

JAN 26 2011

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# 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, 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. Basically, 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 of Hawaii  
13 2009, which was enacted over a veto by the governor. The  
14 medical cannabis task force was never convened; therefore, the  
15 medical cannabis working group examined current state statutes,  
16 state administrative rules, and all county policies and  
17 procedures relating to the medical marijuana program and issues  
18 and obstacles encountered by qualifying patients, physicians,



1 caregivers, and law enforcement officials. The medical cannabis  
2 working group also compared and contrasted Hawaii's medical  
3 marijuana program with all other states' medical marijuana  
4 programs. According to the findings of the medical cannabis  
5 working group in Report to the Hawai'i State Legislature,  
6 February 2010, immediate actions should be taken by the  
7 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 which 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 licensing system  
11 under the department of health for the distribution of medical  
12 marijuana.

13 SECTION 2. Chapter 329, Hawaii Revised Statutes, is  
14 amended by adding a new subpart to part IX to be appropriately  
15 designated and to read as follows:

16 "B. Distribution Program for Medical Marijuana

17 §329-A Purpose. A program to regulate the distribution of  
18 medical marijuana is in the interest of protecting the public's  
19 health and safety and in the interest of promoting the economic  
20 and social welfare of the State. The distribution program:

21 (1) Provides a safe and accessible distribution system for  
22 qualifying patients by requiring qualifying patients



- 1 to designate a compassion center as their supplier of  
2 medical marijuana;
- 3 (2) Establishes a class 1 medical marijuana compassion  
4 center license for selling medical marijuana to  
5 qualifying patients;
- 6 (3) Establishes a class 2 medical marijuana cultivation  
7 license for cultivating and distributing medical  
8 marijuana to class 1 licensees, and to sell medical  
9 marijuana to class 3 licensees;
- 10 (4) Establishes a class 3 medical marijuana-infused  
11 products manufacturing license for creating medical  
12 marijuana-infused products to be distributed to  
13 class 1 licensees for sale to qualifying patients;
- 14 (5) Collects from all licensees an initial licensing fee  
15 of \$20,000 for a class 1 medical marijuana compassion  
16 center license; \$10,000 for a class 2 medical  
17 marijuana cultivation license; and \$10,000 for a  
18 class 3 medical marijuana-infused products  
19 manufacturing license;
- 20 (6) Establishes compassion centers on each island;
- 21 (7) Ensures that all medical marijuana distributed through  
22 the distribution program is produced by licensees;



- 1           (8) Ensures that class 1 licensed centers provide medical  
2           marijuana exclusively to qualifying patients and  
3           primary caregivers, and to other non-Hawaii qualifying  
4           patients holding a temporary registration certificate;
- 5           (9) Establishes a system whereby licensees may sell  
6           medical marijuana to other licensees;
- 7           (10) Prohibits any person who has had a felony drug  
8           conviction or any person convicted of any felony in  
9           the immediately preceding five years from obtaining or  
10          renewing a license;
- 11          (11) Prohibits individuals who are less than twenty-one  
12          years of age from being an employee or director of a  
13          licensed facility;
- 14          (12) Establishes inspection criteria for the business  
15          premises of medical marijuana licensees;
- 16          (13) Requires licensees to submit annual reports of their  
17          financial transactions to the department;
- 18          (14) Requires licensees to pay a quarterly special sales  
19          tax to the department of taxation in the amount of  
20          fifteen per cent of gross revenue, to be deposited  
21          into the state general fund;



- 1 (15) Ensures that class 1 licensees are permitted to  
2 possess sufficient medical marijuana or marijuana  
3 plants to reasonably guarantee an adequate supply;
- 4 (16) Establishes security procedures to monitor medical  
5 marijuana; and
- 6 (17) Allows out-of-state visitors who are qualifying  
7 patients or primary caregivers in their home state to  
8 obtain a temporary registration certificate upon  
9 payment of an administrative fee.

10 **§329-B Definitions.** As used in this subpart:

11 "Compassion center" means a class 1 medical marijuana  
12 compassion center licensee, other than the qualifying patient  
13 and the qualifying patient's physician, who has agreed to be the  
14 primary caregiver of the qualifying patient.

15 "Department" means the department of health.

16 "Distribution program" means a licensing system under the  
17 department of health for the distribution of medical marijuana.

18 "Medical marijuana" means marijuana for medical use by a  
19 qualified patient upon issuance of a written certification by a  
20 licensed physician to the qualified patient pursuant to  
21 subpart A.



1 "Medical marijuana-infused product" means a product that  
2 contains medical marijuana and is intended for medical use by  
3 means other than smoking. The term includes edible products,  
4 ointments, and tinctures.

5 **§329-C Distribution program for medical marijuana.** No  
6 later than August 7, 2012, the department shall establish,  
7 administer, and implement a distribution program for medical  
8 marijuana.

9 **329-D Licensure.** (a) No business or non-profit entity  
10 shall cultivate, distribute, manufacture, or sell marijuana for  
11 medical use or manufacture a medical marijuana-infused product  
12 without a license issued by the department. The department may  
13 suspend or revoke any license that is not in substantial  
14 compliance with this subpart. The medical use of marijuana  
15 under subpart A shall not require a license.

16 (b) The department shall assess fees for medical marijuana  
17 licensure as follows:

18 (1) An annual fee of \$20,000 for the issuance of a class 1  
19 medical marijuana compassion center license and a fee  
20 for annual renewal of a class 1 license in the same  
21 amount;



1 (2) An annual fee of \$10,000 for issuance of a class 2  
2 medical marijuana cultivation license and a fee for  
3 annual renewal of a class 2 license in the same  
4 amount; and

5 (3) An annual fee of \$10,000 for issuance of a class 3  
6 medical marijuana-infused products manufacturing  
7 license and a fee for annual renewal of a class 3  
8 license in the same amount;

9 provided that all fees collected shall be used to defray the  
10 expenses of the department in administering this subpart.

11 (c) The amount of marijuana that may be sold for medical  
12 use or in a medical marijuana-infused product at any one time to  
13 a qualifying patient or primary caregiver for use by a  
14 qualifying patient shall not exceed an adequate supply, as  
15 defined in section 329-121.

16 (d) Medical marijuana and medical marijuana-infused  
17 products shall not be used or consumed on any business premises  
18 of a licensee.

19 (e) No licensee shall be subject to criminal prosecution  
20 for activities conducted in compliance with this subpart.

21 (f) There is established the following classes of licenses  
22 and requirements for each class of license:





- 1           (1) Class 1 medical marijuana compassion center license.
- 2                   (A) A class 1 license may be issued to a business or
- 3                           nonprofit entity to sell marijuana for medical
- 4                           use by a registered qualifying patient; provided
- 5                           that the sale occurs on the licensee's business
- 6                           premises;
- 7                   (B) A class 1 licensee may sell medical marijuana
- 8                           obtained from a class 2 licensee; provided that
- 9                           the marijuana is cultivated on the premises of
- 10                          the class 2 licensee;
- 11                   (C) A class 1 licensee may sell marijuana purchased
- 12                           from another class 1 licensee whose marijuana was
- 13                           cultivated by a class 2 licensee; provided that
- 14                           the marijuana is cultivated on the premises of
- 15                           the class 2 licensee;
- 16                   (D) A class 1 licensee may contract with a class 3
- 17                           licensee to sell medical marijuana-infused
- 18                           products that are prepackaged and labeled so as
- 19                           to clearly indicate all of the following:
- 20                           (i) That the product contains marijuana for
- 21                                   medical use;



1 (ii) That the product is manufactured without any  
2 regulatory oversight for health, safety, or  
3 efficacy; and

4 (iii) That there may be health risks associated  
5 with the consumption or use of the product;

6 (E) Prior to initiating a sale to a qualified  
7 patient, a trained employee of a class 1 licensee  
8 making the sale shall verify that the purchaser  
9 is a qualified patient who has a valid written  
10 certification under section 329-123 and presents  
11 a valid picture identification card that matches  
12 the name on the written certification;

13 (F) All marijuana sold by a class 1 licensee shall be  
14 labeled with a list of all chemical additives,  
15 including nonorganic pesticides, herbicides, and  
16 fertilizers, that were used in the cultivation  
17 and the production of the marijuana; and

18 (G) Qualifying patients shall designate a class 1  
19 licensee as their supplier of medical marijuana.

20 (2) Class 2 medical marijuana cultivation license.

21 (A) A class 2 license may be issued to a business or  
22 nonprofit entity to cultivate medical marijuana;



- 1 (B) The medical marijuana shall be cultivated on the
- 2 class 2 licensees' business premises;
- 3 (C) An application for a license under this paragraph
- 4 shall include plans and specifications for the
- 5 land and any buildings used to cultivate medical
- 6 marijuana;
- 7 (D) The business premises of a class 2 licensee may
- 8 not be contiguous to a licensed class 1 medical
- 9 marijuana compassion center;
- 10 (E) A class 2 licensee shall designate a class 1
- 11 licensee or a class 3 licensee as the business or
- 12 nonprofit entity to which the class 2 licensee
- 13 provides medical marijuana;
- 14 (F) A class 2 licensee shall be limited to
- 15 cultivating marijuana in quantities not greater
- 16 than an adequate supply, as defined in section
- 17 329-121, for qualifying patients for the sole
- 18 purpose of selling medical marijuana for lawful
- 19 use to qualifying patients that have designated a
- 20 class 1 center licensee as the primary compassion
- 21 center for the qualifying patient;



- 1 (G) Medical marijuana cultivation by a class 2  
2 licensee shall be limited to an area of the  
3 licensee's business premises that is restricted  
4 solely for the purpose of cultivation of medical  
5 marijuana and excludes entrance by the general  
6 public. The restricted area shall be demarcated  
7 from the rest of the premises and clearly  
8 identified as having restricted access by  
9 conspicuous signage; and
- 10 (H) No class 2 licensee shall sell directly to a  
11 qualifying patient.
- 12 (3) Class 3 medical marijuana-infused products  
13 manufacturing license.
- 14 (A) A class 3 license may be issued to a business or  
15 nonprofit entity to manufacture marijuana-infused  
16 products, including hashish, consumable products,  
17 and tinctures for sale that contain any amount of  
18 medical marijuana;
- 19 (B) Medical marijuana-infused products shall be  
20 prepared on the business premises that are used  
21 exclusively for the manufacture and preparation  
22 of medical marijuana-infused products;



- 1 (C) A class 3 licensee shall have a written contract
- 2 with a class 2 licensee to obtain medical
- 3 marijuana to manufacture and prepare medical
- 4 marijuana-infused products. The contract shall
- 5 at a minimum set forth the total amount of
- 6 medical marijuana obtained from the class 2
- 7 licensee for use in the manufacturing and
- 8 preparation process;
- 9 (D) A class 3 licensee shall have a written contract
- 10 with a class 1 licensee;
- 11 (E) All premises on which medical marijuana-infused
- 12 products are manufactured shall meet applicable
- 13 state and county sanitation standards applicable
- 14 to the production of food products;
- 15 (F) All medical marijuana-infused products shall be
- 16 sealed and conspicuously labeled to indicate that
- 17 the product contains marijuana and list all other
- 18 ingredients and the number of grams of medical
- 19 marijuana infused in the product; and
- 20 (G) All class 3 licensees shall be limited to
- 21 production in a properly licensed industrial or



1 commercial warehouse or a properly licensed  
2 commercial kitchen.

3 (g) A licensee under any class shall not be permitted to  
4 transfer a license.

5 (h) No applicant for a license shall be eligible for  
6 issuance or renewal of a license under this section if:

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

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

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

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

18 (5) The applicant is a law enforcement officer or an  
19 employee of the department of public safety or the  
20 department.

21 (i) The department shall conduct a criminal history record  
22 check under chapter 846 on each applicant for a license or



1 renewal of a license and on other persons associated with the  
2 applicant as specified in this section.

3 (j) Any medical marijuana shall be labeled at all times  
4 with at least a listing of the type of strain and the non-  
5 organic ingredients used to grow the marijuana.

6 **329-E Recordkeeping requirements.** Every licensee shall  
7 keep a complete set of all records of the business transactions  
8 of the licensee regarding medical marijuana, including  
9 dispensing records and patients' registry information. The  
10 records shall be subject to inspection by the department and the  
11 department of taxation at any time during normal business hours.  
12 The department and the department of taxation may conduct an  
13 audit of the licensee's business records.

14 All records relating to a transaction shall be kept by the  
15 licensee for a period of not less than five years following that  
16 transaction; provided that all records shall be kept  
17 confidential.

18 **§329-F Inspection.** The business premises of any licensee  
19 shall be subject to reasonable inspection by the department;  
20 provided that the department shall give reasonable notice of an  
21 inspection. The department may review the licensees'  
22 confidential records, including dispensing records identified by



1 a qualifying patient's registry number to protect  
2 confidentiality.

3       **§329-G Taxation of medical marijuana sales.** (a) All  
4 sales of medical marijuana between licensees of any class shall  
5 be subject to state income tax under chapter 235, state excise  
6 tax under chapter 237, and a special sales tax under subsection  
7 (c).

8       (b) For purposes of this section, a licensee shall  
9 maintain required records of sales and income for purposes of  
10 chapters 235 and 237.

11       (c) All sales of medical marijuana shall be subject to a  
12 special sales tax of fifteen per cent to be deposited into the  
13 general fund.

14       **§329-H Security of licensed premises for public safety**  
15 **concerns.** (a) All licensees shall implement appropriate  
16 security and safety measures to deter and prevent the theft of  
17 marijuana and the unauthorized entrance onto the licensee's  
18 business premises.

19       (b) All licensees shall:

20       (1) Install a security camera surveillance system with  
21       seventy-two hours of storage capacity;





1 (2) Install an alarm system for break-ins that is  
2 connected to an alarm company to alert law enforcement  
3 of break-ins; and

4 (3) Store marijuana in a locked area on the premises.

5 **§329-I Miscellaneous security measures.** (a) No class 1  
6 medical marijuana compassion center licensee, class 2 medical  
7 marijuana cultivation licensee, or class 3 medical marijuana-  
8 infused products manufacturing licensee shall be located within  
9 three hundred feet of any day care facility, public or private  
10 school, or another class 1, class 2, or class 3 licensee  
11 facility.

12 **§329-J Protections afforded licensees of program.** All  
13 class 1, class 2, and class 3 licensees, including their  
14 directors, agents, and employees shall be exempt from state  
15 criminal prosecution for possession, production, delivery, and  
16 transportation of marijuana; aiding and abetting another in the  
17 possession, production, delivery, and transportation of  
18 marijuana; or any other criminal offense in which possession,  
19 production, delivery, or transportation of marijuana is an  
20 element, if the activities are in substantial compliance with  
21 this subpart; provided that the following activities shall be  
22 subject to criminal prosecution:



- 1 (1) Driving a motor vehicle while under the influence of
- 2 marijuana;
- 3 (2) Engaging in the production, possession, or
- 4 distribution of marijuana in public view;
- 5 (3) Delivering marijuana to any individual whom the
- 6 deliverer knows or should have known does not possess
- 7 a written certification;
- 8 (4) Manufacturing or distributing marijuana at an address
- 9 not registered with the department; and
- 10 (5) Failing to report otherwise legal sales of medical
- 11 marijuana to the department.

12 **§329-K Criminal history record check.** (a) No person who  
13 has had a felony drug conviction or who has been convicted of  
14 any felony in the immediately preceding five years shall be  
15 eligible to obtain or renew any license under this subpart.

16 (b) Every applicant for a license or renewal of a license,  
17 including the applicant's employees, directors, owners,  
18 principals, partners, and stockholders shall undergo a criminal  
19 history record check under section 846-2.7.

20 **§329-L Rules.** The department may adopt rules pursuant to  
21 chapter 91 necessary to carry out the purposes of this subpart."



1 SECTION 3. Section 328-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§328-14 Drugs or devices deemed adulterated when. (a) A  
4 drug or device shall be deemed to be adulterated:

5 (1) (A) If it consists in whole or in part of any filthy,  
6 putrid, or decomposed substance; or

7 (B) (i) If it has been produced, prepared, packed,  
8 or held under insanitary conditions whereby  
9 it may have been contaminated with filth, or  
10 whereby it may have been rendered injurious  
11 to health; or

12 (ii) If the methods used in, or the facilities or  
13 controls used for, its manufacture,  
14 processing, packing, or holding do not  
15 conform to or are not operated or  
16 administered in conformity with current good  
17 manufacturing practice to assure that the  
18 drug or device meets the requirements of  
19 this part as to safety and has the identity  
20 and strength, and meets the quality and  
21 purity characteristics which it purports or  
22 is represented to possess; or



- 1 (C) If its container is composed, in whole or in  
2 part, of any poisonous or deleterious substance  
3 which may render the contents injurious to  
4 health; or
- 5 (D) If:
- 6 (i) It bears or contains, for purposes of  
7 coloring only, a color additive which is  
8 unsafe within the meaning of the Federal  
9 Act; or
- 10 (ii) It is a color additive, the intended use of  
11 which is for purposes of coloring only, and  
12 is unsafe within the meaning of the Federal  
13 Act;
- 14 (2) If it purports to be or is represented as a drug the  
15 name of which is recognized in an official compendium,  
16 and its strength differs from, or its quality or  
17 purity falls below, the standard set forth in the  
18 compendium. Such a determination as to strength,  
19 quality, or purity shall be made in accordance with  
20 the tests or methods of assay set forth in the  
21 compendium, or in the absence of or inadequacy of  
22 these tests or methods of assay, those prescribed



1 under authority of the Federal Act. No drug defined  
2 in an official compendium shall be deemed to be  
3 adulterated under this paragraph because it differs  
4 from the standard of strength, quality, or purity  
5 therefor set forth in the compendium, if its  
6 difference in strength, quality, or purity from that  
7 standard is plainly stated on its label. Whenever a  
8 drug is recognized in both the United States  
9 Pharmacopoeia and the Homeopathic Pharmacopoeia of the  
10 United States it shall be subject to the requirements  
11 of the United States Pharmacopoeia unless it is  
12 labeled and offered for sale as a homeopathic drug, in  
13 which case it shall be subject to the Homeopathic  
14 Pharmacopoeia of the United States and not those of  
15 the United States Pharmacopoeia;

16 (3) If it is not subject to paragraph (2) and its strength  
17 differs from, or its purity or quality falls below,  
18 that which it purports or is represented to possess;

19 or

20 (4) If it is a drug and any substance has been [~~A~~] mixed  
21 or packed therewith so as to reduce its quality or



1 strength; or [~~B~~] substituted wholly or in part  
2 therefor.

3 (b) A medical marijuana-infused product, as defined in  
4 section 329-B, shall be exempt from this section if the food is  
5 labeled as containing marijuana for medical use and specifies  
6 the potency and quantity of the grams of the active  
7 ingredients."

8 SECTION 4. Part IX of chapter 329, Hawaii Revised  
9 Statutes, is amended by designating sections 329-121 to 329-128  
10 as subpart A, entitled "General Provisions".

11 SECTION 5. Section 329-121, Hawaii Revised Statutes, is  
12 amended by amending the definition of "adequate supply" to read  
13 as follows:

14 "Adequate supply" means an amount of marijuana jointly  
15 possessed between the qualifying patient and the primary  
16 caregiver or jointly possessed by the qualifying patient and a  
17 compassion center as defined in section 329-B, that is not more  
18 than is reasonably necessary to assure the uninterrupted  
19 availability of marijuana for the purpose of alleviating the  
20 symptoms or effects of a qualifying patient's debilitating  
21 medical condition; provided that an "adequate supply" shall not  
22 exceed [~~three mature~~]:



- 1        (1) Seven marijuana plants, [~~four immature marijuana~~  
2                    plants,] and [~~one ounce~~] six ounces of usable  
3                    marijuana per [~~each mature plant.~~] compassion center  
4                    per registered patient per fourteen day period; and
- 5        (2) Seven marijuana plants and two ounces of usable  
6                    marijuana per each plant for a qualifying patient."

7                    SECTION 6. Section 329-123, Hawaii Revised Statutes, is  
8 amended by amending to read as follows:

9                    "[+]§329-123[+] **Registration requirements.** (a)

10 Physicians who issue written certifications shall register the  
11 names, addresses, patient identification numbers, and other  
12 identifying information of the patients issued written  
13 certifications with the department of public safety.

14                    (b) Qualifying patients shall register with the department  
15 of public safety. Such registration shall be effective until  
16 the expiration of the certificate issued by the physician.

17 Every qualifying patient shall provide sufficient identifying  
18 information to establish personal identity of the qualifying  
19 patient and the primary caregiver[-] or the qualifying patient  
20 and the compassion center as defined in section 329-B.

21 Qualifying patients shall report changes in information within  
22 five working days. Every qualifying patient shall have only one



1 primary caregiver or compassion center at any given time. The  
2 department shall then issue to the qualifying patient a  
3 registration certificate, and may charge a reasonable fee not to  
4 exceed \$25.

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

8 (d) Upon an inquiry by a law enforcement agent, the  
9 department of public safety shall verify whether the particular  
10 qualifying patient has registered with the department and may  
11 provide reasonable access to the registry information for  
12 official law enforcement purposes.

13 (e) For purposes of subpart B, the department shall allow  
14 out-of-state visitors who are qualifying patients or primary  
15 caregivers in their home state to obtain a temporary  
16 registration certificate; provided that there shall be assessed  
17 and collected an administrative fee of \$100 for the length of  
18 time of the visit."

19 SECTION 7. Section 846-2.7, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:

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





- 1           (1) The department on operators of adult foster homes or  
2           developmental disabilities domiciliary homes and their  
3           employees, as provided by section 333F-22;
- 4           (2) The department on prospective employees, persons  
5           seeking to serve as providers, or subcontractors in  
6           positions that place them in direct contact with  
7           clients when providing non-witnessed direct mental  
8           health services as provided by section 321-171.5;
- 9           (3) The department on all applicants for licensure for,  
10          operators for, and prospective employees, and  
11          volunteers at one or more of the following: skilled  
12          nursing facility, intermediate care facility, adult  
13          residential care home, expanded adult residential care  
14          home, assisted living facility, home health agent,  
15          hospice, adult day health center, special treatment  
16          facility, therapeutic living program, intermediate  
17          care facility for the mentally retarded, hospital,  
18          rural health center and rehabilitation agent, and, in  
19          the case of any of the above-related facilities  
20          operating in a private residence, on any adult living  
21          in the facility other than the client as provided by  
22          section 321-15.2;



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



- 1           (10) The department of human services on persons exempt  
2           pursuant to section 346-152 to be eligible to provide  
3           child care and receive child care subsidies as  
4           provided by section 346-152.5;
- 5           (11) The department of human services on operators and  
6           employees of home and community-based case management  
7           agencies and operators and other adults, except for  
8           adults in care, residing in foster family homes as  
9           provided by section 346-335;
- 10          (12) The department of human services on staff members of  
11          the Hawaii youth correctional facility as provided by  
12          section 352-5.5;
- 13          (13) The department of human services on employees,  
14          prospective employees, and volunteers of contracted  
15          providers and subcontractors in positions that place  
16          them in close proximity to youth when providing  
17          services on behalf of the office or the Hawaii youth  
18          correctional facility as provided by section 352D-4.3;
- 19          (14) The judiciary on employees and applicants at detention  
20          and shelter facilities as provided by section 571-34;
- 21          (15) The department of public safety on employees and  
22          prospective employees who are directly involved with



1 the treatment and care of persons committed to a  
2 correctional facility or who possess police powers  
3 including the power of arrest as provided by section  
4 353C-5;

5 (16) The department of health on each applicant for a  
6 license or renewal of a license under section 329-K,  
7 and on the applicant's employees, directors, owners,  
8 principals, partners, and stockholders;

9 ~~[(16)]~~ (17) The department on applicants for private  
10 detective or private guard licensure as provided by  
11 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 on proposed directors and  
13 executive officers of a bank, savings bank, savings  
14 and loan association, trust company, and depository  
15 financial services loan company as provided by section  
16 412:3-201;

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



1        [~~26~~] (27)    The department on the original chartering  
2                    applicants and proposed executive officers of a credit  
3                    union as provided by section 412:10-103;

4        [~~27~~] (28)    The department 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 on applicants for licensure and  
13                    persons licensed under title 24;

14        [~~29~~] (30)    The Hawaii health systems corporation on:

15                    (A)    Employees;

16                    (B)    Applicants seeking employment;

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

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

21                    in any of the corporation's health facilities as

22                    provided by section 323F-5.5;



1     ~~[(30)]~~   (31)   The department on an applicant for a mortgage  
2                    loan originator's license as provided by chapter 454F;  
3                    and

4     ~~[(31)]~~   (32)   Any other organization, entity, or the State,  
5                    its branches, political subdivisions, or agencies as  
6                    may be authorized by state law."

7           SECTION 8. Chapter 329, part IX, subpart A, Hawaii Revised  
8 Statutes, is amended by substituting the term "subpart" wherever  
9 the term "part" appears, as the context requires.

10          SECTION 9. If any provision of this Act, or the  
11 application thereof to any person or circumstance is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act, which can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16          SECTION 10. This Act does not affect rights and duties  
17 that matured, penalties that were incurred, and proceedings that  
18 were begun before its effective date.

19          SECTION 11. In codifying the new sections added by  
20 section 2 of this Act, the revisor of statutes shall substitute  
21 appropriate section numbers for the letters used in designating  
22 the new sections in this Act.





1 SECTION 12. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect on August 7, 2012.

4

INTRODUCED BY:

4. Kalam Egbah

John M. ... MD

[Signature]

Michelle Kidani

[Signature]

Clarence K. ...

Will Eyo

Dillon Kabala

[Signature]

Jim

[Signature]

[Signature]

[Signature]

[Signature]

Randy de ...

Arnold ...

[Signature]

[Signature]

[Signature]

Shiranne Chun Oakland



**Report Title:**

Health; Medical Marijuana

**Description:**

Creates three classes of medical marijuana licenses: class 1 medical marijuana compassion center license for the sale of medical marijuana to qualified patients; class 2 medical marijuana cultivation license; class 3 medical marijuana-infused products manufacturing license. Specifies requirements for each class. Makes medical marijuana sales subject to income and excise taxes. Establishes a special marijuana sales tax on sales of medical marijuana. Establishes a fee for issuance and renewal of a license and a special marijuana sales tax. Takes effect 8/7/2012.

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

