ACT 38 H.B. NO. 2097

A Bill for an Act Relating to Medical Cannabis.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that amendments to chapter 329D, Hawaii Revised Statutes, are warranted to clarify legislative intent, ensure smooth administration of the medical cannabis dispensary system law, allow for adequate patient access based on experiences in other states that have a reasonable medical cannabis program, and resolve other issues that have arisen under the existing law.

The purpose of this Act is to authorize:

(1) The department of health to consider processes that may allow cannabis or manufactured cannabis products that fail testing to be remediated;
(2) Licensed dispensaries to manufacture and distribute edible cannabis products under certain conditions; and
(3) The department of health to allow licensed dispensaries to provide educational and scientific information and sponsor events related to medical cannabis.

SECTION 2. Section 329D-1, Hawaii Revised Statutes, is amended by amending the definition of "manufactured cannabis product" to read as follows:

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

SECTION 3. Section 329D-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department shall establish and enforce standards for laboratory-based testing of cannabis and manufactured cannabis products for content, contamination, and consistency; provided that in establishing these standards, the department shall:

(1) Review and take guidance from the testing programs and standards utilized in other jurisdictions;

(2) Consider the impact of the standards on the retail cost of the product to the qualifying patient;

(3) Review and take guidance from the testing programs and standards for pesticides under the regulations of the United States Environmental Protection Agency;

(4) Consider processes that may allow cannabis or manufactured cannabis products that fail testing standards to be remediated;

[~~(4)~~] (5) For the testing for microbiological impurities, consider the benefits of organically grown cannabis that features the use of bacteria in lieu of pesticides; and

[~~(5)~~] (6) Include permission for qualifying patients and primary caregivers to obtain testing services directly from certified laboratories on the island where the qualifying patient and primary caregiver reside."

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

"§329D-10 Types of manufactured cannabis products. (a) The types of medical cannabis products that may be manufactured and distributed pursuant to this chapter shall be limited to:

(1) Capsules;

(2) Lozenges;

(3) Pills;

(4) Oils and oil extracts;

(5) Tinctures;

(6) Ointments and skin lotions;

(7) Transdermal patches;

(8) Pre-filled and sealed containers used to aerosolize and deliver cannabis orally, such as with an inhaler or nebulizer; provided that containers need not be manufactured by the licensed dispensary but shall be filled with cannabis, cannabis oils, or cannabis extracts manufactured by the licensed dispensary; shall not contain nicotine, tobacco-related products, or any other non-cannabis derived products; and shall be designed to be used with devices used to provide safe pulmonary administration of manufactured cannabis products;

(9) Devices that provide safe pulmonary administration; provided that:

(A) The heating element of the device, if any, is made of inert materials such as glass, ceramic, or stainless steel, and not of plastic or rubber;

(B) The device is distributed solely for use with single-use, prefilled, tamper-resistant, sealed containers that do not contain nicotine or other tobacco products;

(C) The device is used to aerosolize and deliver cannabis by inhalation, such as an inhaler, medical-grade nebulizer, or other similar medical grade volitization device;

(D) There is a temperature control on the device that is regulated to prevent the combustion of cannabis oil; and

(E) The device need not be manufactured by the licensed dispensary; [~~and~~]

(10) Other products, including edible cannabis products, as specified by the department; and

[~~(10)~~] (11) Other products as specified by the department.

(b) As used in this section, "lozenge" means a small tablet manufactured in a manner to allow for the dissolving of its medicinal or therapeutic component slowly in the mouth.

(c) As used in this section, "edible cannabis products" means manufactured cannabis products intended for gastrointestinal administration of any cannabinoid extracted from the cannabis plant and regulated as manufactured cannabis products and not as a "drug" or "food" as defined and regulated in chapter 328, or as "bottled water" as defined and regulated in chapter 328D.

(d) Any medical cannabis product manufactured pursuant to this chapter shall be regulated and approved by the department and meet all requirements of rules adopted pursuant to this chapter; provided that the department shall establish requirements for child-resistant packaging and accurate and proper labeling."

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

"§329D-11 Advertising and packaging. (a) The department shall establish standards regarding the advertising and packaging of cannabis and manufactured cannabis products; provided that the standards, at a minimum, shall require the use of packaging that:

(1) Is child-resistant and opaque so that the product cannot be seen from outside the packaging;
(2) Uses only black lettering on a white background with no pictures or graphics;
(3) Is clearly labeled with the phrase "For medical use only";
(4) Is clearly labeled with the phrase "Not for resale or transfer to another person";
(5) Includes instructions for use and "use by date";
(6) Contains information about the contents and potency of the product;
(7) Includes the name of the production center where cannabis in the product was produced, including the batch number and date of packaging;
(8) Includes a barcode generated by tracking software; and
(9) In the case of a manufactured cannabis product, includes a:
    (A) Listing of the equivalent physical weight of the cannabis used to manufacture the amount of the product that is within the packaging, pursuant to section 329D-9(c);
    (B) Clearly labeled warning stating that the product:
        (i) Is a medication that contains cannabis, and is not a food; and
        (ii) Should be kept away from children; and
    (C) Date of manufacture.

(b) Any capsule, lozenge, or pill containing cannabis or its principal psychoactive constituent tetrahydrocannabinol shall be packaged so that one dose, serving, or single wrapped item contains no more than ten milligrams of tetrahydrocannabinol; provided that no manufactured cannabis product that is sold in a pack of multiple doses, servings, or single wrapped items, nor any con-

tainers of oils, shall contain more than a total of one thousand milligrams of tetrahydrocannabinol per pack or container; provided further that no dispensary shall exceed the dispensing limits imposed by section 329D-7.

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

(d) The department shall be authorized to allow dispensaries to provide, disseminate, and publish educational and scientific materials relating to medical cannabis and its approved products and sponsor events about medical cannabis."

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

SECTION 7. This Act shall take effect on January 1, 2021.

(Approved September 15, 2020.)