
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. On June 14, 2000, Act 228, Session Laws of
2 Hawaii 2000, was signed into law, making Hawaii one of the first
3 states to permit the medical use of marijuana by registered
4 patients. No changes have been made to Hawaii's medical
5 marijuana law since its inception, while registered patients
6 have increased and more states have enacted more comprehensive
7 medical marijuana laws. In summary, the law allows for the
8 growing, transporting, and possession of marijuana for medical
9 purposes by qualified patients and caregivers.

10 The medical cannabis working group was tasked with
11 completing the mission originally assigned to the medical
12 cannabis task force under Act 29, Special Session Laws of Hawaii
13 2009, which was enacted over a veto by the governor. The
14 medical cannabis task force was never convened and therefore,
15 the medical cannabis working group examined current state
16 statutes, state administrative rules, and all county policies
17 and procedures relating to the medical marijuana program and
18 issues and obstacles encountered by qualifying patients,



1 physicians, caregivers, and law enforcement officials. The
2 medical cannabis working group also compared and contrasted
3 Hawaii's medical marijuana program with all other states'
4 medical marijuana programs. According to the findings of the
5 "Medical Cannabis Working Group Report to the Hawai'i State
6 Legislature", February 2010, immediate actions should be taken
7 by the legislature to improve Hawaii's medical cannabis program.

8 Foremost, the medical cannabis working group recommends the
9 creation of a state regulated medical marijuana distribution
10 system so that qualifying patients have safe and reliable access
11 to medical marijuana. Currently, fourteen states have enacted
12 laws allowing the use of marijuana for medical purposes. In
13 addition, Maine, Rhode Island, New Jersey, New Mexico, Colorado,
14 Washington, D.C., and California have laws regulating the
15 distribution of medical marijuana to qualified patients. The
16 medical cannabis working group found after compiling patient,
17 caregiver, and physician information that patients do not have
18 access to a safe and legal supply of medicine. Rather, patients
19 are often forced to find black market sources where risk of
20 violence and robbery exist. Many patients receive low quality
21 cannabis that is ineffective as medication. Patients' physical
22 limitations and illness prevent or inhibit them from growing



1 medical cannabis. Further, it is almost impossible for most
2 patients and caregivers to acquire the expertise, time, and
3 intense cultivation skills to produce an adequate supply of
4 medical cannabis that is medically effective.

5 For purposes of health, public safety, and the social and
6 economic welfare of the State, a fully integrated cultivation
7 and distribution program would safely and more effectively
8 regulate access to medical marijuana and generate jobs and
9 revenue to provide resources for other state programs.

10 The purpose of this Act is to establish a five-year pilot
11 program in Maui county within the department of health to
12 regulate the distribution of medical marijuana.

13 SECTION 2. (a) There shall be established within the
14 department of health for administrative purposes the medical
15 marijuana distribution pilot program for purposes of regulating
16 the distribution of medical marijuana. The distribution pilot
17 program shall be established and implemented in Maui county no
18 later than August 7, 2012. The pilot program shall:

19 (1) Provide a safe and accessible distribution system for
20 qualifying patients by requiring qualifying patients
21 to access medical marijuana through the compassion
22 center established pursuant to this Act;



- 1 (2) Establish a medical marijuana compassion center
- 2 license for selling medical marijuana to qualifying
- 3 patients to be issued to the compassion center
- 4 established pursuant to this Act;
- 5 (3) Collect from the licensee an initial licensing fee of
- 6 \$ for a medical marijuana compassion center
- 7 license;
- 8 (4) Establish a compassion center in Maui county;
- 9 (5) Ensure that all medical marijuana distributed through
- 10 the distribution program is produced by the licensee;
- 11 (6) Ensure that the compassion center provides medical
- 12 marijuana exclusively to qualifying patients and
- 13 primary caregivers, and to other non-Hawaii qualifying
- 14 patients holding a temporary registration certificate;
- 15 (7) Prohibit any person who has had a felony drug
- 16 conviction or any person convicted of any felony in
- 17 the immediately preceding ten years from obtaining or
- 18 renewing a license;
- 19 (8) Prohibit individuals who are less than twenty-one
- 20 years of age from being a licensee or an employee or
- 21 director of the licensed facility;



- 1 (9) Establish inspection criteria for the business
2 premises of the licensed facility;
- 3 (10) Require the licensee to submit annual reports of their
4 financial transactions to the department;
- 5 (11) Ensure that the licensee is permitted to possess
6 sufficient medical marijuana or marijuana plants to
7 reasonably guarantee an adequate supply;
- 8 (12) Establish security procedures to monitor medical
9 marijuana;
- 10 (13) Establish procedures to allow out-of-state visitors
11 who are qualifying patients or primary caregivers in
12 their home state to obtain a temporary registration
13 certificate valid for the length of time of the visit,
14 upon payment of a \$100 administrative fee; and
- 15 (14) Prohibit medical marijuana from being transported out
16 of Maui county.

17 (b) As used in this Act:

18 "Adequate supply" means an amount of marijuana jointly
19 possessed by the qualifying patient and a compassion center that
20 is not more than is reasonably necessary to assure the
21 uninterrupted availability of marijuana for the purpose of
22 alleviating the symptoms or effects of a qualifying patient's



1 debilitating medical condition; provided that an "adequate
2 supply" shall not exceed:

3 (1) Seven marijuana plants and six ounces of usable
4 marijuana per compassion center per qualifying patient
5 per fourteen day period; and

6 (2) Seven marijuana plants and two ounces of usable
7 marijuana per plant per qualifying patient.

8 "Compassion center" means a medical marijuana compassion
9 center licensee, other than the qualifying patient and the
10 qualifying patient's physician, who has agreed to be the primary
11 caregiver of the qualifying patient.

12 "Department" means the department of health.

13 "Medical marijuana" means marijuana for medical use by a
14 qualified patient upon issuance of a written certification by a
15 licensed physician to the qualified patient pursuant to part IX
16 of chapter 329, Hawaii Revised Statutes.

17 "Medical marijuana-infused product" means a product
18 regulated by the department that contains medical marijuana and
19 is intended for medical use by means other than smoking. The
20 term includes edible products, ointments, and tinctures. A
21 medical marijuana-infused product shall be exempt from section
22 328-14, Hawaii Revised Statutes; provided that the product is



1 labeled as containing marijuana for medical use and specifies
2 the potency and quantity in grams of the active ingredients.

3 (c) No business or non-profit entity shall cultivate,
4 distribute, manufacture, or sell marijuana for medical use or
5 manufacture a medical marijuana-infused product without a
6 license issued by the department. The department may suspend or
7 revoke any license that is not in substantial compliance with
8 this Act. The medical use of marijuana under part IX of chapter
9 329, Hawaii Revised Statutes, shall not require a license.

10 (d) The department shall assess an annual fee of \$
11 for the issuance of a medical marijuana compassion center
12 license and a fee for annual renewal of a license in the same
13 amount. All fees collected shall be transferred to the county
14 of Maui.

15 (e) The amount of marijuana that may be sold for medical
16 use or in a medical marijuana-infused product at any one time to
17 a qualifying patient or primary caregiver for use by a
18 qualifying patient shall not exceed an adequate supply.

19 (f) Medical marijuana and medical marijuana-infused
20 products shall not be used or consumed on any business premises
21 of a licensee.



1 (g) No licensee shall be subject to criminal prosecution
2 for activities conducted in compliance with this Act.

3 (h) There is established a medical marijuana compassion
4 center license to be issued to one entity. The requirements for
5 the license are as follows:

6 (1) The license may be issued to a business or nonprofit
7 entity to sell marijuana for medical use by a
8 registered qualifying patient; provided that the sale
9 occurs on the licensee's business premises;

10 (2) Prior to initiating a sale to a qualifying patient, a
11 trained employee of the licensee making the sale shall
12 verify that the purchaser is a qualifying patient who
13 has a valid written certification under section 329-
14 123, Hawaii Revised Statutes, and presents a valid
15 picture identification card that matches the name on
16 the written certification;

17 (3) All marijuana sold by a licensee shall be labeled with
18 a list of all chemical additives, including nonorganic
19 pesticides, herbicides, and fertilizers, that were
20 used in the cultivation and the production of the
21 marijuana;



1 (4) Qualifying patients shall access medical marijuana
2 through a designated licensee; and

3 (5) All food and other consumables sold on the licensed
4 premises shall be regulated by the department and the
5 federal Food and Drug Administration.

6 (i) A licensee shall not be permitted to transfer the
7 license.

8 (j) No applicant for a license shall be eligible for
9 issuance or renewal of a license under this section if:

10 (1) The issuance or renewal fee for the license has not
11 been paid within thirty days of the payment due date;

12 (2) The applicant's criminal history check indicates that
13 the applicant has been convicted of any felony drug
14 offense or any felony in the immediately preceding ten
15 years from obtaining a license;

16 (3) The applicant is under twenty-one years of age;

17 (4) The applicant failed to pay any taxes, interest, or
18 penalties due to a government agency or failed to pay
19 any amount due to a government agency pursuant to a
20 judgment or order; or



1 (5) The applicant is a law enforcement officer or an
2 employee of the department of public safety or the
3 department.

4 (k) The department shall conduct a criminal history record
5 check pursuant to chapter 846, Hawaii Revised Statutes, on each
6 applicant for a license or renewal of a license and on other
7 persons associated with the applicant as specified in this
8 subsection. No person who has had a felony drug conviction or
9 who has been convicted of any felony in the immediately
10 preceding ten years shall be eligible to obtain or renew any
11 license under this Act. Every applicant for a license or
12 renewal of a license, including the applicant's employees,
13 directors, owners, principals, partners, and stockholders shall
14 undergo a criminal history record check under section 846-2.7,
15 Hawaii Revised Statutes.

16 (l) Any medical marijuana shall be labeled at all times
17 with at least a listing of the type of strain and the non-
18 organic ingredients used to grow the marijuana.

19 (m) Every licensee shall keep a complete set of all
20 records of the business transactions of the licensee regarding
21 medical marijuana, including dispensing records and patients'
22 registry information. Photocopies of all filled prescriptions



1 shall be maintained in a database and shall be available to law
2 enforcement at any time without notice. The records shall be
3 subject to inspection by the department at any time without
4 notice. The department may conduct an audit of the licensee's
5 business records.

6 All records relating to a transaction shall be kept by the
7 licensee for a period of not less than five years following that
8 transaction; provided that all records shall be kept
9 confidential.

10 (n) The business premises of any licensee shall be subject
11 to unannounced inspections by the department. The department
12 may review the licensee's confidential records, including
13 dispensing records identified by a qualifying patient's registry
14 number to protect confidentiality.

15 (o) All sales of medical marijuana sold by the licensee
16 pursuant to this Act shall be subject to a tax under chapter
17 237, Hawaii Revised Statutes; provided that in addition to the
18 tax imposed under chapter 237, an additional amount of tax shall
19 be assessed at a rate to be calculated by multiplying the gross
20 proceeds of sales of medical marijuana by a rate of thirty per
21 cent. All taxes collected pursuant to this subsection shall be
22 paid to the director of taxation for deposit into the general



1 fund. The licensee shall maintain required records of sales and
2 income for purposes of chapter 237, Hawaii Revised Statutes.

3 (p) The licensee shall implement appropriate security and
4 safety measures to deter and prevent the theft of marijuana and
5 the unauthorized entrance onto the licensee's business premises.
6 The licensee shall:

- 7 (1) Install video surveillance cameras that operate
8 twenty-four hours per day, seven days per week, and
9 are accessible to law enforcement agencies. Each
10 camera shall have seventy-two hours of storage
11 capacity;
- 12 (2) Install an alarm system for break-ins that is
13 connected to an alarm company to alert law enforcement
14 of break-ins;
- 15 (3) Store marijuana in a locked area on the premises; and
- 16 (4) Be responsible for costs incurred for the installation
17 and maintenance of security, including providing
18 continuous live video feed of the facilities'
19 operations to local law enforcement.

20 (q) The licensed facility shall not be located within six
21 hundred yards of any day care facility, preschool, or public or



1 private school. There shall be no use of medication on the
2 premises of the facility.

3 (r) The directors, agents, and employees of the licensee
4 shall be exempt from state criminal prosecution for possession,
5 production, delivery, and transportation of marijuana; aiding
6 and abetting another in the possession, production, delivery,
7 and transportation of marijuana; or any other criminal offense
8 in which possession, production, delivery, or transportation of
9 marijuana is an element, if the activities are in substantial
10 compliance with this Act; provided that the following activities
11 shall be subject to criminal prosecution:

- 12 (1) Driving a motor vehicle while under the influence of
13 marijuana;
- 14 (2) Engaging in the production, possession, or
15 distribution of marijuana in public view;
- 16 (3) Delivering marijuana to any individual who the
17 deliverer knows or should have known does not possess
18 a written certification;
- 19 (4) Manufacturing or distributing marijuana at an address
20 not registered with the department; and
- 21 (5) Failing to report otherwise legal sales of medical
22 marijuana to the department.



1 (s) The department may adopt rules pursuant to chapter 91,
2 Hawaii Revised Statutes, necessary to carry out the purposes of
3 this Act.

4 (t) The pilot project shall cease to exist no later than
5 five years after the date of implementation.

6 (u) The department shall submit to the legislature:

7 (1) A status report on the pilot project with findings and
8 recommendations, including proposed legislation that
9 may be necessary, no later than twenty days prior to
10 the convening of the 2013, 2014, 2015, and 2016
11 regular sessions; and

12 (2) A final report on the pilot project with findings and
13 recommendations, including proposed legislation, if
14 any, no later than twenty days prior to the convening
15 of the 2017 regular session.

16 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) Criminal history record checks may be conducted by:

19 (1) The department of health on operators of adult foster
20 homes or developmental disabilities domiciliary homes
21 and their employees, as provided by section 333F-22;



1 (2) The department of health on prospective employees,
2 persons seeking to serve as providers, or
3 subcontractors in positions that place them in direct
4 contact with clients when providing non-witnessed
5 direct mental health services as provided by section
6 321-171.5;

7 (3) The department of health on all applicants for
8 licensure for, operators for, and prospective
9 employees, and volunteers at one or more of the
10 following: skilled nursing facility, intermediate
11 care facility, adult residential care home, expanded
12 adult residential care home, assisted living facility,
13 home health agency, hospice, adult day health center,
14 special treatment facility, therapeutic living
15 program, intermediate care facility for the mentally
16 retarded, hospital, rural health center and
17 rehabilitation agency, and, in the case of any of the
18 above-related facilities operating in a private
19 residence, on any adult living in the facility other
20 than the client as provided by section 321-15.2;

21 (4) The department of education on employees, prospective
22 employees, and teacher trainees in any public school



- 1 in positions that necessitate close proximity to
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees
4 who may be in positions that place them in close
5 proximity to children in recreation or child care
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor
8 licenses as provided by section 281-53.5;
- 9 (7) The department of human services on operators and
10 employees of child caring institutions, child placing
11 organizations, and foster boarding homes as provided
12 by section 346-17;
- 13 (8) The department of human services on prospective
14 adoptive parents as established under section
15 346-19.7;
- 16 (9) The department of human services on applicants to
17 operate child care facilities, prospective employees
18 of the applicant, and new employees of the provider
19 after registration or licensure as provided by section
20 346-154;
- 21 (10) The department of human services on persons exempt
22 pursuant to section 346-152 to be eligible to provide



- 1 child care and receive child care subsidies as
2 provided by section 346-152.5;
- 3 (11) The department of human services on operators and
4 employees of home and community-based case management
5 agencies and operators and other adults, except for
6 adults in care, residing in foster family homes as
7 provided by section 346-335;
- 8 (12) The department of human services on staff members of
9 the Hawaii youth correctional facility as provided by
10 section 352-5.5;
- 11 (13) The department of human services on employees,
12 prospective employees, and volunteers of contracted
13 providers and subcontractors in positions that place
14 them in close proximity to youth when providing
15 services on behalf of the office or the Hawaii youth
16 correctional facility as provided by section 352D-4.3;
- 17 (14) The judiciary on employees and applicants at detention
18 and shelter facilities as provided by section 571-34;
- 19 (15) The department of public safety on employees and
20 prospective employees who are directly involved with
21 the treatment and care of persons committed to a
22 correctional facility or who possess police powers



1 including the power of arrest as provided by section
2 353C-5;

3 (16) The department of health on each applicant for a
4 license or renewal of a license for a compassion care
5 center as defined in section 2(b) of Act , Session
6 Laws of Hawaii, 2011, and on the applicant's
7 employees, directors, owners, principals, partners,
8 and stockholders;

9 [~~16~~] (17) The department of commerce and consumer affairs
10 on applicants for private detective or private guard
11 licensure as provided by section 463-9;

12 [~~17~~] (18) Private schools and designated organizations on
13 employees and prospective employees who may be in
14 positions that necessitate close proximity to
15 children; provided that private schools and designated
16 organizations receive only indications of the states
17 from which the national criminal history record
18 information was provided pursuant to section 302C-1;

19 [~~18~~] (19) The public library system on employees and
20 prospective employees whose positions place them in
21 close proximity to children as provided by section
22 302A-601.5;



1 ~~[(19)]~~ (20) The State or any of its branches, political
2 subdivisions, or agencies on applicants and employees
3 holding a position that has the same type of contact
4 with children, vulnerable adults, or persons committed
5 to a correctional facility as other public employees
6 who hold positions that are authorized by law to
7 require criminal history record checks as a condition
8 of employment as provided by section 78-2.7;

9 ~~[(20)]~~ (21) The department of human services on licensed
10 adult day care center operators, employees, new
11 employees, subcontracted service providers and their
12 employees, and adult volunteers as provided by section
13 346-97;

14 ~~[(21)]~~ (22) The department of human services on purchase of
15 service contracted and subcontracted service providers
16 and their employees serving clients of the adult and
17 community care services branch, as provided by section
18 346-97;

19 ~~[(22)]~~ (23) The department of human services on foster
20 grandparent program, retired and senior volunteer
21 program, senior companion program, and respite



1 companion program participants, as provided by section
2 346-97;

3 [~~(23)~~] (24) The department of human services on contracted
4 and subcontracted service providers and their current
5 and prospective employees that provide home and
6 community-based services under Section 1915(c) of the
7 Social Security Act, (Title 42 United States Code
8 Section 1396n(c)), or under any other applicable
9 section or sections of the Social Security Act for the
10 purposes of providing home and community-based
11 services, as provided by section 346-97;

12 [~~(24)~~] (25) The department of commerce and consumer affairs
13 on proposed directors and executive officers of a
14 bank, savings bank, savings and loan association,
15 trust company, and depository financial services loan
16 company as provided by section 412:3-201;

17 [~~(25)~~] (26) The department of commerce and consumer affairs
18 on proposed directors and executive officers of a
19 nondepository financial services loan company as
20 provided by section 412:3-301;

21 [~~(26)~~] (27) The department of commerce and consumer affairs
22 on the original chartering applicants and proposed



1 executive officers of a credit union as provided by
2 section 412:10-103;

3 [~~(27)~~] (28) The department of commerce and consumer affairs
4 on:

5 (A) Each principal of every non-corporate applicant
6 for a money transmitter license; and

7 (B) The executive officers, key shareholders, and
8 managers in charge of a money transmitter's
9 activities of every corporate applicant for a
10 money transmitter license,

11 as provided by section 489D-9;

12 [~~(28)~~] (29) The department of commerce and consumer affairs
13 on applicants for licensure and persons licensed under
14 title 24;

15 [~~(29)~~] (30) The Hawaii health systems corporation on:

16 (A) Employees;

17 (B) Applicants seeking employment;

18 (C) Current or prospective members of the corporation
19 board or regional system board; or

20 (D) Current or prospective volunteers, providers, or
21 contractors,

22 in any of the corporation's health facilities as



1 provided by section 323F-5.5;

2 [~~30~~] (31) The department of commerce and consumer affairs

3 on:

4 (A) An applicant for a mortgage loan originator

5 license; and

6 (B) Each control person, executive officer, director,

7 general partner, and manager of an applicant for

8 a mortgage loan originator company license,

9 as provided by chapter 454F; and

10 [~~31~~] (32) Any other organization, entity, or the State,

11 its branches, political subdivisions, or agencies as

12 may be authorized by state law."

13 SECTION 4. If any provision of this Act, or the

14 application thereof to any person or circumstance is held

15 invalid, the invalidity does not affect other provisions or

16 applications of the Act, which can be given effect without the

17 invalid provision or application, and to this end the provisions

18 of this Act are severable.

19 SECTION 5. This Act does not affect rights and duties that

20 matured, penalties that were incurred, and proceedings that were

21 begun before its effective date.



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

3 SECTION 7. This Act shall take effect on July 1, 2050;
4 provided that upon the termination of the medical marijuana
5 distribution pilot program established in section 2 of this Act,
6 section 3 of this Act be repealed and reenacted in the form in
7 which it read on the day before the approval of this Act.



Report Title:

Medical Marijuana Compassion Center; Pilot Program

Description:

Establishes a five-year medical marijuana distribution pilot program in the County of Maui. Specifies requirements for the licensing of a compassion care center. Effective July 1, 2050. (SB1458 HD1)

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

