

# S.B. NO. 1380

JAN 25 2023

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

4 "Waiting room" means a designated area at the public  
5 entrance of a retail dispensing location that may be accessed by  
6 a member of the general public who is waiting for, assisting, or  
7 accompanying a qualifying patient, primary caregiver, qualifying  
8 out-of-state patient, or caregiver of a qualifying out-of-state  
9 patient who enters or remains on the premises of a retail  
10 dispensing location for the purpose of a transaction conducted  
11 pursuant to sections 329D-6 and 329D-13, provided that the  
12 storage, display, and retail sale of cannabis and manufactured  
13 cannabis products shall be prohibited within the waiting room  
14 area."

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

1           " (r) The department may authorize a dispensary to purchase  
2 cannabis and manufactured cannabis products from another  
3 dispensary in a manner prescribed by the department by rules  
4 adopted pursuant to [~~this chapter and chapter 91;~~] section 329D-  
5 27; provided that:

6           (1) The purchasing dispensary establishes to the  
7 department's satisfaction that:

8           (A) The purchase is necessary to ensure that  
9           qualifying patients have continuous access to  
10           cannabis for medical use; or

11           (B) The cannabis and manufactured cannabis products  
12           are for medical, scientific, or other legitimate  
13           purposes approved by the State;

14           (2) The selling dispensary may transport no more than  
15           eight hundred ounces of cannabis or manufactured  
16           cannabis products to the purchasing dispensary within  
17           a thirty-day period;

18           (3) The cannabis and manufactured cannabis products are  
19           transported between the dispensaries for medical,  
20           scientific, or other legitimate purposes approved by  
21           the State; and

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1           (4) Nothing in this subsection shall relieve any  
2                   dispensary of its responsibilities and obligations  
3                   under this chapter and chapter 329."

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

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

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

10          (2) A fee structure for:

11           (A) The submission of applications and renewals of  
12                   licenses to dispensaries; provided that the  
13                   department shall consider the market conditions  
14                   in each county in determining the license renewal  
15                   fee amounts;

16           (B) The submission of applications for each  
17                   additional production center; and

18           (C) Dispensary-to-dispensary sales authorized by  
19                   section 329D-6(r);

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

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

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1 and dispensaries licensed pursuant to this chapter;  
2 provided that inspections for license renewals shall  
3 be unannounced;

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

7 (A) For production centers:

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

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

15 (iii) An alarm system; and

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

19 (B) For retail dispensing locations:

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

- 1 patient or caregiver, or section 329-123.5  
2 by a qualifying out-of-state patient or  
3 caregiver of a qualifying out-of-state  
4 patient, upon entering the premises;
- 5 (ii) Video monitoring and recording of the  
6 premises; provided that recording shall be  
7 retained for fifty days;
- 8 (iii) An alarm system;
- 9 (iv) Exterior lighting; and
- 10 (v) Other reasonable security measures as deemed  
11 necessary by the department;
- 12 (7) Security requirements for the transportation of  
13 cannabis and manufactured cannabis products between  
14 production centers and retail dispensing locations and  
15 between a production center, retail dispensing  
16 location, qualifying patient, primary caregiver,  
17 qualifying out-of-state patient, or caregiver of a  
18 qualifying out-of-state patient and a certified  
19 laboratory, pursuant to section 329-122(f);
- 20 (8) Standards and criminal background checks to ensure the  
21 reputable and responsible character and fitness of all  
22 license applicants, licensees, employees,  
23 subcontractors and their employees, and prospective

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1 employees of medical cannabis dispensaries to operate  
2 a dispensary; provided that the standards, at a  
3 minimum, shall exclude from licensure or employment  
4 any person convicted of any felony;

5 (9) The training and certification of operators and  
6 employees of production centers and dispensaries;

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

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

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

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- 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;
- 21       (14) Limitation to the size or format of signs placed  
22          outside a retail dispensing location or production  
23          center; provided that the signage limitations, at a



1 minimum, shall comply with section 329D-6(o)(2) and  
2 shall not include the image of a cartoon character or  
3 other design intended to appeal to children;

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

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

7 (A) The sale or provision of cannabis or manufactured  
8 cannabis products to unauthorized persons;

9 (B) The sale or provision of cannabis or manufactured  
10 cannabis products to a qualifying patient,  
11 primary caregiver, qualifying out-of-state  
12 patient, or caregiver of a qualifying out-of-  
13 state patient in quantities that exceed limits  
14 established by this chapter;

15 (C) Any use or consumption of cannabis or  
16 manufactured cannabis products on the premises of  
17 a retail dispensing location or production  
18 center; and

19 (D) The distribution of cannabis or manufactured  
20 cannabis products, for free, on the premises of a  
21 retail dispensing location or production center;

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- 1           (17) The establishment of a range of penalties for  
2                   violations of this chapter or rule adopted thereto;  
3                   [and]
- 4           (18) A process to recognize and register patients who are  
5                   authorized to purchase, possess, and use medical  
6                   cannabis in another state, a United States territory,  
7                   or the District of Columbia as qualifying out-of-state  
8                   patients; provided that this registration process may  
9                   commence no sooner than January 1, 2018[-]; and
- 10          (19) Security requirements and restrictions regarding  
11           waiting rooms, including but not limited to:
- 12                   (A) Security measures to prevent unauthorized access  
13                   to any area within the retail dispensing location  
14                   outside of the waiting room;
- 15                   (B) Restrictions on marketing and advertising within  
16                   the waiting room;
- 17                   (C) Restrictions on signage within the waiting room;
- 18                   (D) Other reasonable security measures or  
19                   restrictions as deemed necessary by the  
20                   department."

21           SECTION 4. Section 329D-15, Hawaii Revised Statutes, is  
22          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 cannabis retail dispensing  
3 location unless the individual is:

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

6           (2) A qualifying patient, primary caregiver, qualifying  
7 out-of-state patient, or caregiver of a qualifying  
8 out-of-state patient;

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

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

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

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- 1 (B) The person is at least twenty-one years of age,  
2 as verified by a valid government issued  
3 identification card;
- 4 (C) The department has confirmed that the person has  
5 no felony convictions;
- 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
- 21 (H) The approved list shall be effective for one year  
22 from the date of the department approval[-];

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1 provided that a member of the general public may enter or remain  
2 within the waiting room of a retail dispensing location."

3 SECTION 5. Section 329D-21, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Any person who violates any of the provisions of this  
6 chapter or the rules adopted pursuant thereto shall be fined not  
7 less than \$100 nor more than \$1,000 for each [~~violation.~~]  
8 separate violation. Each day on which a violation occurs or  
9 continues shall be counted as a separate violation."

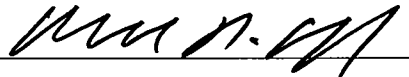
10 SECTION 6. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

  
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15

BY REQUEST

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**Report Title:**

Medical Cannabis Dispensary System; Waiting room; Violations

**Description:**

Defines "waiting room" within a medical cannabis retail dispensary and allows primary caregivers, qualifying out-of-state patients, and caregivers of a qualifying out-of-state patient to access the waiting room; clarifies that each day of a violation of chapter 329D, is a separate violation; and amends the rule-making authority for dispensary-to-dispensary sales.

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

# SB. NO. 1380

## JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO MEDICAL CANNABIS.

PURPOSE: To define "waiting room" within a medical cannabis retail dispensary and allow primary caregivers, qualifying out-of-state patients, and caregivers of qualifying out-of-state patients to access the waiting room; clarify that each day of a violation of chapter 329D, Hawaii Revised Statutes, is a separate violation; and amend the rule-making authority for dispensary-to-dispensary sales.

MEANS: Amend sections 329D-1, 329D-6(r), 329D-7, 329D-15(a), and 329D-21(b), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Defining "waiting room" better serves the needs of qualifying patients by preventing unauthorized access to areas of a retail dispensary where cannabis and manufactured cannabis products are displayed, held, and dispensed, while allowing a patient's primary caregiver, to assist patients into retail dispensary locations.

Removing the requirement that rules for dispensary-to-dispensary sales be adopted pursuant to chapter 91 will allow the Department of Health to maintain interim rule-making authority, which remains critical for timely response to public health and safety concerns.

Clarifying that each day of a violation of chapter 329D is a separate violation will better protect patient and public safety by facilitating enforcement of dispensary compliance with chapter 329D.

Impact on the public: This measure protects the public by encouraging dispensary

licensees to promptly come into compliance for violations of chapter 329D.

Impact on the department and other agencies:  
This measure will enhance the efficiency of the department in regulating the licensed medical cannabis dispensaries.

GENERAL FUND: None.  
OTHER FUNDS: None.  
PPBS PROGRAM DESIGNATION: HTH 596KM.  
OTHER AFFECTED AGENCIES: None.  
EFFECTIVE DATE: Upon approval.