

JAN 23 2009

A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1 SECTION 1. In 2000, the legislature found that modern
2 medical research had discovered a beneficial use for marijuana
3 in treating or alleviating the pain or other symptoms associated
4 with certain debilitating illnesses. However, to protect the
5 health and welfare of individuals, the legislature also
6 recognized the need to regulate enforcement of that use. As a
7 result, regulation of the medical use of marijuana was enacted
8 into law in 2000 in Act 228, Session Laws of Hawaii 2000, and
9 codified in chapter 329, part IX, Hawaii Revised Statutes.

10 In response to the enactment of House Concurrent Resolution
11 Number 152, H.D. 2, 2004, the Legislative Reference Bureau
12 released Report No. 4, 2004 entitled "In Search of a Viable
13 Distribution System for Hawaii's Medical Marijuana Program."
14 The report states: "Hawaii's law, as written, does not allow a
15 distribution system that can be realistically complied with by
16 everyone. On the other hand, a practical distribution system
17 would preclude many the ambiguities now facing local and state



1 agencies in distinguishing between legal and illegal marijuana
2 use."

3 The purpose of this Act is to:

4 (1) Institute a viable intrastate cooperative cultivation
5 and distribution system for Hawaii's medical marijuana
6 program;

7 (2) Authorize patients and their primary caregivers who
8 have received written certification to use registered
9 secure growing facilities, and their certified
10 facilitators, to grow an uninterrupted allotment of
11 marijuana for medical use;

12 (3) Provide transparency to local law enforcement
13 officers; and

14 (4) Provide protection for qualifying patients and their
15 medication.

16 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
17 amended by adding a new section to part IX to be appropriately
18 designated and to read as follows:

19 "§329- Medical marijuana; secure growing facility;
20 certified facilitators; marijuana distribution stamp; department
21 to establish program; rules. (a) An individual owner or an
22 individual in control of agriculturally-zoned land may develop a



1 secure growing facility to provide a secure space for the
2 cultivation of medical marijuana and may charge and receive rent
3 from a certified facilitator for the lease of the secure growing
4 facility. A secure growing facility shall accommodate the
5 cultivation of a supply of medical marijuana for not more than
6 fourteen qualifying patients and shall include a total of not
7 more than ninety-eight marijuana plants. A secure growing
8 facility shall be equipped with:

9 (1) Security technology that is capable of relaying live
10 video and still images to local police stations for
11 observation and recording, motion detectors;

12 (2) Security animals on patrol; and

13 (3) Two fences for a total fenced area not less than
14 seventy-five feet by one hundred fifty feet.

15 (b) A qualifying patient shall be eligible to lease a plot
16 within a secure growing facility for the cultivation of an
17 adequate supply of marijuana for the qualifying patient's
18 personal medical use.

19 (c) Each secure growing facility may have one or more
20 certified facilitators. A certified facilitator shall assist
21 qualifying patients who lease plots in a secure growing facility
22 to determine the strains of medical marijuana needed and design



1 a growing system to establish a stock of healthy plants to
2 ensure the production of an adequate supply of usable medical
3 marijuana to meet the qualifying patient's medical needs. A
4 certified facilitator may hold an amount of processed marijuana
5 in a temporary surplus inventory that shall not exceed the
6 statutory limit of marijuana permitted to a certified
7 facilitator's registered qualifying patients. A certified
8 facilitator shall be responsible for:

9 (1) All processing, including packaging, of marijuana for
10 medical use to be distributed to a qualifying patient;

11 (2) Purchasing the permitted amount of marijuana tax
12 stamps from the department of public safety on behalf
13 of a qualifying patient; and

14 (3) Keeping accurate records with regard to the amount of
15 marijuana distributed to a qualifying patient through
16 the purchase of marijuana distribution stamps.

17 (d) A certified facilitator may charge a service fee. In
18 addition to the service fee, a qualifying patient or the
19 patient's primary caregiver shall pay the certified facilitator
20 the necessary amounts to purchase marijuana distribution stamps
21 based on the amount of processed marijuana for medical use for



1 distribution from the certified facilitator to the qualifying
2 patient or primary caregiver.

3 (e) The department of public safety shall establish a
4 program to register secure growing facilities, certify
5 facilitators, and permit a qualifying patient to access
6 marijuana for medical use from the patient's certified
7 facilitator. The program shall use a marijuana distribution
8 stamp system to monitor the distribution of processed marijuana
9 to qualifying patients or primary caregivers to ensure receipt
10 of an adequate amount of medical marijuana to meet qualifying
11 patients' medical needs. The marijuana distribution stamp shall
12 not exceed 50 cents per gram of marijuana for medical use for
13 distribution to a qualifying patient. Amounts received from the
14 purchase of marijuana distribution stamps shall be retained by
15 the department of public safety in a marijuana distribution
16 stamp account for the administration of the medical marijuana
17 program.

18 (f) The director of public safety shall adopt rules in
19 accordance with chapter 91 to carry out the purposes of this
20 section."

21 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By adding six new definitions to be appropriately
2 inserted and to read:

3 "Acquisition" means the obtaining of processed marijuana
4 and seeds or marijuana plants to grow for medical use by a
5 qualifying patient or registered primary caregiver from a
6 certified facilitator.

7 "Certified facilitator" or "facilitator" means a person or
8 an organization who assists qualified patients or primary
9 caregivers in maintaining an adequate supply of medical
10 marijuana for medical use, and is knowledgeable about the
11 propagation, growth, harvesting, and preparation of the various
12 strains of marijuana for medical use by a qualifying patient.

13 "Distribution" means the transfer of marijuana from a
14 certified facilitator to a qualifying patient or the patient's
15 primary caregiver who leases a plot in a secure growing
16 facility. Distribution includes the transfer of marijuana and
17 paraphernalia from a primary caregiver to a qualifying patient.
18 Transfer of marijuana that is sold under any circumstances shall
19 not be deemed a distribution under this part. Distribution may
20 only occur under the marijuana distribution stamp system
21 regulated by the department of public safety.



1 "Plot" means a section of planting ground in a secure
2 growing facility located on agriculturally-zoned land that is
3 large enough to cultivate not more than an adequate supply of
4 marijuana plants and is allocated for the growth of medical
5 marijuana for a qualifying patient.

6 "Secure growing facility" or "facility" means an
7 agricultural growing space provided by an individual owner or an
8 individual in control of agriculturally-zoned land for the
9 purpose of propagation, growth, and harvesting of marijuana for
10 medical purposes.

11 "Temporary surplus inventory" means a certified
12 facilitator's supply of marijuana plants cultivated in a
13 registered secure growing facility and processed marijuana for a
14 qualifying patient for which a marijuana distribution stamp has
15 not yet been purchased and the marijuana has not yet been
16 distributed. The number of plants in the temporary surplus
17 inventory is included in the ninety-eight plant limit pursuant
18 to this part."

19 2. By amending the definition of "adequate supply" to
20 read:

21 "Adequate supply" means an amount of marijuana jointly
22 possessed between the qualifying patient and the primary



1 caregiver that is not more than is reasonably necessary to
2 assure the uninterrupted availability of marijuana for the
3 purpose of alleviating the symptoms or effects of a qualifying
4 patient's debilitating medical condition; provided that an
5 "adequate supply" shall not exceed [~~three mature~~] seven
6 marijuana plants[~~, four immature marijuana plants,~~] and one
7 ounce of usable marijuana per each mature plant."

8 3. By amending the definition of "medical use" to read:

9 ""Medical use" means the acquisition, possession,
10 cultivation, use, distribution, or transportation of marijuana
11 or paraphernalia relating to the administration of marijuana to
12 alleviate the symptoms or effects of a qualifying patient's
13 debilitating medical condition. [~~For the purposes of "medical~~
14 ~~use", the term distribution is limited to the transfer of~~
15 ~~marijuana and paraphernalia from the primary caregiver to the~~
16 ~~qualifying patient.]"~~

17 4. By amending the definitions of "primary caregiver" and
18 "qualifying patient" to read:

19 ""Primary caregiver" means a person, other than the
20 qualifying patient and the qualifying patient's physician, who
21 is eighteen years of age or older who has agreed to undertake
22 responsibility for managing the well-being of the qualifying



1 patient with respect to the medical use of marijuana[-] and is
2 permitted to acquire, possess, cultivate, distribute, or
3 transport marijuana or paraphernalia relating to the
4 administration of marijuana for the qualifying patient's medical
5 use. In the case of a minor or an adult lacking legal capacity,
6 the primary caregiver shall be a parent, guardian, or person
7 having legal custody.

8 "Qualifying patient" or "patient" means a person who has
9 been diagnosed by a physician as having a debilitating medical
10 condition."

11 SECTION 4. Section 329-123, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§329-123[+] **Registration requirements.** (a)
14 Physicians who issue written certifications shall register the
15 names, addresses, patient identification numbers, and other
16 identifying information of the patients issued written
17 certifications with the department of public safety.

18 (b) Qualifying patients shall register with the department
19 of public safety. [~~Such~~] The registration shall be effective
20 until the expiration of the certificate issued by the physician.
21 Every qualifying patient shall provide sufficient identifying
22 information to establish personal identity of the qualifying



1 patient and the primary caregiver. Qualifying patients shall
2 report changes in information within five working days. Every
3 qualifying patient shall have only one primary caregiver at any
4 given time. The department shall then issue to the qualifying
5 patient a registration certificate, and may charge a reasonable
6 fee not to exceed \$25.

7 (c) Primary caregivers shall register with the department
8 of public safety. Every primary caregiver shall be responsible
9 for the care of only one qualifying patient at any given time.

10 (d) An individual owner or an individual in control of
11 agriculturally-zoned land shall register any secure growing
12 facility upon that land with the department of public safety.

13 (e) A certified facilitator shall apply for certification
14 from the department of public safety and, if approved by the
15 department to act as a facilitator, shall be certified by the
16 department.

17 [~~d~~] (f) Upon an inquiry by a law enforcement agency, the
18 department of public safety shall verify whether the particular
19 qualifying patient, primary caregiver, or certified facilitator
20 has registered with the department and may provide reasonable
21 access to the registry information for official law enforcement
22 purposes."



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

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

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

7

INTRODUCED BY: Will Egan
BY REQUEST



Report Title:

Medical Marijuana; Distribution System

Description:

Creates marijuana distribution stamp system for medical marijuana in Hawaii. Requires a certified facilitator to purchase stamps, at no more than 50 cents per gram of marijuana, for a qualifying patient. Allows a secure growing facility to grow marijuana for no more than 14 qualifying patients. Sets standards for secure growing facility.

