S.B. NO. ¹⁴²⁹ S.D. 2 H.D. 3

C.D. 1

A BILL FOR AN ACT

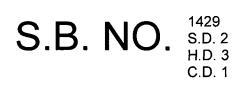
RELATING TO MEDICAL CANNABIS.

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

1 SECTION 1. The legislature finds that existing state law 2 recognizes the beneficial use of cannabis in treating certain 3 debilitating medical conditions, their symptoms, and certain side effects of treatment of these conditions, including severe 4 pain, nausea, muscle spasms, and seizures. Act 241, Session 5 6 Laws of Hawaii 2015 (Act 241), provided patient access to medical cannabis beyond the access that existed before the 7 8 creation of the dispensary system authorized by Act 241. 9 However, the intent of the legislature as expressed in Act 241 10 was, and continues to be, to expand qualifying patients' access to cannabis rather than to replace existing access routes. 11 12 According to the rapid survey of Hawaii medical cannabis 13 patients and providers conducted by the department of health in 14 2022, fifty-five per cent of patients indicated that they obtained their cannabis exclusively from a licensed medical 15 16 cannabis dispensary. This means that up to forty-five per cent of patients obtain their cannabis for medical use from other 17

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1 sources, including cultivation. Part of the justification for establishing the medical cannabis dispensary system was that 2 3 some patients may not be able to grow their own supply of 4 medical cannabis due to certain limitations, such as disability 5 or lack of space. These patients should continue to have 6 multiple options for obtaining medical cannabis, including 7 having a primary caregiver grow an adequate supply of cannabis 8 for medical use on their behalf.

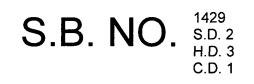
9 Accordingly, the purpose of this Act is to maintain and
10 clarify the multiple options currently available for qualifying
11 patients to access a safe and legal supply of medical cannabis.
12 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
13 amended by adding a new section to part IX to be appropriately

13 amended by adding a new section to part IX to be appropriately 14 designated and to read as follows:

15 "§329- Violations; penalties. (a) In addition to any
16 other penalties allowed by law, any person who violates this
17 part or rules adopted pursuant to this part shall be fined not
18 more than \$5,000 for each separate violation. Each day on which
19 a violation occurs or continues shall constitute a separate
20 offense.

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1	(b) The department of health may impose an administrative
2	penalty on a person pursuant to subsection (a) or rules adopted
3	pursuant to this part. The department of health shall serve the
4	person with written notice of the administrative penalty and the
5	basis for the administrative penalty. Any notice of an
6	administrative penalty may be accompanied by a cease and desist
7	order or order for corrective action, or both. The
8	administrative penalty, cease and desist order, and order for
9	corrective action shall become final twenty calendar days after
10	the date of the written notice, unless a contested case hearing
11	is requested pursuant to subsection (c). The violation of the
12	cease and desist order or order for corrective action shall
13	constitute a further violation of this part.
14	(c) Any person aggrieved by the imposition of an
15	administrative penalty, cease and desist order, or order for
16	corrective action may request a contested case hearing pursuant
17	to chapter 91. To request a contested case hearing, the person
18	shall submit a written request to the department of health
19	within twenty calendar days of the date of the written notice.
20	Appeal to the circuit court under section 91-14 or any other



1	applicabl	e statute shall only be taken from the department of
2	health's	final order pursuant to a contested case.
3	<u>(d)</u>	Any action taken to recover, collect, or enforce the
4	penalty p	rovided for in this section shall be considered a civil
5	action.	For any judicial proceeding to recover or collect an
6	administr	ative penalty imposed pursuant to subsection (a) or to
7	<u>enforce a</u>	cease and desist order or order for corrective action
8	issued pu	rsuant to subsection (b), the department of health may
9	petition	any court of appropriate jurisdiction and need only
10	show that	<u>:</u>
11	(1)	Notice was served upon the person;
12	(2)	A hearing was held, or the time granted for requesting
13		a hearing has expired without such a request;
14	(3)	The administrative penalty, cease and desist order, or
15		order for corrective action was imposed on the person;
16		and
17	(4)	The penalty remains unpaid, or the order was not complied
18		with."
19	SECT	ION 3. Section 329-123, Hawaii Revised Statutes, is
20	amended b	y amending subsection (c) to read as follows:

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1	"(c) Primary caregivers shall register with the department
2	of health. [Every] <u>Each</u> primary caregiver shall be responsible
3	for the care of [only one] <u>not more than five</u> qualifying
4	[patient] patients at any given time[, unless the primary
5	caregiver is the parent, guardian, or person having legal
6	custody of more than one minor qualifying patient, in which case
7	the primary caregiver may be responsible for the care of more
8	than one minor qualifying patient at any given time; provided
9	that the primary caregiver is the parent, guardian, or person
10	having-legal custody of all of the primary caregiver's
11	qualifying patients]. The department of health may permit
12	registration of up to two primary caregivers for a minor
13	qualifying patient; provided that both primary caregivers are
14	the parent, guardian, or person having legal custody of the
15	minor qualifying patient."
16	SECTION 4. Section 329-130, Hawaii Revised Statutes, is
17	amended to read as follows:

18 "\$329-130 Authorized sources of medical cannabis. (a)
19 [After December 31, 2024, a] A qualifying patient shall obtain
20 medical cannabis or manufactured cannabis products only:

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1	(1)	From a dispensary licensed pursuant to chapter 329D;
2		provided that the cannabis shall be purchased and paid
3		for at the time of purchase; [or]
4	(2)	By cultivating cannabis in an amount that does not
5		exceed an adequate supply for the qualifying
6		patient[$_{ au}$] pursuant to section 329-122; provided that
7		each location used to cultivate cannabis shall be used
8		[by no] <u>to cultivate cannabis for not</u> more than five
9		qualifying patients[+]; or
10	(3)	From the qualifying patient's primary caregiver who
11		cultivates cannabis in an amount that does not exceed
12		an adequate supply for the qualifying patient pursuant
13		to section 329-122; provided that each location used
14		to cultivate cannabis shall be used to cultivate
15		cannabis for not more than five qualifying patients.
16	[After De	cember 31, 2024, no primary caregiver shall be
17	authorized	d to cultivate cannabis for any qualifying patient.
18	-(d) -	This section shall not apply to:
19	(1)	A qualifying patient who is a minor or an adult
20		lacking legal capacity and the primary caregiver is

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1		the parent, guardian, or person having legal-custody
2		of a qualifying patient described in the paragraph; or
3	(2)	A-qualifying patient on any island on which there is
4		no medical cannabis dispensary licensed pursuant to
5		chapter 329D.
6	(c)]	(b) A qualifying out-of-state patient and a caregiver
7	of a quali	ifying out-of-state patient shall be authorized to
8	obtain car	nnabis for medical use only from retail dispensing
9	locations	of dispensaries licensed pursuant to chapter 329D."
10	SECTI	ION 5. Section 329D-27, Hawaii Revised Statutes, is
11	amended by	y amending subsections (b) and (c) to read as follows:
12	"(b)	No later than January 4, 2016, the department shall
13	adopt inte	erim rules, which shall be exempt from chapter 91 and
14	chapter 20	01M, to effectuate the purposes of this chapter;
15	provided t	that the interim rules shall remain in effect until
16	July 1, [2	2025, <u>2027,</u> or until rules are adopted pursuant to
17	subsectior	n (a), whichever occurs sooner.
18	(c)	The department may amend the interim rules, and the
19	amendments	s shall be exempt from chapters 91 and 201M, to
20	effectuate	e the purposes of this chapter; provided that any
21	amended ir	nterim rules shall remain in effect until July 1,

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1	[2025,] <u>2027,</u> or until rules are adopted pursuant to subsection
2	(a), whichever occurs sooner."
3	SECTION 6. Act 241, Session Laws of Hawaii 2015,
4	section 14, as amended by Act 41, Session Laws of Hawaii 2017,
5	section 11, as amended by Act 159, Session Laws of Hawaii 2018,
6	section 4, is amended to read as follows:
7	"SECTION 14. For the purposes of effectuating this Act,
8	the personnel hired and the contracts entered into by the
9	department of health, pursuant to this Act, shall be exempt from
10	chapter 76, Hawaii Revised Statutes, for a period beginning on
11	July 1, 2015, and ending on June 30, [2025;] <u>2029;</u> provided
12	that:
13	(1) All personnel actions taken pursuant to this Act by
14	the department of health after June 30, [2025,] <u>2029,</u>
15	shall be subject to chapter 76, Hawaii Revised
16	Statutes, as appropriate; and
17	(2) Any employee hired by the department of health to
18	effectuate this Act, who occupies a position exempt
19	from civil service on July 1, [2025,] <u>2029,</u> shall:
20	(A) Be appointed to a civil service position; and

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1	(B) Not suffer any loss of prior service credit,
2	vacation or sick leave credits previously earned,
3	or other employee benefits or privileges;
4	provided that the employee possesses the minimum
5	qualifications and public employment requirements for
6	the class or position to which appointed; provided
7	further that subsequent changes in status shall be
8	made pursuant to applicable civil service and
9	compensation laws."
10	SECTION 7. Statutory material to be repealed is bracketed
11	and stricken. New statutory material is underscored.
12	SECTION 8. This Act shall take effect upon its approval;
13	provided that sections 3 and 4 shall take effect retroactive to
14	January 1, 2025.





Report Title:

DOH; Office of Medical Cannabis Control and Regulation; Medical Cannabis; Caregivers; Penalties; Cultivation; Rules; Civil Service Exemptions

Description:

Authorizes the Department of Health to impose penalties and take enforcement actions for violations of the medical cannabis laws. Increases the maximum number of qualifying patients a primary caregiver is authorized to care for from one to five patients. Retroactive to 1/1/2025, repeals the prohibition against primary caregivers cultivating medical cannabis for their qualifying patients, and authorizes primary caregivers to cultivate cannabis in an amount not to exceed an adequate supply for the qualifying patient; provided that each location used to cultivate cannabis shall be used to cultivate cannabis for not more than five qualifying patients. Extends for two years the sunset date for the interim rules adopted by the Department of Health and extends for four years the sunset date for the exemption from civil service of personnel hired by, or contracts entered into by, the Department of Health related to the medical cannabis dispensary system. (CD1)

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

