

JAN 22 2021

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# A BILL FOR AN ACT

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RELATING TO MEDICAL CANNABIS.

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

1       SECTION 1. The legislature finds that the regulated  
2       statewide dispensary system for medical cannabis was established  
3       on July 14, 2015, as Act 241, Session Laws of Hawaii 2015, to  
4       ensure safe and legal access to medical cannabis of qualifying  
5       patients. Since that time, the experience of the program  
6       indicates that improvements to the law will help to fulfill its  
7       original intent by clarifying provisions and implementing  
8       reasonable modifications to support patient access.

9       The purpose of this Act is to amend the medical cannabis  
10      dispensary law by making conforming amendments that:

- 11      (1) Align with recent enactments that provide a process  
12           for the voluntary or involuntary sale or transfer of a  
13           dispensary license, remove the exclusion from  
14           dispensary employment for certain class C felony  
15           convictions, and repeal certain restrictions on  
16           medical cannabis dispensary siting;



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(2) Include primary caregivers, qualifying out-of-state patients, and caregivers of a qualifying out-of-state patient as covered individuals; and

(3) Better serve the needs and protect the safety of Hawaii's seriously ill patients.

SECTION 2. Section 329D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Restricted access area" means a designated and secure area or areas within a retail dispensing location where medical cannabis and manufactured cannabis products are dispensed or made available for retail sale to a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient."

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

**"[f]§329D-3[+] Qualifications for licensure.** (a) Each application for a dispensary license shall include both an individual applicant and an applying entity.



1 (b) The application shall be submitted to the department  
2 and shall include supporting documentation to establish the  
3 following:

4 (1) That the individual applicant:

5 (A) Has been a legal resident of the State for not  
6 less than five years preceding the date of  
7 application;

8 (B) Is not less than twenty-one years of age; and

9 (C) Has had no felony convictions;

10 (2) That the applying entity:

11 (A) Has been organized under the laws of the State;

12 (B) Has a Hawaii tax identification number;

13 (C) Has a department of commerce and consumer affairs  
14 business registration division number and suffix;

15 (D) Has a federal employer identification number;

16 (E) Is not less than fifty-one per cent held by  
17 Hawaii legal residents or entities wholly  
18 controlled by Hawaii legal residents who have  
19 been Hawaii legal residents for not less than  
20 five years immediately preceding the date the  
21 application was submitted;



(F) Has financial resources under its control of not less than \$1,000,000 for each license applied for, plus not less than \$100,000 for each retail dispensing location allowed under the license applied for, in the form of bank statements or escrow accounts, and that the financial resources have been under the control of the applying entity for not less than ninety days immediately preceding the date the application was submitted; and

(G) Is composed of principals or members, each of whom has no felony convictions.

~~[(e) A dispensary license shall not be sold or otherwise transferred from one person to another person.] "~~

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

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

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



1           (2) A fee structure for the submission of applications and  
2           renewals of licenses to dispensaries; provided that  
3           the department shall consider the market conditions in  
4           each county in determining the license renewal fee  
5           amounts;

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

10          (A) Ability to operate a business;

11          (B) Financial stability and access to financial  
12           resources; provided that applicants for medical  
13           cannabis dispensary licenses shall provide  
14           documentation that demonstrates control of not  
15           less than \$1,000,000 in the form of escrow  
16           accounts, letters of credit, surety bonds, bank  
17           statements, lines of credit or the equivalent to  
18           begin operating the dispensary;

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



(D) Capacity to meet the needs of qualifying patients  
and qualifying out-of-state patients;

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

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

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

(5) Procedures for announced and unannounced inspections  
by the department or its agents of production centers  
and dispensaries licensed pursuant to this chapter;  
provided that inspections for license renewals shall  
be unannounced;

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

(A) For production centers:



(i) Video monitoring and recording of the premises; provided that recordings shall be retained for fifty days;

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

(iii) An alarm system; and

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

(B) For restricted access areas of retail dispensing locations:

(i) Presentation of a valid government-issued photo identification and a valid identification as issued by the department pursuant to section 329-123 by a qualifying patient or caregiver, or section 329-123.5 by a qualifying out-of-state patient or caregiver of a qualifying out-of-state patient, upon entering the premises;



(ii) Video monitoring and recording of the premises; provided that recordings shall be retained for fifty days;

(iii) An alarm system;

(iv) Exterior lighting; and

(v) Other reasonable security measures as deemed necessary by the department;

(7) Security requirements for the transportation of cannabis and manufactured cannabis products between production centers and retail dispensing locations and between a production center, retail dispensing location, qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and a certified laboratory, pursuant to section 329-122(f);

(8) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, subcontractors and their employees, and prospective employees of medical cannabis dispensaries to operate a dispensary; provided that the standards, at a





1 minimum, shall exclude from licensure [~~or employment~~]  
2 any person convicted of any felony;

3 (9) The training and certification of operators and  
4 employees of production centers and dispensaries;

5 (10) The types of manufactured cannabis products that  
6 dispensaries shall be authorized to manufacture and  
7 sell pursuant to sections 329D-9 and 329D-10;

8 (11) Laboratory standards related to testing cannabis and  
9 manufactured cannabis products for content,  
10 contamination, and consistency;

11 (12) The quantities of cannabis and manufactured cannabis  
12 products that a dispensary may sell or provide to a  
13 qualifying patient, primary caregiver, qualifying out-  
14 of-state patient, or caregiver of a qualifying out-of-  
15 state patient; provided that no dispensary shall sell  
16 or provide to a qualifying patient, primary caregiver,  
17 qualifying out-of-state patient, or caregiver of a  
18 qualifying out-of-state patient any combination of  
19 cannabis and manufactured products that:



1 (A) During a period of fifteen consecutive days,  
2 exceeds the equivalent of four ounces of  
3 cannabis; or

4 (B) During a period of thirty consecutive days,  
5 exceeds the equivalent of eight ounces of  
6 cannabis;

7 (13) Dispensary and production center inventory controls to  
8 prevent the unauthorized diversion of cannabis or  
9 manufactured cannabis products or the distribution of  
10 cannabis or manufactured cannabis products to a  
11 qualifying patient, primary caregiver, qualifying out-  
12 of-state patient, or caregiver of a qualifying out-of-  
13 state patient in quantities that exceed limits  
14 established by this chapter; provided that the  
15 controls, at a minimum, shall include:

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

18 (B) Product packaging standards sufficient to allow  
19 law enforcement personnel to reasonably determine  
20 the contents of an unopened package;



- 1       (14) Limitation to the size or format of signs placed  
2       outside a retail dispensing location or production  
3       center; provided that the signage limitations, at a  
4       minimum, shall comply with section 329D-6(o)(2) and  
5       shall not include the image of a cartoon character or  
6       other design intended to appeal to children;
- 7       (15) The disposal or destruction of unwanted or unused  
8       cannabis and manufactured cannabis products;
- 9       (16) The enforcement of the following prohibitions against:
- 10       (A) The sale or provision of cannabis or manufactured  
11       cannabis products to unauthorized persons;
- 12       (B) The sale or provision of cannabis or manufactured  
13       cannabis products to a qualifying patient,  
14       primary caregiver, qualifying out-of-state  
15       patient, or caregiver of a qualifying out-of-  
16       state patient in quantities that exceed limits  
17       established by this chapter;
- 18       (C) Any use or consumption of cannabis or  
19       manufactured cannabis products on the premises of  
20       a retail dispensing location or production  
21       center; and



- 1 (D) The distribution of cannabis or manufactured
- 2 cannabis products, for free, on the premises of a
- 3 retail dispensing location or production center;
- 4 (17) The establishment of a range of penalties for
- 5 violations of this chapter or rule adopted thereto;
- 6 and
- 7 (18) A process to recognize and register patients who are
- 8 authorized to purchase, possess, and use medical
- 9 cannabis in another state, a United States territory,
- 10 or the District of Columbia as qualifying out-of-state
- 11 patients; provided that this registration process may
- 12 commence no sooner than January 1, 2018."

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

15 "(a) No person shall intentionally or knowingly enter or  
16 remain ~~upon~~ within the ~~[premises]~~ restricted access area or  
17 areas of a medical cannabis retail dispensing location unless  
18 the individual is:

- 19 (1) An individual licensee or registered employee of the
- 20 dispensary;



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1 (2) A qualifying patient, primary caregiver, qualifying  
2 out-of-state patient, or caregiver of a qualifying  
3 out-of-state patient;

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

6 (4) Previously included on a current department-approved  
7 list provided to the department by the licensee of  
8 those persons who are allowed into that dispensary's  
9 facilities for a specific purpose for that dispensary,  
10 including but not limited to construction,  
11 maintenance, repairs, legal counsel, providers of  
12 paratransit or other assistive services required by a  
13 qualifying patient, primary caregiver, qualifying out-  
14 of-state patient, or caregiver of a qualifying out-of-  
15 state patient to access a retail dispensary location,  
16 or investors; 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;



(C) The department has confirmed that the person has no felony convictions;

(D) The person is escorted by an individual licensee or registered employee of the dispensary at all times while in the dispensary facility;

(E) The person is only permitted within those portions of the dispensary facility as necessary to fulfill the person's purpose for entering;

(F) The person is only permitted within the dispensary facility during the times and for the duration necessary to fulfill the person's purpose for entering;

(G) The dispensary shall keep an accurate record of each person's first and last name, date and times upon entering and exiting the dispensary facility, purpose for entering, and the identity of the escort; and

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

SECTION 6. Section 329D-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:



1       "(b) Any person who violates any of the provisions of this  
2 chapter or the rules adopted pursuant thereto shall be fined not  
3 less than \$100 nor more than \$1,000 for each ~~[violation.]~~  
4 separate offense; provided that each day of each violation  
5 constitutes a separate offense."

6       SECTION 7. Section 329D-22, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8       "(b) As used in this section:

9       "Playground" means any public outdoor facility, including  
10 any parking lot appurtenant thereto, that is intended for  
11 recreation, with any portion thereof containing three or more  
12 separate apparatus intended for the recreation of children,  
13 including but not limited to sliding boards, swing sets, and  
14 teeterboards.

15       ~~["Public housing project or complex" means a housing~~  
16 ~~project directly controlled, owned, developed, or managed by the~~  
17 ~~Hawaii public housing authority pursuant to the federal or state~~  
18 ~~low rent public housing program.]~~

19       "School" means any public or private preschool,  
20 kindergarten, elementary, intermediate, middle, secondary, or  
21 high school."



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1       SECTION 8. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: Rosalyn H. Berk





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**Report Title:**

Medical Cannabis Dispensary System; Restricted Access Area

**Description:**

Allows primary caregivers, qualifying out-of-state patients, and caregivers of a qualifying out-of-state patient to access the restricted access area within a medical cannabis retail dispensary. Clarifies violations related to medical cannabis dispensaries.

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

