of a qualifying out-of-state patient or a
10 registered caregiver of a qualifying out-of-state patient for a
11 period of up to thirty days if the department of health
12 determines that the registration process for qualifying patients
13 or primary caregivers is being adversely affected or the supply
14 of cannabis for medical use available in licensed dispensaries
15 is insufficient to serve qualifying patients and qualifying out-
16 of-state patients. A temporary suspension may be extended by
17 thirty-day periods until the department of health finds that:

18 (1) Adequate capacity exists to register qualifying out-
19 of-state patients and caregivers of qualifying out-of-
20 state patients in addition to qualifying patients and
21 primary caregivers; and



1 (2) The licensed dispensaries are able to meet the demands
2 of qualifying patients."

3 SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The department, upon completion of the transfer of
6 the medical use of cannabis program, shall charge a medical
7 cannabis registration fee to qualifying patients of no more than
8 \$35 [-] per year."

9 SECTION 4. Section 329-121, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By adding two new definitions to be appropriately
12 inserted and to read:

13 "Caregiver of a qualifying out-of-state patient" means a
14 parent, guardian, or person having legal custody of a qualifying
15 out-of-state patient who is under the age of eighteen years.

16 "Qualifying out-of-state patient" or "registered qualifying
17 out-of-state patient" means a person who is registered for the
18 medical use of cannabis in another state, a United States
19 territory, or the District of Columbia."

20 2. By amending the definition of "medical use" to read:



1 "Medical use" means the acquisition, possession,
2 cultivation, use, distribution, or transportation of cannabis or
3 paraphernalia relating to the administration of cannabis to
4 alleviate the symptoms or effects of a qualifying patient's
5 debilitating medical condition[-]; provided that a registered
6 qualifying out-of-state patient shall not be authorized to
7 cultivate, distribute, or transport cannabis or paraphernalia;
8 provided further that a registered caregiver of a qualifying
9 out-of-state patient shall not be authorized to cultivate, use,
10 distribute, or transport cannabis or paraphernalia. For the
11 purposes of "medical use", the term distribution is limited to
12 the transfer of cannabis and paraphernalia."

13 3. By amending the definition of "written certification"
14 to read:

15 "Written certification" means the qualifying patient's
16 medical records or a statement signed by a qualifying patient's
17 physician or advanced practice registered nurse, stating that in
18 the physician's or advanced practice registered nurse's
19 professional opinion, the qualifying patient has a debilitating
20 medical condition and the potential benefits of the medical use
21 of cannabis would likely outweigh the health risks for the



1 qualifying patient. The department of health may require,
2 through its rulemaking authority, that all written
3 certifications comply with a designated form. "Written
4 certifications" are valid for [~~only~~] one year from the time of
5 signing[-]; provided that the department of health may allow any
6 written certification to be valid for up to three years when the
7 qualifying patient's physician or advanced practice registered
8 nurse states that the debilitating medical condition is chronic
9 in nature."

10 SECTION 5. Section 329-122, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§329-122 Medical use of cannabis; conditions of use. (a)**

13 Notwithstanding any law to the contrary, the medical use of
14 cannabis by a qualifying patient shall be permitted only if:

- 15 (1) The qualifying patient has been diagnosed by a
16 physician or advanced practice registered nurse as
17 having a debilitating medical condition;
- 18 (2) The qualifying patient's physician or advanced
19 practice registered nurse has certified in writing
20 that, in the physician's or advanced practice
21 registered nurse's professional opinion, the potential



1 benefits of the medical use of cannabis would likely
2 outweigh the health risks for the particular
3 qualifying patient; and

4 (3) The amount of cannabis possessed by the qualifying
5 patient does not exceed an adequate supply.

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

8 (1) The qualifying patient's physician or advanced
9 practice registered nurse has explained the potential
10 risks and benefits of the medical use of cannabis to
11 the qualifying patient and to a parent, guardian, or
12 person having legal custody of the qualifying patient;
13 and

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

16 (A) Allow the qualifying patient's medical use of
17 cannabis;

18 (B) Serve as the qualifying patient's primary
19 caregiver; and



1 (C) Control the acquisition of the cannabis, the
2 dosage, and the frequency of the medical use of
3 cannabis by the qualifying patient.

4 (c) Notwithstanding any law to the contrary, the medical
5 use of cannabis by a qualifying out-of-state patient who is
6 legally authorized to use cannabis for medical purposes in
7 another state, a United States territory, or the District of
8 Columbia shall be permitted only if the qualifying out-of-state
9 patient:

10 (1) Provides to the department of health a valid medical
11 use of cannabis card from the issuing jurisdiction and
12 a valid photographic identification card or driver's
13 license issued by the same jurisdiction;

14 (2) Attests under penalty of law pursuant to section
15 710-1063 that the condition for which the qualifying
16 out-of-state patient is legally authorized to use
17 cannabis for medical purposes is a debilitating
18 medical condition as defined in section 329-121;

19 (3) Provides consent for the department of health to
20 obtain information from the qualifying out-of-state
21 patient's certifying medical provider and from the



- 1 entity that issued the medical cannabis card for the
2 purpose of allowing the department of health to verify
3 the information provided in the registration process;
4 (4) Pays the required fee for out-of-state registration to
5 use cannabis for medical purposes;
6 (5) Registers with the department of health to use
7 cannabis for medical purposes;
8 (6) Receives a medical use of cannabis card from the
9 department of health; and
10 (7) Abides by all laws relating to the medical use of
11 cannabis, including not possessing an amount of
12 cannabis that exceeds an adequate supply.
13 (d) Subsection (c) shall not apply to a qualifying out-of-
14 state patient under eighteen years of age, unless:
15 (1) A caregiver of a qualifying out-of-state patient
16 provides the information required pursuant to
17 subsection (c); and
18 (2) A caregiver of a qualifying out-of-state patient
19 consents in writing to:
20 (A) Allow the qualifying out-of-state patient's
21 medical use of cannabis;



1 (B) Undertake the responsibility for managing the
2 well-being of the qualifying out-of-state patient
3 who is under eighteen years of age with respect
4 to the medical use of cannabis; and

5 (C) Control the acquisition of the cannabis, the
6 dosage, and the frequency of the medical use of
7 cannabis by the qualifying out-of-state patient
8 who is under eighteen years of age.

9 ~~[(e)]~~ (e) The authorization for the medical use of
10 cannabis in this section shall not apply to:

11 (1) The medical use of cannabis that endangers the health
12 or well-being of another person;

13 (2) The medical use of cannabis:

14 (A) In a school bus, public bus, or any moving
15 vehicle;

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

17 (C) On any school grounds;

18 (D) At any public park, public beach, public
19 recreation center, recreation or youth center; or

20 (E) At any other place open to the public; provided
21 that a qualifying patient, primary caregiver,



1 qualifying out-of-state patient, caregiver of a
2 qualifying out-of-state patient, or an owner or
3 employee of a medical cannabis dispensary
4 licensed under chapter 329D shall not be
5 prohibited from transporting cannabis or any
6 manufactured cannabis product, as that term is
7 defined in section 329D-1, in any public place;
8 provided further that the cannabis or
9 manufactured cannabis product shall be
10 transported in a sealed container, not be visible
11 to the public, and shall not be removed from its
12 sealed container or consumed or used in any way
13 while it is in the public place; and

- 14 (3) The use of cannabis by a qualifying patient, parent,
15 ~~[or]~~, primary caregiver, qualifying out-of-state
16 patient, or caregiver of a qualifying out-of-state
17 patient, for purposes other than medical use permitted
18 by this part.

19 ~~[(d)]~~ (f) For the purposes of this section, "transport"
20 means the transportation of cannabis, usable cannabis, or any
21 manufactured cannabis product between:



- 1 (1) A qualifying patient and the qualifying patient's
2 primary caregiver;
- 3 (2) A qualifying out-of-state patient under eighteen years
4 of age and the caregiver of a qualifying out-of-state
5 patient;
- 6 ~~[(2)]~~ (3) The production centers and the retail dispensing
7 locations under a dispensary licensee's license; or
- 8 ~~[(3)]~~ (4) A production center, retail dispensing location,
9 qualifying patient, ~~[e]~~, primary caregiver,
10 qualifying out-of-state patient, or caregiver of a
11 qualifying out-of-state patient and a certified
12 laboratory for the purpose of laboratory testing;
13 provided that a qualifying patient ~~[e]~~, primary
14 caregiver, qualifying out-of-state patient, or
15 caregiver of a qualifying out-of-state patient may
16 only transport up to one gram of cannabis per test to
17 a certified laboratory for laboratory testing and may
18 only transport the product if the qualifying patient
19 ~~[e]~~, primary caregiver~~[-]~~, qualifying out-of-state
20 patient, or caregiver of a qualifying out-of-state
21 patient:



- 1 (A) Secures an appointment for testing at a certified
2 laboratory;
- 3 (B) Obtains confirmation, which may be electronic,
4 that includes the specific time and date of the
5 appointment and a detailed description of the
6 product and amount to be transported to the
7 certified laboratory for the appointment; and
- 8 (C) Has the confirmation, which may be electronic,
9 available during transport.

10 For purposes of interisland transportation, "transport" of
11 cannabis, usable cannabis, or any manufactured cannabis product,
12 by any means is allowable only between a production center or
13 retail dispensing location and a certified laboratory for the
14 sole purpose of laboratory testing pursuant to section 329D-8,
15 as permitted under section 329D-6(m) and subject to section
16 329D-6(j), and with the understanding that state law and its
17 protections do not apply outside of the jurisdictional limits of
18 the State. Allowable transport pursuant to this section does
19 not include interisland transportation by any means or for any
20 purpose between a qualified patient [øæ], primary caregiver,
21 qualifying out-of-state patient, or caregiver of a qualifying



1 out-of-state patient and any other entity or individual,
2 including an individual who is a qualified patient [~~or~~], primary
3 caregiver[-], qualifying out-of-state patient, or caregiver of a
4 qualifying out-of-state patient."

5 SECTION 6. Section 329-123, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§329-123 Registration requirements [-]; qualifying
8 patients; primary caregivers. (a) Physicians or advanced
9 practice registered nurses who issue written certifications
10 shall provide, in each written certification, the name, address,
11 patient identification number, and other identifying information
12 of the qualifying patient. The department of health shall
13 require, in rules adopted pursuant to chapter 91, that all
14 written certifications comply with a designated form completed
15 by or on behalf of a qualifying patient. The form shall require
16 information from the applicant, primary caregiver, and physician
17 or advanced practice registered nurse as specifically required
18 or permitted by this chapter. The form shall require the
19 address of the location where the cannabis is grown and shall
20 appear on the registry card issued by the department of health.
21 The certifying physician or advanced practice registered nurse



1 shall be required to have a bona fide physician-patient
2 relationship or bona fide advanced practice registered nurse-
3 patient relationship, as applicable, with the qualifying
4 patient. All current active medical cannabis permits shall be
5 honored through their expiration date.

6 (b) Qualifying patients shall register with the department
7 of health. The registration shall be effective until the
8 expiration of the certificate issued by the department of health
9 and signed by the physician or advanced practice registered
10 nurse. Every qualifying patient shall provide sufficient
11 identifying information to establish the personal identities of
12 the qualifying patient and the primary caregiver. Qualifying
13 patients shall report changes in information within ten working
14 days. Every qualifying patient shall have only one primary
15 caregiver at any given time. The department of health shall
16 issue to the qualifying patient a registration certificate, and
17 shall charge \$35 per year.

18 (c) Primary caregivers shall register with the department
19 of health. Every primary caregiver shall be responsible for the
20 care of only one qualifying patient at any given time[-], unless
21 the primary caregiver is the parent, guardian, or person having



1 legal custody of more than one minor qualifying patient, in
2 which case the primary caregiver may be responsible for the care
3 of more than one minor qualifying patient at any given time;
4 provided that the primary caregiver is the parent, guardian, or
5 person having legal custody of all of the primary caregiver's
6 qualifying patients. The department of health may permit
7 registration of up two primary caregivers for a minor qualifying
8 patient; provided that both primary caregivers are the parent,
9 guardian, or person having legal custody of the minor qualifying
10 patient.

11 (d) Upon inquiry by a law enforcement agency, which
12 inquiry may be made twenty-four hours a day, seven days a week,
13 the department of health shall immediately verify whether the
14 subject of the inquiry has registered with the department of
15 health and may provide reasonable access to the registry
16 information for official law enforcement purposes.

17 (e) This section shall not apply to registration of a
18 qualifying out-of-state patient or a caregiver of a qualifying
19 out-of-state patient."



1 SECTION 7. Section 329-125, Hawaii Revised Statutes, is
2 amended by amending its title and subsections (a) and (b) to
3 read as follows:

4 "§329-125 Protections afforded to a qualifying patient
5 ~~[or]~~, primary caregiver[-], qualifying out-of-state patient, or
6 caregiver of a qualifying out-of-state patient. (a) A
7 qualifying patient ~~[or]~~, the primary caregiver, qualifying out-
8 of-state patient, or caregiver of a qualifying out-of-state
9 patient may assert the medical use of cannabis authorized under
10 this part as an affirmative defense to any prosecution involving
11 ~~[+]cannabis or marijuana[+]~~ under this part or part IV; or part
12 IV of chapter 712; provided that the qualifying patient ~~[or~~
13 ~~the]~~, primary caregiver, qualifying out-of-state patient, or
14 caregiver of a qualifying out-of-state patient strictly complied
15 with the requirements of this part.

16 (b) Any qualifying patient ~~[or]~~, primary caregiver,
17 qualifying out-of-state patient, or caregiver of a qualifying
18 out-of-state patient not complying with the permitted scope of
19 the medical use of cannabis shall not be afforded the
20 protections against searches and seizures pertaining to the
21 misapplication of the medical use of cannabis."



1 SECTION 8. Section 329-125.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]~~§329-125.5~~[+]~~ **Medical cannabis patient and caregiver**
4 **protections.** (a) No school shall refuse to enroll or otherwise
5 penalize, and no landlord shall refuse to lease property to or
6 otherwise penalize, a person solely for the person's status as a
7 qualifying patient or primary caregiver in the medical cannabis
8 program under this part, unless failing to do so would cause the
9 school or landlord to lose a monetary or licensing-related
10 benefit under federal law or regulation; provided that the
11 qualifying patient or primary caregiver strictly complied with
12 the requirements of this part; provided further that the
13 qualifying patient or primary caregiver shall present a medical
14 cannabis registry card or certificate and photo identification,
15 to ensure that the qualifying patient or primary caregiver is
16 validly registered with the department of health pursuant to
17 section 329-123.

18 (b) For the purposes of medical care, including organ
19 transplants, a registered qualifying patient's use of cannabis
20 in compliance with this part shall be considered the equivalent
21 of the use of any other medication under the direction of a



1 physician and shall not constitute the use of an illicit
2 substance or otherwise disqualify a registered qualifying
3 patient from medical care.

4 (c) No qualifying patient or primary caregiver under this
5 part shall be denied custody of, visitation with, or parenting
6 time with a minor, and there shall be no presumption of neglect
7 or child endangerment, for conduct allowed under this part;
8 provided that this subsection shall not apply if the qualifying
9 patient's or primary caregiver's conduct created a danger to the
10 safety of the minor, as established by a preponderance of the
11 evidence.

12 (d) No employer shall suspend, discharge, or discriminate
13 against any of the employer's employees solely because an
14 employee, who is a registered qualifying patient authorized for
15 the medical use of cannabis pursuant to sections 329-122 and
16 329-123, tested positive for the presence of cannabis in a
17 substance abuse on-site screening test conducted in accordance
18 with section 329B-5.5; provided that this subsection shall not
19 apply to:



- 1 (1) An employee who fails or refuses to report to a
2 laboratory for a substance abuse test pursuant to
3 section 329B-5.5;
- 4 (2) An employee who is in violation of section 329-
5 122(c) (2) (B);
- 6 (3) An employee who is a law enforcement officer with the
7 State or a county or who works in any state
8 correctional facility;
- 9 (4) An employee whose job requires the employee to not be
10 under the influence of substances, such as a bus
11 driver, a heavy machinery operator, a construction
12 worker, or other employee with a job that has safety
13 issues; or
- 14 (5) An employee whose employer would be in violation of
15 any federal law or regulation by having an employee
16 who tested positive for the presence of cannabis as
17 set forth in this subsection.
- 18 (e) This section shall apply to a qualifying patient,
19 primary caregiver, qualifying out-of-state patient, and
20 caregiver of a qualifying out-of-state patient who are validly



1 registered with the department of health pursuant to this part
2 and the administrative rules of the department of health."

3 SECTION 9. Section 329-127, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~329-127~~§~~ Protection of cannabis and other seized
6 property. (a) Cannabis, paraphernalia, or other property
7 seized from a qualifying patient or primary caregiver in
8 connection with a claimed medical use of cannabis under this
9 part shall be returned immediately upon the determination by a
10 court that the qualifying patient or primary caregiver is
11 entitled to the protections of this part, as evidenced by a
12 decision not to prosecute, dismissal of charges, or an
13 acquittal; provided that law enforcement agencies seizing live
14 plants as evidence shall not be responsible for the care and
15 maintenance of such plants.

16 (b) This section shall also apply to a qualifying out-of-
17 state patient and caregiver of a qualifying out-of-state patient
18 who are validly registered with the department of health
19 pursuant to this part and the administrative rules of the
20 department of health; provided that notwithstanding subsection
21 (a) to the contrary, under no circumstances shall cannabis,



1 paraphernalia, or other property be returned to any location
2 outside of the island from which it was seized."

3 SECTION 10. Section 329-128, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§329-128 Fraudulent misrepresentation; penalty. (a)**

6 Notwithstanding any law to the contrary, fraudulent
7 misrepresentation to a law enforcement official of any fact or
8 circumstance relating to the medical use of cannabis to avoid
9 arrest or prosecution under this part or chapter 712 shall be a
10 petty misdemeanor and subject to a fine of \$500.

11 (b) Notwithstanding any law to the contrary, fraudulent
12 misrepresentation to a law enforcement official of any fact or
13 circumstance relating to the issuance of a written certificate
14 by a physician or advanced practice registered nurse not covered
15 under section 329-126 for the medical use of cannabis shall be a
16 misdemeanor. This penalty shall be in addition to any other
17 penalties that may apply for the non-medical use of cannabis.

18 ~~[Nothing in this section is intended to preclude the conviction~~
19 ~~of any person under section 710-1060 or for any other offense~~
20 ~~under part V of chapter 710.]~~



1 (c) Notwithstanding any law to the contrary, fraudulent
2 misrepresentation to the department of an entitlement to use
3 cannabis for medical purposes in another state, a United States
4 territory, or the District of Columbia for the purpose of
5 registering as a qualifying out-of-state patient or caregiver of
6 a qualifying out-of-state patient shall be a misdemeanor. This
7 penalty shall be in addition to any other penalties that may
8 apply for the non-medical use of cannabis.

9 (d) Nothing in this section is intended to preclude the
10 conviction of any person under section 710-1060 or for any other
11 offense under part V of chapter 710 or any other offense."

12 SECTION 11. Section 329-129, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) No qualifying patient [~~or~~], primary caregiver,
15 qualifying out-of-state patient, or caregiver of a qualifying
16 out-of-state patient shall use butane to extract
17 tetrahydrocannabinol from cannabis plants."

18 SECTION 12. Section 329-130, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "§329-130 Authorized sources of medical cannabis. (a)

2 After December 31, 2023, a qualifying patient shall obtain
3 medical cannabis or manufactured cannabis products only:

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

7 (2) By cultivating cannabis in an amount that does not
8 exceed an adequate supply for the qualifying patient,
9 pursuant to section 329-122; provided that each
10 location used to cultivate cannabis shall be used by
11 no more than five qualifying patients.

12 After December 31, 2023, no primary caregiver shall be
13 authorized to cultivate cannabis for any qualifying patient.

14 (b) This section shall not apply to:

15 (1) A qualifying patient who is a minor or an adult
16 lacking legal capacity and the primary caregiver is
17 the parent, guardian, or person having legal custody
18 of a qualifying patient described in this paragraph;
19 or



1 (2) A qualifying patient on any island on which there is
2 no medical cannabis dispensary licensed pursuant to
3 chapter 329D.

4 (c) A qualifying out-of-state patient and a caregiver of a
5 qualifying out-of-state patient shall only be authorized to
6 obtain cannabis for medical use from retail dispensing locations
7 of dispensaries licensed pursuant to chapter 329D."

8 SECTION 13. Section 329D-1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding two new definitions to be appropriately
11 inserted and to read:

12 "Caregiver of a qualifying out-of-state patient" shall
13 have the same meaning as in section 329-121.

14 "Qualifying out-of-state patient" or "registered qualifying
15 out-of-state patient" shall have the same meaning as in section
16 329-121."

17 2. By amending the definition of "dispense" or
18 "dispensing" to read:

19 "Dispense" or "dispensing" means the act of a licensed
20 dispensary providing cannabis or manufactured cannabis products
21 to a qualifying patient [~~er-a~~], primary caregiver, qualifying



1 out-of-state patient, or caregiver of a qualifying out-of-state
2 patient for a fee."

3 3. By amending the definition of "manufacture" to read:

4 "Manufacture" means the preparation, propagation,
5 compounding, conversion, or processing of a substance containing
6 cannabis or its principal psychoactive constituent
7 tetrahydrocannabinol, either directly or indirectly, by a person
8 other than a qualifying patient ~~[or]~~, primary caregiver,
9 qualifying out-of-state patient, or caregiver of a qualifying
10 out-of-state patient for the qualifying patient's or qualifying
11 out of state patient's use, by extraction from substances of
12 natural origin, or independently by means of chemical synthesis,
13 or by a combination of extraction and chemical synthesis, and
14 includes any packaging or repackaging of the substance or
15 labeling or relabeling of its container."

16 4. By amending the definition of "retail dispensing
17 location" to read:

18 "Retail dispensing location" means an establishment owned,
19 operated, or subcontracted by a medical cannabis dispensary
20 where cannabis and manufactured cannabis are made available for
21 retail sale to a qualifying ~~[patients or]~~ patient, primary



1 ~~[caregivers.]~~ caregiver, qualifying out-of-state patient, or
2 caregiver of a qualifying out-of-state patient."

3 SECTION 14. Section 329D-6, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (g) to read:

6 "(g) In all dispensary facilities, only the licensee, if
7 an individual, registered employees of the dispensary licensee,
8 registered employees of a subcontracted production center or
9 retail dispensing location, employees of a certified laboratory
10 for testing purposes, state employees authorized by the director
11 of health, and law enforcement and other government officials
12 acting in their official capacity shall be permitted to touch or
13 handle any cannabis or manufactured cannabis products, except
14 that a qualifying patient ~~[or the]~~, primary caregiver ~~[of a~~
15 ~~qualifying patient]~~, qualifying out-of-state patient, or
16 caregiver of a qualifying out-of-state patient may receive
17 manufactured cannabis products at a retail dispensing location
18 following completion of a sale."

19 2. By amending subsections (j) and (k) to read:



1 "(j) The department shall establish, maintain, and control
2 a computer software tracking system that shall have real time,
3 twenty-four-hour access to the data of all dispensaries.

4 (1) The computer software tracking system shall collect
5 data relating to:

6 (A) The total amount of cannabis in possession of all
7 dispensaries from either seed or immature plant
8 state, including all plants that are derived from
9 cuttings or cloning, until the cannabis, cannabis
10 plants, or manufactured cannabis product is sold
11 or destroyed pursuant to section 329D-7;

12 (B) The total amount of manufactured cannabis product
13 inventory, including the equivalent physical
14 weight of cannabis that is used to manufacture
15 manufactured cannabis products, purchased by a
16 qualifying patient ~~[and]~~, primary caregiver,
17 qualifying out-of-state patient, and caregiver of
18 a qualifying out-of-state patient from all retail
19 dispensing locations in the State in any fifteen-
20 day period;



- 1 (C) The amount of waste produced by each plant at
- 2 harvest; and
- 3 (D) The transport of cannabis and manufactured
- 4 cannabis products between production centers and
- 5 retail dispensing locations, including tracking
- 6 identification issued by the tracking system, the
- 7 identity of the person transporting the cannabis
- 8 or manufactured cannabis products, and the make,
- 9 model, and license number of the vehicle being
- 10 used for the transport;
- 11 (2) The procurement of the computer software tracking
- 12 system established pursuant to this subsection shall
- 13 be exempt from chapter 103D; provided that:
- 14 (A) The department shall publicly solicit at least
- 15 three proposals for the computer software
- 16 tracking system; and
- 17 (B) The selection of the computer software tracking
- 18 system shall be approved by the director of the
- 19 department and the chief information officer; and
- 20 (3) Notwithstanding any other provision of this subsection
- 21 to the contrary, once the department has authorized a



1 licensed dispensary to commence sales of cannabis or
2 manufactured cannabis products, if the department's
3 computer software tracking system is inoperable or is
4 not functioning properly, as an alternative to
5 requiring dispensaries to temporarily cease
6 operations, the department may implement an alternate
7 tracking system that will enable a qualifying
8 [patients] patient, primary caregiver, qualifying out-
9 of-state patient, and caregiver of a qualifying out-
10 of-state patient to purchase cannabis or manufactured
11 cannabis products from a licensed dispensary on a
12 temporary basis. The department shall seek input
13 regarding the alternate tracking system from medical
14 cannabis licensees. The alternate tracking system may
15 operate as follows:

- 16 (A) The department may immediately notify all
17 licensed dispensaries that the computer software
18 tracking system is inoperable; and
- 19 (B) Once the computer software tracking system is
20 operational and functioning to meet the
21 requirements of this subsection, the department



1 may notify all licensed dispensaries, and the
2 alternate tracking system in this subsection
3 shall be discontinued.

4 (k) A dispensary licensed pursuant to this chapter shall
5 purchase, operate, and maintain a computer software tracking
6 system that shall:

7 (1) Interface with the department's computer software
8 tracking system established pursuant to subsection
9 (j);

10 (2) Allow each licensed dispensary's production center to
11 submit to the department in real time, by automatic
12 identification and data capture, all cannabis,
13 cannabis plants, and manufactured cannabis product
14 inventory in possession of that dispensary from either
15 seed or immature plant state, including all plants
16 that are derived from cuttings or cloning, until the
17 cannabis or manufactured cannabis product is sold or
18 destroyed pursuant to section 329D-7;

19 (3) Allow the licensed dispensary's retail dispensing
20 location to submit to the department in real time for
21 the total amount of cannabis and manufactured cannabis



1 product purchased by a qualifying patient [~~and~~],
2 primary caregiver, qualifying out-of-state patient,
3 and caregiver of a qualifying out-of-state patient
4 from the dispensary's retail dispensing locations in
5 the State in any fifteen day period; provided that the
6 software tracking system shall impose an automatic
7 stopper in real time, which cannot be overridden, on
8 any further purchases of cannabis or manufactured
9 cannabis products, if the maximum allowable amount of
10 cannabis has already been purchased for the applicable
11 fifteen day period; provided further that additional
12 purchases shall not be permitted until the next
13 applicable period; and

- 14 (4) Allow the licensed dispensary to submit all data
15 required by this subsection to the department and
16 permit the department to access the data if the
17 department's computer software tracking system is not
18 functioning properly and sales are made pursuant to
19 the alternate tracking system under subsection (j)."

20 3. By amending subsection (n) to read:



1 "(n) A dispensary shall be prohibited from off-premises
2 delivery of cannabis or manufactured cannabis products to a
3 qualifying [~~patients or to~~] patient, primary [caregivers of
4 ~~qualifying patients.] caregiver, qualifying out-of-state
5 patient, or caregiver of a qualifying out-of-state patient."~~

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

8 "**§329D-7 Medical cannabis dispensary rules.** The
9 department shall establish standards with respect to:

- 10 (1) The number of medical cannabis dispensaries that shall
11 be permitted to operate in the State;
- 12 (2) A fee structure for the submission of applications and
13 renewals of licenses to dispensaries; provided that
14 the department shall consider the market conditions in
15 each county in determining the license renewal fee
16 amounts;
- 17 (3) Criteria and procedures for the consideration and
18 selection, based on merit, of applications for
19 licensure of dispensaries; provided that the criteria
20 shall include but not be limited to an applicant's:
21 (A) Ability to operate a business;



- 1 (B) Financial stability and access to financial
2 resources; provided that applicants for medical
3 cannabis dispensary licenses shall provide
4 documentation that demonstrates control of not
5 less than \$1,000,000 in the form of escrow
6 accounts, letters of credit, surety bonds, bank
7 statements, lines of credit or the equivalent to
8 begin operating the dispensary;
- 9 (C) Ability to comply with the security requirements
10 developed pursuant to paragraph (6);
- 11 (D) Capacity to meet the needs of qualifying
12 patients[-] and qualifying out-of-state patients;
- 13 (E) Ability to comply with criminal background check
14 requirements developed pursuant to paragraph (8);
15 and
- 16 (F) Ability to comply with inventory controls
17 developed pursuant to paragraph (13);
- 18 (4) Specific requirements regarding annual audits and
19 reports required from each production center and
20 dispensary licensed pursuant to this chapter;



- 1 (5) Procedures for announced and unannounced inspections
2 by the department or its agents of production centers
3 and dispensaries licensed pursuant to this chapter;
4 provided that inspections for license renewals shall
5 be unannounced;
- 6 (6) Security requirements for the operation of production
7 centers and retail dispensing locations; provided
8 that, at a minimum, the following shall be required:
- 9 (A) For production centers:
- 10 (i) Video monitoring and recording of the
11 premises; provided that recordings shall be
12 retained for fifty days;
- 13 (ii) Fencing that surrounds the premises and that
14 is sufficient to reasonably deter intruders
15 and prevent anyone outside the premises from
16 viewing any cannabis in any form;
- 17 (iii) An alarm system; and
- 18 (iv) Other reasonable security measures to deter
19 or prevent intruders, as deemed necessary by
20 the department;
- 21 (B) For retail dispensing locations:



- 1 (i) Presentation of a valid government-issued
2 photo identification and a valid
3 identification as issued by the department
4 pursuant to section 329-123 [7] by a
5 qualifying patient or caregiver, or section
6 329- by a qualifying out-of-state patient
7 or caregiver of a qualifying out-of-state
8 patient, upon entering the premises;
- 9 (ii) Video monitoring and recording of the
10 premises; provided that recordings shall be
11 retained for fifty days;
- 12 (iii) An alarm system;
- 13 (iv) Exterior lighting; and
- 14 (v) Other reasonable security measures as deemed
15 necessary by the department;
- 16 (7) Security requirements for the transportation of
17 cannabis and manufactured cannabis products between
18 production centers and retail dispensing locations and
19 between a production center, retail dispensing
20 location, qualifying patient, [æ] primary caregiver,
21 qualifying out-of-state patient, or caregiver of a



- 1 qualifying out-of-state patient and a certified
2 laboratory, pursuant to section 329-122(d);
- 3 (8) Standards and criminal background checks to ensure the
4 reputable and responsible character and fitness of all
5 license applicants, licensees, employees,
6 subcontractors and their employees, and prospective
7 employees of medical cannabis dispensaries to operate
8 a dispensary; provided that the standards, at a
9 minimum, shall exclude from licensure or employment
10 any person convicted of any felony;
- 11 (9) The training and certification of operators and
12 employees of production centers and dispensaries;
- 13 (10) The types of manufactured cannabis products that
14 dispensaries shall be authorized to manufacture and
15 sell pursuant to sections 329D-9 and 329D-10;
- 16 (11) Laboratory standards related to testing cannabis and
17 manufactured cannabis products for content,
18 contamination, and consistency;
- 19 (12) The quantities of cannabis and manufactured cannabis
20 products that a dispensary may sell or provide to a
21 qualifying patient [~~or~~], primary caregiver[+],



1 qualifying out-of-state patient, or caregiver of a
2 qualifying out-of-state patient; provided that no
3 dispensary shall sell or provide to a qualifying
4 patient ~~[or]~~, primary caregiver, qualifying out-of-
5 state patient, or caregiver of a qualifying out-of-
6 state patient any combination of cannabis and
7 manufactured products that:

8 (A) During a period of fifteen consecutive days,
9 exceeds the equivalent of four ounces of
10 cannabis; or

11 (B) During a period of thirty consecutive days,
12 exceeds the equivalent of eight ounces of
13 cannabis;

14 (13) Dispensary and production center inventory controls to
15 prevent the unauthorized diversion of cannabis or
16 manufactured cannabis products or the distribution of
17 cannabis or manufactured cannabis products to a
18 qualifying ~~[patients or]~~ patient, primary [earegivers]
19 caregiver, qualifying out-of-state patient, or
20 caregiver of a qualifying out-of-state patient in
21 quantities that exceed limits established by this



1 chapter; provided that the controls, at a minimum,
2 shall include:

3 (A) A computer software tracking system as specified
4 in section 329D-6(j) and (k); and

5 (B) Product packaging standards sufficient to allow
6 law enforcement personnel to reasonably determine
7 the contents of an unopened package;

8 (14) Limitation to the size or format of signs placed
9 outside a retail dispensing location or production
10 center; provided that the signage limitations, at a
11 minimum, shall comply with section 329D-6(o)(2) and
12 shall not include the image of a cartoon character or
13 other design intended to appeal to children;

14 (15) The disposal or destruction of unwanted or unused
15 cannabis and manufactured cannabis products;

16 (16) The enforcement of the following prohibitions against:

17 (A) The sale or provision of cannabis or manufactured
18 cannabis products to unauthorized persons;

19 (B) The sale or provision of cannabis or manufactured
20 cannabis products to a qualifying [~~patients or~~
21 patient, primary [earegivers] caregiver,



1 qualifying out-of-state patient, or caregiver of
2 a qualifying out-of-state patient in quantities
3 that exceed limits established by this chapter;

4 (C) Any use or consumption of cannabis or
5 manufactured cannabis products on the premises of
6 a retail dispensing location or production
7 center; and

8 (D) The distribution of cannabis or manufactured
9 cannabis products, for free, on the premises of a
10 retail dispensing location or production center;

11 (17) The establishment of a range of penalties for
12 violations of this chapter or rule adopted thereto;
13 and

14 (18) A process to recognize and register patients who are
15 authorized to purchase, possess, and use medical
16 cannabis in another state, a United States territory,
17 or the District of Columbia as qualifying out-of-state
18 patients [~~in this State~~]; provided that this
19 registration process may commence no sooner than
20 January 1, 2018."



1 SECTION 16. Section 329D-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§329D-8 Laboratory standards and testing; laboratory**
4 **certification.** (a) The department shall establish and enforce
5 standards for laboratory-based testing of cannabis and
6 manufactured cannabis products for content, contamination, and
7 consistency; provided that in establishing these standards, the
8 department shall:

- 9 (1) Review and take guidance from the testing programs and
10 standards utilized in other jurisdictions;
- 11 (2) Consider the impact of the standards on the retail
12 cost of the product to the qualifying patient;
- 13 (3) Review and take guidance from the testing programs and
14 standards for pesticides under the regulations of the
15 United States Environmental Protection Agency;
- 16 (4) For the testing for microbiological impurities,
17 consider the benefits of organically grown cannabis
18 that features the use of bacteria in lieu of
19 pesticides; and
- 20 (5) Include permission for qualifying patients and primary
21 caregivers to obtain testing services directly from



1 certified laboratories on the island where the
2 qualifying patient and primary caregiver reside.

3 (b) The department may certify laboratories that can test
4 cannabis and manufactured cannabis products prior to the sale of
5 cannabis and manufactured cannabis products.

6 (c) If a dispensary licensee obtains a laboratory result
7 indicating that a sample of a batch of its cannabis or
8 manufactured cannabis products does not meet the department's
9 standards for patient safety, the dispensary licensee, at its
10 own expense, may have the same sample or a different sample from
11 the same batch retested by the same laboratory or a different
12 laboratory. If a retest at a different laboratory yields a
13 different result, the department shall have an opportunity to
14 determine which result shall determine whether the batch may be
15 approved for sale or whether further testing shall be required."

16 SECTION 17. Section 329D-12, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) This section shall not apply to:

19 (1) ~~[Qualifying patients and their]~~ A qualifying patient,
20 primary [earegivers] caregiver, qualifying out-of-
21 state patient, or caregiver of a qualifying out-of-



1 state patient who ~~[enter]~~ enters or ~~[remain]~~ remains
2 on the premises of a retail dispensing location for
3 the purpose of a transaction conducted pursuant to
4 sections 329D-6 and 329D-13; or

5 (2) Government officials and employees acting in an
6 official capacity and employees of a certified
7 laboratory who enter or remain on the premises of a
8 retail dispensing location or production center for
9 any purpose authorized by this chapter."

10 SECTION 18. Section 329D-13, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[H]~~ §329D-13 ~~[H]—Qualifying patients and primary caregivers,~~
13 ~~dispensing]~~ Dispensing limits~~[; other states]~~. (a) A
14 qualifying patient ~~[or a]~~, primary caregiver ~~[on behalf of a~~
15 ~~qualifying patient]~~, qualifying out-of-state patient, or
16 caregiver of a qualifying out-of-state patient shall be allowed
17 to purchase no more than four ounces of cannabis within a
18 consecutive period of fifteen days, or no more than eight ounces
19 of cannabis within a consecutive period of thirty days.

20 (b) A qualifying patient ~~[or a]~~, primary caregiver ~~[on~~
21 ~~behalf of a qualifying patient]~~, qualifying out-of-state



1 patient, or caregiver of a qualifying out-of-state patient may
2 purchase cannabis from any dispensary location in the State,
3 subject to the limits set forth in subsection (a).

4 (c) Beginning on January 1, 2018, this section may apply
5 to qualifying out-of-state patients from other states,
6 territories of the United States, or the District of Columbia;
7 provided that the patient [~~is verified as a patient in their~~
8 ~~home state and registers with the department through a~~
9 ~~registration process established by the department.~~] meets the
10 registration requirements of section 329- ."

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

13 "(a) No person shall intentionally or knowingly enter or
14 remain upon the premises of a medical cannabis retail dispensing
15 location unless the individual is:

16 (1) An individual licensee or registered employee of the
17 dispensary;

18 (2) A qualifying patient [~~or~~], primary caregiver [~~of a~~
19 ~~qualifying patient~~], qualifying out-of-state patient,
20 or caregiver of a qualifying out-of-state patient;



- 1 (3) A government employee or official acting in the
2 person's official capacity; or
- 3 (4) Previously included on a current department-approved
4 list provided to the department by the licensee of
5 those persons who are allowed into that dispensary's
6 facilities for a specific purpose for that dispensary,
7 including but not limited to construction,
8 maintenance, repairs, legal counsel, providers of
9 paratransit or other assistive services required by a
10 qualifying patient to access a retail dispensary
11 location, or investors; provided that:
- 12 (A) The person has been individually approved by the
13 department to be included on the list;
- 14 (B) The person is at least twenty-one years of age,
15 as verified by a valid government issued
16 identification card;
- 17 (C) The department has confirmed that the person has
18 no felony convictions;
- 19 (D) The person is escorted by an individual licensee
20 or registered employee of the dispensary at all
21 times while in the dispensary facility;



- 1 (E) The person is only permitted within those
2 portions of the dispensary facility as necessary
3 to fulfill the person's purpose for entering;
- 4 (F) The person is only permitted within the
5 dispensary facility during the times and for the
6 duration necessary to fulfill the person's
7 purpose for entering;
- 8 (G) The dispensary shall keep an accurate record of
9 each person's first and last name, date and times
10 upon entering and exiting the dispensary
11 facility, purpose for entering, and the identity
12 of the escort; and
- 13 (H) The approved list shall be effective for one year
14 from the date of the department approval."

15 SECTION 20. Section 329D-17, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) A person commits the offense of promoting medical
18 cannabis or medical cannabis products to a minor if the person
19 intentionally or knowingly distributes any amount of cannabis or
20 manufactured cannabis products that came from a dispensary or
21 production center to a minor who is not a registered qualifying



1 patient[-] or a registered qualifying out-of-state patient under
2 eighteen years of age."

3 SECTION 21. Section 329D-24, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " [+] §329D-24 [+] **Cultivation of medical cannabis by**
6 **qualifying patients and primary caregivers.** Nothing in this
7 chapter shall be construed as prohibiting a qualifying patient
8 or primary caregiver from cultivating or possessing an adequate
9 supply of medical cannabis pursuant to part IX of chapter 329.

10 A qualifying out-of-state patient or a caregiver of a
11 qualifying out-of-state patient shall not be authorized to
12 cultivate cannabis."

13 SECTION 22. Section 329D-25, Hawaii Revised Statutes, is
14 amended to read as follows:

15 " [+] §329D-25 [+] **Coordination among state and federal**
16 **agencies.** The department shall initiate ongoing dialogue among
17 relevant state and federal agencies to identify processes and
18 policies that ensure the privacy of qualifying patients and
19 qualifying out-of-state patients and the compliance of
20 qualifying patients, primary caregivers, qualifying out-of-state
21 patients, and caregivers of qualifying out-of-state patients and



1 medical cannabis dispensaries with state laws and regulations
2 related to medical cannabis."

3 SECTION 23. Section 378-32, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) It shall be unlawful for any employer to suspend,
6 discharge, or discriminate against any of the employer's
7 employees:

8 (1) Solely because the employer was summoned as a
9 garnishee in a cause where the employee is the debtor
10 or because the employee has filed a petition in
11 proceedings for a wage earner plan under chapter XIII
12 of the Bankruptcy Act;

13 (2) Solely because the employee has suffered a work injury
14 which arose out of and in the course of the employee's
15 employment with the employer and which is compensable
16 under chapter 386 unless the employee is no longer
17 capable of performing the employee's work as a result
18 of the work injury and the employer has no other
19 available work which the employee is capable of
20 performing. Any employee who is discharged because of
21 the work injury shall be given first preference of



1 reemployment by the employer in any position which the
2 employee is capable of performing and which becomes
3 available after the discharge and during the period
4 thereafter until the employee secures new employment.

5 This paragraph shall not apply to any employer in
6 whose employment there are less than three employees
7 at the time of the work injury or who is a party to a
8 collective bargaining agreement which prevents the
9 continued employment or reemployment of the injured
10 employee;

11 (3) Because the employee testified or was subpoenaed to
12 testify in a proceeding under this part; [~~or~~]

13 (4) Because an employee tested positive for the presence
14 of drugs, alcohol, or the metabolites of drugs in a
15 substance abuse on-site screening test conducted in
16 accordance with section 329B-5.5; provided that this
17 [~~provision~~] paragraph shall not apply to an employee
18 who fails or refuses to report to a laboratory for a
19 substance abuse test pursuant to section 329B-5.5[-];

20 or



- 1 (5) Solely because an employee, who is a registered
2 qualifying patient authorized for the medical use of
3 cannabis pursuant to sections 329-122 and 329-123,
4 tested positive for the presence of cannabis in a
5 substance abuse on-site screening test conducted in
6 accordance with section 329B-5.5; provided that this
7 paragraph shall not apply to:
- 8 (A) An employee who fails or refuses to report to a
9 laboratory for a substance abuse test pursuant to
10 section 329B-5.5;
- 11 (B) An employee who is in violation of section
12 329-122(c)(2)(B);
- 13 (C) An employee whose job requires the employee to
14 not be under the influence of substances, such as
15 a bus driver, a heavy machinery operator, a
16 construction worker, or other employee with a job
17 that has safety issues; or
- 18 (D) An employee whose employer would be in violation
19 of any federal law or regulation by having an
20 employee who tested positive for the presence of
21 cannabis as set forth in this paragraph."



1 privilege for providing written certification for the medical
2 use of cannabis for a qualifying patient; provided that:

3 (1) The physician or advanced practice registered nurse
4 has diagnosed the patient as having a debilitating
5 medical condition, as defined in section 329-121;

6 (2) The physician or advanced practice registered nurse
7 has explained the potential risks and benefits of the
8 medical use of cannabis, as required under section
9 329-122;

10 (3) The written certification is based upon the
11 physician's or advanced practice registered nurse's
12 professional opinion after having completed a full
13 assessment of the patient's medical history and
14 current medical condition made in the course of a bona
15 fide physician-patient relationship or bona fide
16 advanced practice registered nurse-patient
17 relationship, as applicable; and

18 (4) The physician or advanced practice registered nurse
19 has complied with the registration requirements of
20 section 329-123.



1 (b) For purposes of this section, a bona fide physician-
2 patient relationship may be established via telehealth, as
3 defined in section 453-1.3(j), and a bona fide advanced practice
4 registered nurse-patient relationship may be established via
5 telehealth, as defined in section 457-2; provided that treatment
6 recommendations that include certifying a patient for the
7 medical use of cannabis via telehealth shall be allowed only
8 after an initial in-person consultation between the certifying
9 physician or advanced practice registered nurse and the
10 patient."

11 SECTION 26. Section 453-1.3, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) Treatment recommendations made via telehealth,
14 including issuing a prescription via electronic means, shall be
15 held to the same standards of appropriate practice as those in
16 traditional physician-patient settings that do not include a
17 face-to-face visit but in which prescribing is appropriate,
18 including on-call telephone encounters and encounters for which
19 a follow-up visit is arranged. Issuing a prescription based
20 solely on an online questionnaire is not treatment for the
21 purposes of this section and does not constitute an acceptable



1 standard of care. For the purposes of prescribing opiates or
2 certifying a patient for the medical use of cannabis, a
3 physician-patient relationship shall only be established after
4 an in-person consultation between the prescribing physician and
5 the patient."

6 **PART III**

7 SECTION 27. The legislature finds that studies have shown
8 the benefits of using cannabis to alleviate certain serious
9 illnesses. The legislature further finds that several states
10 permit the sales of edible cannabis products, either for
11 recreational use or for medical use. These states generally
12 place restrictions on the edible cannabis products, such as
13 limiting the amount of psychoactive ingredients per serving,
14 banning manufacturers from making candy-like edibles that might
15 attract children, and requiring proper labeling.

16 The legislature additionally finds that medical cannabis
17 products that provide safe pulmonary administration can allow
18 for more precise dosage administration and can be more effective
19 for certain patient. The legislature also finds that, as with
20 all packaged products, smaller sizes are always more expensive
21 for consumers than larger products. Under existing law, the



1 tetrahydrocannabinol limit per pack or container of certain
2 manufactured cannabis products may impact certain patients, many
3 of whom may have conditions and symptoms that require larger
4 doses of tetrahydrocannabinol for relief.

5 Accordingly, the purpose of this part is to:

- 6 (1) Legalize the manufacturing of edible cannabis products
7 for medical purposes;
- 8 (2) Establish basic regulations on edible cannabis
9 products;
- 10 (3) Add certain devices that provide safe pulmonary
11 administration to the list of medical cannabis
12 products that may be manufactured and distributed; and
- 13 (4) Increase the tetrahydrocannabinol limit per pack or
14 container of certain manufactured cannabis products.

15 SECTION 28. Section 328-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "food" to read as follows:

17 "Food" means:

- 18 (1) Articles used for food or drink by humans, dogs, or
19 cats;
- 20 (2) Chewing gum; or
- 21 (3) Articles used for components of any such article.



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

3 SECTION 29. Section 329D-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "manufactured cannabis
5 product" to read as follows:

6 "Manufactured cannabis product" means any [~~capsule,~~
7 ~~lozenge, oil or oil extract, tincture, ointment or skin lotion,~~
8 ~~pill, transdermal patch, or pre-filled and sealed container used~~
9 ~~to aerosolize and deliver cannabis orally, such as an inhaler or~~
10 ~~nebulizer,~~] product that has been manufactured using cannabis [~~r~~
11 ~~or any other products as specified by the department]~~ pursuant
12 to section 329D-10 [~~(a)(9)~~]."

13 SECTION 30. Section 329D-9, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The department shall establish health, safety, and
16 sanitation standards regarding the manufacture of manufactured
17 cannabis products [~~r~~]; provided that:

18 (1) Manufactured cannabis products shall only be
19 manufactured in a facility that meets the minimum
20 sanitary requirements adopted by the department of
21 health that are at least equivalent to the standards



- 1 for food establishments provided for in chapter 11-50,
- 2 Hawaii Administrative Rules;
- 3 (2) Cannabis products shall not be manufactured in any
- 4 facility permitted by the department of health as a
- 5 food establishment; and
- 6 (3) Cannabis products shall not be manufactured in any
- 7 home kitchen."

8 SECTION 31. Section 329D-10, Hawaii Revised Statutes, is
 9 amended to read as follows:

- 10 **"§329D-10 Types of manufactured cannabis products. (a)**
 11 The types of medical cannabis products that may be manufactured
 12 and distributed pursuant to this chapter shall be limited to:
- 13 (1) Capsules;
 - 14 (2) Lozenges;
 - 15 (3) Pills;
 - 16 (4) Oils and oil extracts;
 - 17 (5) Tinctures;
 - 18 (6) Ointments and skin lotions;
 - 19 (7) Transdermal patches;



- 1 (8) Pre-filled and sealed containers used to aerosolize
2 and deliver cannabis orally, such as with an inhaler
3 or nebulizer; [~~and~~]
- 4 (9) Edible cannabis products;
- 5 (10) Devices that provide safe pulmonary administration;
6 provided that:
- 7 (A) The heating element of the device is made of
8 inert materials such as glass, ceramic, or
9 stainless steel, and not of plastic or rubber;
- 10 (B) The device is distributed solely for use with
11 single-use, disposable, pre-filled, tamper-
12 resistant, sealed containers that do not contain
13 nicotine or other tobacco products;
- 14 (C) The device is used to aerosolize and deliver
15 cannabis orally, such as a medical-grade inhaler,
16 medical-grade nebulizer, or other medical grade
17 volitization device; and
- 18 (D) There is a temperature control on the device that
19 is regulated to prevent the combustion of
20 cannabis oil; and
- 21 [~~+9~~] (11) Other products as specified by the department.



1 (b) As used in this section [~~,"lozenge"]~~;
2 "Edible cannabis products" means manufactured cannabis
3 products that are intended to be used, in whole or in part, for
4 human consumption, including but not limited to chewing gum,
5 drinks, baked products, and candy; provided that edible cannabis
6 products:

- 7 (1) Shall be tested and specifically labeled for each
8 product's dosage and strength;
9 (2) Shall not include products such as gummies, brightly
10 colored candies, or other products that may attract
11 children or bear resemblance to other commercially
12 available products; and
13 (3) May include liquid products that contain no more than
14 ten milligrams of activated tetrahydrocannabinol per
15 serving.

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

19 SECTION 32. Section 329D-11, Hawaii Revised Statutes, is
20 amended to read as follows:



- 1 "[-]§329D-11[-] Advertising and packaging. (a) The
2 department shall establish standards regarding the advertising
3 and packaging of cannabis and manufactured cannabis products;
4 provided that the standards, at a minimum, shall require the use
5 of packaging that:
- 6 (1) Is child-resistant and opaque so that the product
7 cannot be seen from outside the packaging;
 - 8 (2) Uses only black lettering on a white background with
9 no pictures or graphics;
 - 10 (3) Is clearly labeled with the phrase "For medical use
11 only";
 - 12 (4) Is clearly labeled with the phrase "Not for resale or
13 transfer to another person";
 - 14 (5) Includes instructions for use and "use by date";
 - 15 (6) Contains information about the contents and potency of
16 the product;
 - 17 (7) Includes the name of the production center where
18 cannabis in the product was produced, including the
19 batch number and date of packaging;
 - 20 (8) Includes a barcode generated by tracking software; and



- 1 (9) In the case of a manufactured cannabis product, [a
2 ~~listing~~] includes a:
- 3 (A) Listing of the equivalent physical weight of the
4 cannabis used to manufacture the amount of the
5 product that is within the packaging, pursuant to
6 section 329D-9(c) [-];
- 7 (B) Clearly labeled warning stating that the product:
- 8 (i) Is a medication that contains cannabis, and
9 is not a food;
- 10 (ii) Should be kept away from children; and
- 11 (iii) Contains nuts or other known allergens, if
12 applicable; and
- 13 (C) Date of manufacture.
- 14 (b) Any capsule, lozenge, or pill containing cannabis or
15 its principal psychoactive constituent tetrahydrocannabinol
16 shall be packaged so that one dose, serving, or single wrapped
17 item contains no more than ten milligrams of
18 tetrahydrocannabinol; provided that no manufactured cannabis
19 product that is sold in a pack of multiple doses, servings, or
20 single wrapped items, nor any containers of oils, shall contain
21 more than a total of one [~~hundred~~] thousand milligrams of



1 tetrahydrocannabinol per pack or container[-]; provided further
2 that no dispensary shall exceed the dispensing limits imposed by
3 section 329D-7.

4 (c) All manufactured cannabis products shall be
5 individually wrapped at the original point of manufacture."

6 PART IV

7 SECTION 33. The legislature finds that section 329D-6(d),
8 Hawaii Revised Statutes, restricts Hawaii medical cannabis
9 dispensaries from employing an individual if the person was
10 convicted of a felony. This appears unduly restrictive, as
11 other states that have legalized medical cannabis dispensaries
12 allow the employment of felons unless convicted for a limited
13 set of offenses. Section 329D-6(d), Hawaii Revised Statutes,
14 does not provide the opportunity for any exceptions based on the
15 nature of the individual's felony record.

16 The purpose of this part is to specify certain felonies and
17 conditions that will preclude employment, and other felonies
18 that may preclude employment, at medical cannabis dispensaries,
19 rather than make ineligible for employment all individuals who
20 have been convicted of any felony at any time.



1 SECTION 34. Section 329D-6, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Notwithstanding any other law to the contrary,
4 including but not limited to sections 378-2 and 378-2.5, [~~no~~
5 ~~dispensary shall employ a person convicted of a felony.~~]
6 dispensaries:

7 (1) Shall deny employment to any individual who has been:

8 (A) Convicted of a class A or class B felony; or

9 (B) Convicted of a class C felony involving
10 trafficking, distributing, or promoting a
11 schedule I or II drug controlled substance other
12 than cannabis within the last ten years; and

13 (2) May deny employment to any individual who has been
14 convicted of a class C felony involving:

15 (A) Fraud, deceit, misrepresentation, embezzlement,
16 or theft; or

17 (B) Endangering the welfare of a minor.

18 Employment under this chapter shall be exempt from section
19 378-2(a)(1), as it relates to arrest and court record
20 discrimination, and section 378-2.5."

21 PART V



1 SECTION 35. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 36. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 37. This Act shall take effect on July 1, 2050.



Report Title:

Medical Cannabis; Reciprocity; Qualifying Patient; Employment;
Employment Practices; Substance Abuse Testing; Telehealth;
Manufactured Cannabis Products; Edible Cannabis Products;
Medical Cannabis Dispensaries; Employees

Description:

Part I: Establishes a reciprocity process for medical cannabis patients that requires the department of health to register qualifying out-of-state patients and caregivers of qualifying out-of-state patients under certain conditions. Clarifies certain safeguards for qualifying out-of-state patients and caregivers of a qualifying out-of-state patient. Authorizes the department of health to extend the maximum period of validity of any written certification to three years for debilitating medical conditions that are chronic. Clarifies a dispensary licensee's ability to retest, at its own expense, a batch of cannabis or manufactured cannabis products that do not meet the department of health's standards for patient safety. Prohibits an employer from suspending, discharging, or discriminating against an employee for testing positive for cannabis if the employee is a registered qualifying patient who is authorized for the medical use of cannabis, with certain exceptions. Part II: Allows a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth. Part III: Allows and regulates the manufacturing of edible cannabis products as manufactured cannabis products by licensed medical cannabis dispensaries. Establishes requirements for manufacturing, handling, labeling, and packaging of manufactured cannabis products. Adds certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed. Increases the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products. Part IV: Specifies certain felonies and conditions that will preclude employment, and other felonies and conditions that may preclude employment, at a medical cannabis dispensary. Effective 7/1/2050. (SD1)

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

