
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 current law allows for
8 the growth, transport, and possession of marijuana for medical
9 purposes by qualified patients and caregivers.

10 The medical cannabis working group was charged 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 February 2010 "Medical Cannabis Working Group Report to the
6 Hawai'i State Legislature", immediate action should be taken by
7 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 often prevent or inhibit them from



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

5 For purposes of the health, public safety, and social and
6 economic welfare of the State, a fully integrated cultivation
7 and distribution program would regulate access to medical
8 marijuana more safely and effectively, 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 one county within the department of public safety to
12 regulate the distribution of medical marijuana.

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

20 (1) Provide a safe and accessible distribution system for
21 qualifying patients by requiring qualifying patients



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



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

21 "Adequate supply" means an amount of marijuana jointly
22 possessed by the qualifying patient and the compassion center



1 that is not more than is reasonably necessary to assure the
2 uninterrupted availability of marijuana for the purpose of
3 alleviating the symptoms or effects of a qualifying patient's
4 debilitating medical condition; provided that an "adequate
5 supply" shall not exceed:

6 (1) Seven marijuana plants and six ounces of usable
7 marijuana per compassion center per qualifying patient
8 per fourteen day period; and

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

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

16 "Department" means the department of public safety.

17 "Medical marijuana" means marijuana for medical use by a
18 qualified patient upon issuance of a written certification by a
19 licensed physician to the qualified patient pursuant to part IX
20 of chapter 329, Hawaii Revised Statutes.

21 "Medical marijuana-infused product" means a product
22 regulated by the department that contains medical marijuana and



1 is intended for medical use by means other than smoking. The
2 term includes edible products, ointments, and tinctures. A
3 medical marijuana-infused product shall be exempt from section
4 328-14, Hawaii Revised Statutes; provided that the product is
5 labeled as containing marijuana for medical use and specifies
6 the potency and quantity in grams of the active ingredients.

7 "Primary caregiver" and "qualifying patient" means the same
8 as that in section 329-121.

9 (c) No business or nonprofit entity shall cultivate,
10 distribute, manufacture, or sell marijuana for medical use or
11 manufacture a medical marijuana-infused product without a
12 license issued by the department. The department may suspend or
13 revoke any license that is not in substantial compliance with
14 this Act. The medical use of marijuana under part IX of chapter
15 329, Hawaii Revised Statutes, shall not require a license under
16 this Act.

17 (d) The department shall assess and collect an annual fee
18 of \$ for the issuance of a medical marijuana compassion
19 center license and a fee for annual renewal of a license in the
20 same amount. All fees collected shall be transferred to the
21 county of .



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

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

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

10 (h) There is established a medical marijuana compassion
11 center license to be issued to one entity. The requirements for
12 the license shall be as follows:

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

17 (2) Prior to initiating a sale to a qualifying patient, a
18 trained employee of the licensee making the sale shall
19 verify that the purchaser is a qualifying patient who
20 has a valid written certification under section 329-
21 122, Hawaii Revised Statutes, and presents a valid



1 picture identification card that matches the name on
2 the written certification;

3 (3) All marijuana sold by a licensee shall be labeled with
4 a list of all chemical additives, including nonorganic
5 pesticides, herbicides, and fertilizers, that were
6 used in the cultivation and the production of the
7 marijuana;

8 (4) Qualifying patients shall access medical marijuana
9 through a designated licensee; and

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

13 (i) The licensee shall not be permitted to transfer the
14 license.

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

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

19 (2) A criminal history check conducted pursuant to
20 subsection (k) indicates that the applicant, director,
21 officer, of other employee of the applicant has been
22 convicted of any felony drug offense or any felony in



1 the immediately preceding ten years from obtaining a
2 license;

3 (3) The applicant, director, officer, or other employee of
4 the applicant is under twenty-one years of age;

5 (4) The applicant failed to pay any taxes, interest, or
6 penalties due to a government agency or failed to pay
7 any amount due to a government agency pursuant to a
8 judgment or order; or

9 (5) The applicant, director, officer, or other employee of
10 the applicant is a law enforcement officer or an
11 employee of the department of public safety or the
12 department.

13 (k) The department shall conduct a criminal history record
14 check pursuant to chapter 846, Hawaii Revised Statutes, on each
15 applicant for a license or renewal of a license and on other
16 persons associated with the applicant as specified in this
17 subsection. No person who has had a felony drug conviction or
18 who has been convicted of any felony in the immediately
19 preceding ten years shall be eligible to obtain or renew any
20 license under this Act. Every applicant for a license or
21 renewal of a license, including the applicant's employees,
22 directors, owners, principals, partners, and stockholders shall

1 undergo a criminal history record check under section 846-2.7,
2 Hawaii Revised Statutes.

3 (l) 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 (m) Every licensee shall keep a complete set of all
7 records of the business transactions of the licensee regarding
8 medical marijuana, including dispensing records and patients'
9 registry information. Photocopies of all written certifications
10 shall be maintained in a database and shall be available to law
11 enforcement at any time without notice. The records shall be
12 subject to inspection by the department at any time without
13 notice. The department may conduct an audit of the licensee's
14 business records.

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

19 (n) The business premises of any licensee shall be subject
20 to unannounced inspections by the department. The department
21 may review the licensee's confidential records, including



1 dispensing records identified by a qualifying patient's registry
2 number to protect confidentiality.

3 (o) All sales of medical marijuana sold by the licensee
4 pursuant to this Act shall be subject to a tax under chapter
5 237, Hawaii Revised Statutes; provided that in addition to the
6 tax imposed under chapter 237, an additional amount of tax shall
7 be assessed at a rate to be calculated by multiplying the gross
8 proceeds of sales of medical marijuana by a rate of thirty per
9 cent. All taxes collected pursuant to this subsection shall be
10 paid to the director of taxation for deposit into the general
11 fund. The licensee shall maintain and certify required records
12 of sales and income for purposes of chapter 237, Hawaii Revised
13 Statutes.

14 (p) The licensee shall implement appropriate security and
15 safety measures to deter and prevent the theft of marijuana and
16 the unauthorized entrance onto the licensee's business premises.
17 The licensee shall:

18 (1) Install video surveillance cameras that operate
19 twenty-four hours per day, seven days per week, and
20 that provide a live video feed of the facilities
21 operation are accessible to law enforcement agencies.



1 Each camera shall have seventy-two hours of storage
2 capacity;

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

6 (3) Store marijuana in a locked area on the premises; and

7 (4) Be responsible for costs incurred for the installation
8 and maintenance of security, including providing the
9 continuous live video feed of the facilities'
10 operations to local law enforcement.

11 (q) The licensed facility shall not be located within six
12 hundred yards of any day care facility, preschool, or public or
13 private school. There shall be no use of medication on the
14 premises of the facility.

15 (r) The directors, agents, and employees of the licensee
16 shall be exempt from state criminal prosecution for possession,
17 production, delivery, and transportation of marijuana; aiding
18 and abetting another in the possession, production, delivery,
19 and transportation of marijuana; or any other criminal offense
20 in which possession, production, delivery, or transportation of
21 marijuana is an element, if the activities are in substantial



1 compliance with this Act; provided that the following activities
2 shall be subject to criminal prosecution:

3 (1) Driving a motor vehicle while under the influence of
4 marijuana;

5 (2) Engaging in the production, possession, or
6 distribution of marijuana in public view;

7 (3) Distributing marijuana to any individual who the
8 deliverer knows or should have known does not possess
9 a written certification;

10 (4) Manufacturing or distributing marijuana at an address
11 not registered with the department; and

12 (5) Failing to report otherwise legal sales of medical
13 marijuana to the department.

14 (s) The department may adopt rules pursuant to chapter 91,
15 Hawaii Revised Statutes, necessary to carry out the purposes of
16 this Act. The department may convene a task force to study and
17 advise on drafting the department rules. The task force may
18 include a representative of the department of health and an
19 operator or other person with experience operating or regulating
20 compassion centers in other jurisdictions.

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



- 1 (u) The department shall submit to the legislature:
- 2 (1) A status report on the pilot project with findings and
- 3 recommendations, including proposed legislation that
- 4 may be necessary, no later than twenty days prior to
- 5 the convening of the 2013, 2014, 2015, and 2016
- 6 regular sessions; and
- 7 (2) A final report on the pilot project with findings and
- 8 recommendations, including proposed legislation, if
- 9 any, no later than twenty days prior to the convening
- 10 of the 2017 regular session.

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

- 13 "(b) Criminal history record checks may be conducted by:
- 14 (1) The department of health on operators of adult foster
- 15 homes or developmental disabilities domiciliary homes
- 16 and their employees, as provided by section 333F-22;
- 17 (2) The department of health on prospective employees,
- 18 persons seeking to serve as providers, or
- 19 subcontractors in positions that place them in direct
- 20 contact with clients when providing non-witnessed
- 21 direct mental health services as provided by section
- 22 321-171.5;



- 1 (3) The department of health on all applicants for
2 licensure for, operators for, prospective employees,
3 and volunteers at one or more of the following:
4 skilled nursing facility, intermediate care facility,
5 adult residential care home, expanded adult
6 residential care home, assisted living facility, home
7 health agency, hospice, adult day health center,
8 special treatment facility, therapeutic living
9 program, intermediate care facility for the mentally
10 retarded, hospital, rural health center and
11 rehabilitation agency, and, in the case of any of the
12 above facilities operating in a private residence, on
13 any adult living in the facility other than the client
14 as provided by section 321-15.2;
- 15 (4) The department of education on employees, prospective
16 employees, and teacher trainees in any public school
17 in positions that necessitate close proximity to
18 children as provided by section 302A-601.5;
- 19 (5) The counties on employees and prospective employees
20 who may be in positions that place them in close
21 proximity to children in recreation or child care
22 programs and services;



- 1 (6) The county liquor commissions on applicants for liquor
2 licenses as provided by section 281-53.5;
- 3 (7) The department of human services on operators and
4 employees of child caring institutions, child placing
5 organizations, and foster boarding homes as provided
6 by section 346-17;
- 7 (8) The department of human services on prospective
8 adoptive parents as established under section
9 346-19.7;
- 10 (9) The department of human services on applicants to
11 operate child care facilities, prospective employees
12 of the applicant, and new employees of the provider
13 after registration or licensure as provided by section
14 346-154;
- 15 (10) The department of human services on persons exempt
16 pursuant to section 346-152 to be eligible to provide
17 child care and receive child care subsidies as
18 provided by section 346-152.5;
- 19 (11) The department of human services on operators and
20 employees of home and community-based case management
21 agencies and operators and other adults, except for



1 adults in care, residing in foster family homes as

2 provided by section 346-335;

3 (12) The department of human services on staff members of
4 the Hawaii youth correctional facility as provided by
5 section 352-5.5;

6 (13) The department of human services on employees,
7 prospective employees, and volunteers of contracted
8 providers and subcontractors in positions that place
9 them in close proximity to youth when providing
10 services on behalf of the office or the Hawaii youth
11 correctional facility as provided by section 352D-4.3;

12 (14) The judiciary on employees and applicants at detention
13 and shelter facilities as provided by section 571-34;

14 (15) The department of public safety on employees and
15 prospective employees who are directly involved with
16 the treatment and care of persons committed to a
17 correctional facility or who possess police powers
18 including the power of arrest as provided by section
19 353C-5;

20 (16) The department of public safety on each applicant for
21 a license or renewal of a license for a compassion
22 center as defined in section 2(b) of Act _____, Session



1 Laws of Hawaii, 2011, and on the applicant's
2 employees, directors, owners, principals, partners,
3 and stockholders;

4 [~~16~~] (17) The department of commerce and consumer affairs
5 on applicants for private detective or private guard
6 licensure as provided by section 463-9;

7 [~~17~~] (18) Private schools and designated organizations on
8 employees and prospective employees who may be in
9 positions that necessitate close proximity to
10 children; provided that private schools and designated
11 organizations receive only indications of the states
12 from which the national criminal history record
13 information was provided pursuant to section 302C-1;

14 [~~18~~] (19) The public library system on employees and
15 prospective employees whose positions place them in
16 close proximity to children as provided by section
17 302A-601.5;

18 [~~19~~] (20) The State or any of its branches, political
19 subdivisions, or agencies on applicants and employees
20 holding a position that has the same type of contact
21 with children, vulnerable adults, or persons committed
22 to a correctional facility as other public employees



1 who hold positions that are authorized by law to
2 require criminal history record checks as a condition
3 of employment as provided by section 78-2.7;

4 [~~(20)~~] (21) The department of human services on licensed
5 adult day care center operators, employees, new
6 employees, subcontracted service providers and their
7 employees, and adult volunteers as provided by section
8 346-97;

9 [~~(21)~~] (22) The department of human services on purchase of
10 service contracted and subcontracted service providers
11 and their employees serving clients of the adult and
12 community care services branch, as provided by section
13 346-97;

14 [~~(22)~~] (23) The department of human services on foster
15 grandparent program, retired and senior volunteer
16 program, senior companion program, and respite
17 companion program participants, as provided by section
18 346-97;

19 [~~(23)~~] (24) The department of human services on contracted
20 and subcontracted service providers and their current
21 and prospective employees that provide home and
22 community-based services under Section 1915(c) of the



1 Social Security Act, Title 42 United States Code
2 Section 1396n(c), or under any other applicable
3 section or sections of the Social Security Act for the
4 purposes of providing home and community-based
5 services, as provided by section 346-97;

6 [~~24~~] (25) The department of commerce and consumer affairs
7 on proposed directors and executive officers of a
8 bank, savings bank, savings and loan association,
9 trust company, and depository financial services loan
10 company as provided by section 412:3-201;

11 [~~25~~] (26) The department of commerce and consumer affairs
12 on proposed directors and executive officers of a
13 nondepository financial services loan company as
14 provided by section 412:3-301;

15 [~~26~~] (27) The department of commerce and consumer affairs
16 on the original chartering applicants and proposed
17 executive officers of a credit union as provided by
18 section 412:10-103;

19 [~~27~~] (28) The department of commerce and consumer affairs
20 on:

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



1 (B) The executive officers, key shareholders, and
2 managers in charge of a money transmitter's
3 activities of every corporate applicant for a
4 money transmitter license,

5 as provided by section 489D-9;

6 [~~28~~] (29) The department of commerce and consumer affairs
7 on applicants for licensure and persons licensed under
8 title 24;

9 [~~29~~] (30) The Hawaii health systems corporation on:

10 (A) Employees;

11 (B) Applicants seeking employment;

12 (C) Current or prospective members of the corporation
13 board or regional system board; or

14 (D) Current or prospective volunteers, providers, or
15 contractors,

16 in any of the corporation's health facilities as
17 provided by section 323F-5.5;

18 [~~30~~] (31) The department of commerce and consumer affairs
19 on:

20 (A) An applicant for a mortgage loan originator
21 license; and



1 (B) Each control person, executive officer, director,
2 general partner, and manager of an applicant for
3 a mortgage loan originator company license,
4 as provided by chapter 454F; and

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

8 SECTION 4. If any provision of this Act, or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act, which can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 5. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

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

19 SECTION 7. This Act shall take effect on July 1, 2050;
20 provided that upon the termination of the medical marijuana
21 distribution pilot program established in section 2 of this Act,
22 section 3 of this Act shall be repealed and reenacted in the



- 1 form in which it read on the day before the approval of this
- 2 Act.



Report Title:

Medical Marijuana Compassion Center; Pilot Program

Description:

Establishes a comprehensive five-year medical marijuana distribution pilot program in an unspecified county. Effective July 1, 2050. (SB1458 HD2)

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

