JAN 27 2021

#### A BILL FOR AN ACT

RELATING TO CANNABIS.

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

ı	SECTION 1. The legislature finds that amendments to
2	chapter 329D, Hawaii Revised Statutes, are warranted to clarify
3	legislative intent, ensure smooth administration of the medical
4	cannabis dispensary system law, allow for adequate patient
5	access based on experiences in other states that have a
6	reasonable medical cannabis program, and resolve other issues
7	that have arisen under the existing law.
8	The purpose of this Act is to:
9	(1) Increase the allowable number of production centers
10	and retail dispensing locations per dispensary
11	license; and
12	(2) Authorize the department of health to allow a licensed
13	dispensary to purchase medical cannabis or
14	manufactured cannabis products from another licensed
15	dispensary to ensure ongoing qualified patient access.

1	SECT	ION 2. Section 329-122, Hawaii Revised Statutes, is
2	amended b	y amending subsection (f) to read as follows:
3	"(f)	For the purposes of this section, "transport" means
4	the trans	portation of cannabis, usable cannabis, or any
5	manufactu	red cannabis product between:
6	(1)	A qualifying patient and the qualifying patient's
7		primary caregiver;
8	(2)	A qualifying out-of-state patient under eighteen years
9		of age and the caregiver of a qualifying out-of-state
10		patient;
11	(3)	The production centers and the retail dispensing
12		locations under a dispensary licensee's license; [or]
13	(4)	Dispensaries as permitted by section 329D-6(r);
14		provided that a selling dispensary may only transport
15		up to four thousand grams of cannabis or manufactured
16		cannabis products to a purchasing dispensary; or
17	[ <del>(4)</del> ]	(5) A production center, retail dispensing location,
18		qualifying patient, primary caregiver, qualifying out-
19		of-state patient, or caregiver of a qualifying out-of-
20		state patient and a certified laboratory for the
21		purpose of laboratory testing; provided that a

I		qual	ifying patient, primary caregiver, qualifying out-
2		of-s	tate patient, or caregiver of a qualifying out-of-
3		state	e patient may only transport up to one gram of
4		canna	abis per test to a certified laboratory for
5		labo	ratory testing and may only transport the product
6		if t	ne qualifying patient, primary caregiver,
7		qual	ifying out-of-state patient, or caregiver of a
8		qual	ifying out-of-state patient:
9		(A)	Secures an appointment for testing at a certified
10			laboratory;
11		(B)	Obtains confirmation, which may be electronic,
12			that includes the specific time and date of the
13			appointment and a detailed description of the
14			product and amount to be transported to the
15			certified laboratory for the appointment; and
16		(C)	Has the confirmation, which may be electronic,
17			available during transport.
18	For p	ourpo	ses of interisland transportation, "transport" of
19	cannabis,	usab!	le cannabis, or any manufactured cannabis product,
20	by any mea	ns i	s allowable only between dispensaries as permitted
21	by section	3291	D-6(r) and between a production center or retail

- 1 dispensing location and a certified laboratory for the sole
- 2 purpose of laboratory testing pursuant to section 329D-8, as
- 3 permitted under section 329D-6(m) and subject to section
- 4 329D-6(j), and with the understanding that state law and its
- 5 protections do not apply outside of the jurisdictional limits of
- 6 the State [→]; provided that a selling dispensary may only
- 7 transport up to four thousand grams of cannabis or manufactured
- 8 cannabis products to a purchasing dispensary. Allowable
- 9 transport pursuant to this section does not include interisland
- 10 transportation by any means or for any purpose between a
- 11 qualified patient, primary caregiver, qualifying out-of-state
- 12 patient, or caregiver of a qualifying out-of-state patient and
- 13 any other entity or individual, including an individual who is a
- 14 qualified patient, primary caregiver, qualifying out-of-state
- 15 patient, or caregiver of a qualifying out-of-state patient."
- 16 SECTION 3. Section 329D-1, Hawaii Revised Statutes, is
- 17 amended as follows:
- 18 1. By amending the definition of "medical cannabis
- 19 dispensary" or "dispensary" to read:
- ""Medical cannabis dispensary" or "dispensary" means a
- 21 person licensed by the State pursuant to this chapter to own,



1	operate, or subcontract up to [two] production
2	centers and up to [two] retail dispensing locations."
3	2. By amending the definition of "medical cannabis
4	production center" or "production center" to read:
5	""Medical cannabis production center" or "production
6	center" means a farm or facility wholly owned, operated, or
7	subcontracted by a person licensed by the State pursuant to this
8	chapter as a medical cannabis dispensary that produces cannabis
9	and manufactured cannabis products [solely] to supply cannabis
10	and manufactured cannabis products to one or more of the retail
11	dispensing locations of $[\frac{\text{the}}{\text{e}}]$ any licensed medical cannabis
12	dispensary."
13	SECTION 4. Section 329D-2, Hawaii Revised Statutes, is
14	amended by amending subsections (f) and (g) to read as follows:
15	"(f) Up to [two] production centers shall be
16	allowed under each dispensary license; provided that, except as
17	otherwise specified in subsection (k), each production center
18	shall be limited to no more than three thousand cannabis plants.
19	For purposes of this subsection, "plant" means a cannabis plant
20	that is greater than twelve vertical inches in height from where
21	the base of the stalk emerges from the growth medium to the

- 1 tallest point of the plant, or greater than twelve horizontal
- 2 inches in width from the end of one branch to the end of another
- 3 branch; provided that multiple stalks emanating from the same
- 4 root ball or root system shall be considered part of the same
- 5 single plant.
- **6** (g) A dispensary licensee may establish up to [two]
- 7 retail dispensing locations under the licensee's
- 8 dispensary license, except as otherwise specified in subsection
- 9 (1)."
- 10 SECTION 5. Section 329D-6, Hawaii Revised Statutes, is
- 11 amended to read as follows:
- 12 "\$329D-6 Dispensary operations. (a) No person shall
- 13 operate a dispensary, nor engage in the production, manufacture,
- 14 or sale of cannabis or manufactured cannabis products, unless
- 15 the person has obtained a license from the department pursuant
- 16 to this chapter.
- 17 (b) No dispensary licensee, its officers, employees, or
- 18 agents shall provide written certification for the use of
- 19 medical cannabis or manufactured cannabis products for any
- 20 person.



1	(c)	No p	erson under the age of twenty-one shall be
2	employed }	oy a	dispensary licensee.
3	(d)	Notw	ithstanding any other law to the contrary,
4	including	but	not limited to sections 378-2 and 378-2.5,
5	dispensar:	ies:	
6	(1)	Shal	l deny employment to any individual who has been:
7		(A)	Convicted of murder in any degree;
8		(B)	Convicted of a class A or class B felony; or
9		(C)	Convicted of a class C felony involving
10			trafficking, distributing, or promoting a
11			schedule I or II controlled substance other than
12			cannabis within the last ten years; and
13	(2)	Мау	deny employment to any individual who has been
14		conv	icted 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	t und	er this chapter shall be exempt from section
19	378-2(a)(3	1), a	s it relates to arrest and court record
20	discrimina	ation	, and section 378-2.5.

- 1 (e) Retail dispensing locations shall not be open for 2 retail sales before 8:00 a.m. or after 8:00 p.m., Hawaii-
- 3 Aleutian Standard Time, Monday through Sunday.
- 4 (f) All dispensary facilities, including but not limited
- 5 to production centers and retail dispensing locations, shall be
- 6 enclosed indoor facilities and shall maintain twenty-four hour
- 7 security measures, including but not limited to an alarm system,
- 8 video monitoring and recording on the premises, and exterior
- 9 lighting. A dispensary licensee who intends to utilize, as a
- 10 production center, an enclosed indoor facility that includes a
- 11 roof that is partially or completely transparent or translucent,
- 12 as provided under section 329D-1, shall notify the department of
- 13 that intention [prior to] before altering or constructing the
- 14 facility. Production centers shall remain locked at all times.
- 15 Retail dispensing locations shall remain locked at all times,
- 16 other than business hours as authorized by subsection (e), and
- 17 shall only be opened for authorized persons.
- 18 (g) In all dispensary facilities, only the licensee, if an
- 19 individual, registered employees of the dispensary licensee,
- 20 registered employees of a subcontracted production center or
- 21 retail dispensing location, employees of a certified laboratory



- 1 for testing purposes, state employees authorized by the director
- 2 of health, and law enforcement and other government officials
- 3 acting in their official capacity shall be permitted to touch or
- 4 handle any cannabis or manufactured cannabis products, except
- 5 that a qualifying patient, primary caregiver, qualifying out-of-
- 6 state patient, or caregiver of a qualifying out-of-state patient
- 7 may receive manufactured cannabis products at a retail
- 8 dispensing location following completion of a sale.
- 9 (h) A dispensary shall provide the department with the
- 10 address, tax map key number, and a copy of the premises lease,
- 11 if applicable, of the proposed location of a production center
- 12 allowed under a license for a county [not] no later than thirty
- 13 days [prior to] before any medical cannabis or manufactured
- 14 cannabis products being produced or manufactured at that
- 15 production center.
- 16 (i) A dispensary shall provide the department with the
- 17 address, tax map key number, and a copy of the premises lease,
- 18 if applicable, of the proposed location of each retail
- 19 dispensing location allowed under a license [not] no less than
- 20 sixty days [prior to] before opening for business.

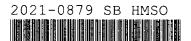
1	(j)	The	department shall establish, maintain, and control
2	a compute:	r sof	tware tracking system that shall have real time,
3	twenty-for	ur-ho	ur access to the data of all dispensaries.
4	(1)	The	computer software tracking system shall collect
5		data	relating to:
6		(A)	The total amount of cannabis 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, primary caregiver, qualifying
17			out-of-state patient, and caregiver of a
18			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[ $_{ au}$ ] and as permitted
6			by subsection (r), including tracking
7			identification issued by the tracking system, the
8			identity of the person transporting the cannabis
9			or manufactured cannabis products, and the make,
10			model, and license number of the vehicle being
11			used for the transport;
12	(2)	The	procurement of the computer software tracking
13		syst	em established pursuant to this subsection shall
14		be e	xempt from chapter 103D; provided that:
15		(A)	The department shall publicly solicit at least
16			three proposals for the computer software
17			tracking system; and
18		(B)	The selection of the computer software tracking
19			system shall be approved by the director of the
20			department and the chief information officer; and

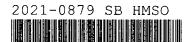
1	(3)	Notwithstanding any other provision of this subsection
2		to the contrary, once the department has authorized a
3		licensed dispensary to commence sales of cannabis or
4		manufactured cannabis products, if the department's
5		computer software tracking system is inoperable or is
6		not functioning properly, as an alternative to
7		requiring dispensaries to temporarily cease
8		operations, the department may implement an alternate
9		tracking system that will enable a qualifying patient,
10		primary caregiver, qualifying out-of-state patient,
11		and caregiver of a qualifying out-of-state patient to
12		purchase cannabis or manufactured cannabis products
13		from a licensed dispensary on a temporary basis. The
14		department shall seek input regarding the alternate
15		tracking system from medical cannabis licensees. The
16		alternate tracking system may operate as follows:
17	•	(A) The department may immediately notify all
18		licensed dispensaries that the computer software
19		tracking system is inoperable; and
20		(B) Once the computer software tracking system is
21		operational and functioning to meet the



1		requirements of this subsection, the department
2		may notify all licensed dispensaries, and the
3		alternate tracking system in this subsection
4		shall be discontinued.
5	(k)	A dispensary licensed pursuant to this chapter shall
6	purchase,	operate, and maintain a computer software tracking
7	system th	at shall:
8	(1)	Interface with the department's computer software
9		tracking system established pursuant to subsection
10		(j);
11	(2)	Allow each licensed dispensary's production center to
12		submit to the department in real time, by automatic
13		identification and data capture, all cannabis,
14		cannabis plants, and manufactured cannabis product
15		inventory in possession of that dispensary from either
16		seed or immature plant state, including all plants
17		that are derived from cuttings or cloning, until the
18		cannabis or manufactured cannabis product is sold or
19		destroyed pursuant to section 329D-7;
20	(3)	Allow the licensed dispensary's retail dispensing
21		location to submit to the department in real time for



1		the total amount of cannabis and manufactured cannabis
2		product purchased by a qualifying patient, primary
3		caregiver, qualifying out-of-state patient, and
4		caregiver of a qualifying out-of-state patient from
5		the dispensary's retail dispensing locations in the
6		State in any fifteen day period; provided that the
7		software tracking system shall impose an automatic
8		stopper in real time, which cannot be overridden, on
9		any further purchases of cannabis or manufactured
10		cannabis products, if the maximum allowable amount of
11		cannabis has already been purchased for the applicable
12		fifteen day period; provided further that additional
13		purchases shall not be permitted until the next
14		applicable period; and
15	(4)	Allow the licensed dispensary to submit all data
16		required by this subsection to the department and
17		permit the department to access the data if the
18		department's computer software tracking system is not
19		functioning properly and sales are made pursuant to
20		the alternate tracking system under subsection (j).



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### S.B. NO. 1332

2	products shall be provided at any time, and no consumption of
3	cannabis or manufactured cannabis products shall be permitted on
4	any dispensary premises.
5	(m) [A] Except as permitted pursuant to subsection (r), a
6	dispensary shall not transport cannabis or manufactured cannabis
7	products to another county or another island; provided that this
8	subsection shall not apply to the transportation of cannabis or
9	any manufactured cannabis product solely for the purposes of
10	laboratory testing pursuant to section 329D-8, and subject to
11	subsection (j) [+], if no certified laboratory is located in the
12	county or on the island where the dispensary is located;
13	provided further that a dispensary shall only transport samples
14	of cannabis and manufactured cannabis products for laboratory
15	testing for purposes of this subsection in an amount and manner
16	prescribed by the department, in rules adopted pursuant to this
17	chapter, and with the understanding that state law and its

(1) No free samples of cannabis or manufactured cannabis

(n) [A] Except for dispensary-to-dispensary sales asprovided in subsection (r), a dispensary shall be prohibited

protections do not apply outside of the jurisdictional limits of



the State.

- 1 from off-premises delivery of cannabis or manufactured cannabis
- 2 products to a qualifying patient, primary caregiver, qualifying
- 3 out-of-state patient, or caregiver of a qualifying out-of-state
- 4 patient.
- 5 (o) A dispensary shall not:
- (1) Display cannabis or manufactured cannabis products in
   windows or in public view; or
- Post any signage other than a single sign no greater than one thousand six hundred square inches bearing only the business or trade name in text without any pictures or illustrations; provided that if any applicable law or ordinance restricting outdoor signage is more restrictive, that law or ordinance shall govern.
- 15 (p) No cannabis or manufactured cannabis products shall be
  16 transported to, from, or within any federal fort or arsenal,
  17 national park or forest, any other federal enclave, or any other
  18 property possessed or occupied by the federal government.
- (q) A dispensary licensed pursuant to this chapter shall
  be prohibited from providing written certification pursuant to
  section 329-122 for the use of medical cannabis for any person.



1	<u>(r)</u>	The department may permit a dispensary to purchase
2	cannabis	and manufactured cannabis products from another
3	dispensar	y in a manner prescribed by the department by rules
4	adopted p	ursuant to this chapter and chapter 91; provided that:
5	(1)	The purchasing dispensary provides sufficient
6		justification that purchase of the cannabis and
7		manufactured cannabis products from another dispensary
8		is necessary to ensure ongoing qualified patient
9		access;
10	(2)	The selling dispensary may only transport up to four
11		thousand grams of cannabis or manufactured cannabis
12		products to a purchasing dispensary;
13	(3)	The selling dispensary is permitted by the department
14		to transport up to four thousand grams of cannabis or
15		manufactured cannabis products to another county or
16		another island, for the limited purpose of completing
17		its sale to the purchasing dispensary pursuant to this
18		subsection, in a manner prescribed by the department
19		by rules adopted pursuant to this chapter and chapter
20		91 and with the understanding that state law and its



1		protections do not apply outside of the jurisdictional
2		limits of the State; and
3	(4)	Nothing in this subsection shall relieve any
4		dispensary of its responsibilities and obligations
5		under this chapter and chapter 329."
6	SECT	ION 6. Section 329D-7, Hawaii Revised Statutes, is
7	amended t	o read as follows:
8	"§32	9D-7 Medical cannabis dispensary rules. The
9	departmen	t 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			$\underline{\text{no}}$ 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 patients
12			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)	Spec	ific requirements regarding annual audits and
19		repo	rts required from each production center and
20		disp	ensary licensed pursuant to this chapter;

1	(5)	Procedure	s for announced and unannounced inspections
2		by the de	partment or its agents of production centers
3		and dispe	nsaries licensed pursuant to this chapter;
4		provided	that inspections for license renewals shall
5		be unanno	unced;
6	(6)	Security	requirements for the operation of production
7		centers a	nd 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 by a qualifying
5			patient or caregiver, or section 329-123.5
6			by a qualifying out-of-state patient or
7			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		productio	n centers and retail dispensing locations,
19		between d	ispensaries as permitted by section
20		329D-6(r)	, and between a production center, retail
21		dispensin	g location, qualifying patient, primary

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



1		qualitying pacienc, primary caregiver, qualitying out
2		of-state patient, or caregiver of a qualifying out-of-
3		state patient; provided that no dispensary shall sell
4		or provide to a qualifying patient, primary caregiver,
5		qualifying out-of-state patient, or caregiver of a
6		qualifying out-of-state patient any combination of
7		cannabis and 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 patient, primary caregiver, qualifying out-
19		of-state patient, or caregiver of a qualifying out-of-
20		state patient in quantities that exceed limits



1	esta	bitshed by this chapter, provided that the
2	cont	rols, at a minimum, 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	4) Limi	tation to the size or format of signs placed
9	outs	ide a retail dispensing location or production
10	cent	er; provided that the signage limitations, at a
11	mini	mum, shall comply with section 329D-6(o)(2) and
12	shal	l not include the image of a cartoon character or
13	othe	er design intended to appeal to children;
14 (15	5) The	disposal or destruction of unwanted or unused
15	cann	abis and manufactured cannabis products;
16 (19	6) 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 patient,
21		primary caregiver, qualifying out-of-state



1			pacienc, or caregiver or a quarifying out-or-	
2			state patient in quantities that exceed limits	
3			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 o	establishment of a range of penalties for	
12		violations of this chapter or rule adopted thereto;		
13		and		
14	(18)	A pro	ocess to recognize and register patients who are	
15		authorized to purchase, possess, and use medical		
16		canna	abis in another state, a United States territory,	
17		or the	he District of Columbia as qualifying out-of-state	
18		pati	ents; provided that this registration process may	
19		comme	ence no sooner than January 1, 2018."	



- 1 SECTION 7. Statutory material to be repealed is bracketed
- 2 and stricken. New statutory material is underscored.
- 3 SECTION 8. This Act shall take effect on July 1, 2021.

4

INTRODUCED BY:



#### Report Title:

Medical Cannabis; Dispensary; License; DOH

#### Description:

Increases the allowable number of production centers and retail dispensing locations per dispensary license. Authorizes the department of health to allow a licensed dispensary to purchase medical cannabis or manufactured cannabis products from another licensed dispensary to ensure ongoing qualified patient access.

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