

JAN 22 2016

A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1 PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by
3 adding a new chapter to be appropriately designated and to read
4 as follows:

5 "CHAPTER

6 MEDICAL MARIJUANA DISPENSARY PROGRAM

7 § -1 Definitions. As used in this chapter:

8 "Cultivation" or "cultivate" means the planting, growing,
9 or harvesting of marijuana.

10 "Department" means the department of health.

11 "Dispense" or "dispensing" means the act of a licensed
12 retail dispensing location providing marijuana or manufactured
13 marijuana products to a qualifying patient or a primary
14 caregiver for a fee.

15 "Manufacture" means the preparation, propagation,
16 compounding, conversion, or processing of a substance containing
17 marijuana or its principal psychoactive constituent



1 tetrahydrocannabinol, either directly or indirectly, by a person
2 other than a qualifying patient or primary caregiver for the
3 qualifying patient's use, by extraction from substances of
4 natural origin, or independently by means of chemical synthesis,
5 or by a combination of extraction and chemical synthesis, and
6 includes any packaging or repackaging of the substance or
7 labeling or relabeling of its container.

8 "Manufactured marijuana product" means any capsule,
9 lozenge, oil or oil extract, tincture, ointment or skin lotion,
10 or pill that has been manufactured using marijuana.

11 "Marijuana" shall have the same meaning as in section 329-
12 121.

13 "Medical marijuana growing facility" or "growing facility"
14 means an entity licensed under this chapter that grows or
15 cultivates marijuana for distribution to licensed medical
16 marijuana production centers and retail dispensing locations.

17 "Medical marijuana production center" or "production
18 center" means an entity licensed under this chapter who is
19 authorized to purchase medical marijuana from a medical
20 marijuana growing facility for the purpose of manufacturing the



1 medical marijuana for distribution to a medical marijuana retail
2 dispensing location pursuant to this chapter.

3 "Person" means an individual, firm, corporation,
4 partnership, association, or any form of business or legal
5 entity.

6 "Primary caregiver" shall have the same meaning as in
7 section 329-121.

8 "Qualifying patient" shall have the same meaning as in
9 section 329-121.

10 "Retail dispensing location" means an establishment owned,
11 operated, or subcontracted where marijuana and manufactured
12 marijuana are made available for retail sale to qualifying
13 patients or primary caregivers.

14 § -2 **Medical marijuana dispensary program; authorized;**

15 **licensure.** (a) No person shall operate a medical marijuana
16 growing facility, production center, or retail dispensing
17 location unless the person has a license issued by the
18 department pursuant to this chapter.

19 (b) The director of health shall grant medical marijuana
20 growing facility licenses, medical marijuana production center
21 licenses, and medical marijuana retail dispensing licenses



1 pursuant to this chapter; provided that each license shall grant
2 the licensee to operate only in the county for which the license
3 is granted.

4 (c) The department shall issue:

5 (1) For the city and county of Honolulu:

6 (A) At least growing facility licenses;

7 (B) At least production center licenses; and

8 (C) At least retail dispensing licenses;

9 (2) For the county of Hawaii and the county of Maui:

10 (A) A total of at least growing facility
11 licenses;

12 (B) A total of at least production center
13 licenses; and

14 (C) A total of at least retail dispensing
15 licenses; and

16 (3) For the county of Kauai:

17 (A) At least growing facility licenses;

18 (B) At least production center licenses; and

19 (C) At least retail dispensing licenses;



1 provided that no medical marijuana growing facility, production
2 center, or retail dispensing license shall be issued for the
3 county of Kalawao.

4 (d) A person may be granted and concurrently hold a
5 medical marijuana growing facility license, medical marijuana
6 production center license, and medical marijuana retail
7 dispensing license within one county. No person shall be
8 granted or concurrently hold a growing facility license,
9 production center license, or retail dispensing license, or any
10 combination thereof, in more than one county.

11 (e) Each respective licensee may commence cultivating,
12 manufacturing, or dispensing medical marijuana and manufactured
13 marijuana products pursuant to this chapter no sooner than
14 July 15, 2017, with approval by the department; provided that
15 any licensee who received a medical marijuana license from the
16 department of health to cultivate, manufacture, or dispense
17 medical marijuana and manufactured marijuana products for any
18 reason prior to December 31, 2016, may commence growing,
19 producing, or dispensing medical marijuana and manufactured
20 marijuana products to qualifying patients or primary caregivers



1 no sooner than July 15, 2016, with approval by the department,
2 in accordance with this chapter.

3 (f) Retail dispensing locations shall not be at the same
4 location as growing facilities or production centers.

5 (g) Notwithstanding subsection (c), the department shall
6 determine whether, based on the qualifying patient need,
7 additional licenses shall be offered to qualified applicants in
8 the State after October 1, 2018; provided that the department
9 shall make available not more than one license per five hundred
10 qualifying patients residing in any single county.

11 (h) No marijuana or manufactured marijuana products shall
12 be transported to, from, or within any federal fort or arsenal,
13 national park or forest, any other federal enclave, or any other
14 property possessed or occupied by the federal government.

15 § -3 **Qualifications for licensure.** (a) Each
16 application for a growing facility license, production center
17 license, or retail dispensing license shall include both an
18 individual applicant and an applying entity.

19 (b) The application shall be submitted to the department
20 and shall include supporting documentation to establish the
21 following:



- 1 (1) That the individual applicant:
 - 2 (A) Has been a legal resident of the State for not
 - 3 less than five years preceding the date of
 - 4 application;
 - 5 (B) Is not less than twenty-one years of age; and
 - 6 (C) Has had no felony convictions; and
- 7 (2) That the applying entity:
 - 8 (A) Has been organized under the laws of the State;
 - 9 (B) Has a Hawaii tax identification number;
 - 10 (C) Has a department of commerce and consumer affairs
 - 11 business registration division number and suffix;
 - 12 (D) Has a federal employer identification number;
 - 13 (E) Is not less than fifty-one per cent held by
 - 14 Hawaii legal residents or entities wholly
 - 15 controlled by Hawaii legal residents who have
 - 16 been Hawaii legal residents for not less than
 - 17 five years immediately preceding the date the
 - 18 application was submitted;
 - 19 (F) Has financial resources under its control of not
 - 20 less than \$250,000 for each license applied for
 - 21 in the form of bank statements or escrow



1 accounts, and that the financial resources have
 2 been under the control of the applying entity for
 3 not less than forty-five days immediately
 4 preceding the date the application was submitted;
 5 and

6 (G) Is composed of principals or members, each of
 7 whom has no felony convictions.

8 (c) Any license issued pursuant to this chapter shall not
 9 be sold or otherwise transferred from one person to another
 10 person.

11 (d) Any applicant seeking to apply for more than one type
 12 of license within one county shall submit one application per
 13 license.

14 § -4 License application procedure and verification;

15 fees. (a) The department shall make medical marijuana
 16 dispensary program license application forms for growing
 17 facility licenses, production center licenses, and retail
 18 dispensing licenses available to the public on January 11, 2017,
 19 commencing at 8:00 a.m., Hawaii-Aleutian Standard Time; provided
 20 that the department shall make a separate application form for
 21 each type of license.



1 (b) The department shall establish an open application
2 period for each available license, the first of which shall be
3 no later than 8:00 a.m., Hawaii-Aleutian Standard Time, on
4 January 12, 2017, during which an application may be submitted.
5 This submittal period shall be closed on January 29, 2017, at
6 4:30 p.m. The department shall publish notice of the open
7 application period no less than thirty days prior to the start
8 of the open application period.

9 (c) A non-refundable application fee of \$500 for each
10 license application shall be submitted to the department by
11 certified or cashier's check.

12 (d) All fees collected pursuant to this section shall be
13 deposited in the medical marijuana registry and regulation
14 special fund pursuant to section 321-30.1.

15 (e) Immediately upon receipt of each completed application
16 form, the department shall issue a receipt to each applicant
17 that includes the date and time of receipt.

18 (f) If an applicant submits an application form in which
19 all required information is not complete and valid, the
20 application shall not be accepted by the department and the non-
21 refundable application fee shall be deposited in the medical



1 marijuana registry and regulation special fund established
2 pursuant to section 321-30.1.

3 (g) The medical marijuana dispensary program license
4 application forms shall request information necessary to verify
5 that applicants meet the required qualifications pursuant to
6 section -3. Applicants shall provide a minimum of the
7 following information:

- 8 (1) Legal name and date of birth of individual applicant;
- 9 (2) Last four digits of individual applicant's social
10 security number;
- 11 (3) Validation code from an eCrim report for the
12 individual applicant generated by the Hawaii criminal
13 justice data center no earlier than December 12, 2016,
14 at 8:00 a.m., Hawaii-Aleutian Standard Time;
- 15 (4) Street address, telephone number, fax number, and
16 email address of the individual applicant;
- 17 (5) A tax clearance certificate issued by the department
18 of taxation dated not more than thirty days prior to
19 the date of the application;



- 1 (6) Name of the applying entity and any other name under
- 2 which the applying entity does business, if
- 3 applicable;
- 4 (7) Street address, telephone number, fax number, and
- 5 email address of the applying entity;
- 6 (8) Date the applying entity was organized under the laws
- 7 of Hawaii;
- 8 (9) A certified copy of the organizing documents of the
- 9 applying entity;
- 10 (10) A copy of the applying entity's bylaws;
- 11 (11) Federal employer identification number of the applying
- 12 entity;
- 13 (12) Hawaii tax identification number of applying entity;
- 14 (13) Department of commerce and consumer affairs business
- 15 registration number and suffix of the applying entity;
- 16 (14) Name(s) of all owners of the applying entity, in whole
- 17 or in part, and their percentage of ownership;
- 18 (15) Date when continuous legal residence in Hawaii began
- 19 for each Hawaii legal resident that owns a percentage
- 20 of the applying entity;



- 1 (16) Total percentage of the applying entity that is owned
2 by Hawaii legal residents;
- 3 (17) Designation of the county in which the license will be
4 operative and proof that the required minimum
5 financial resources of \$250,000 are met;
- 6 (18) Total dollar amount of financial resources under
7 control of the applying entity in the form of bank
8 statements or escrow accounts;
- 9 (19) Date from when financial resources have been
10 continuously controlled by the applying entity; and
- 11 (20) Copies of the entity's bank statements for the twelve
12 months prior to the date of the application.
- 13 (h) The department shall maintain a record of the time and
14 date that all completed application forms were submitted.
- 15 (i) The department shall process and deposit the
16 application fee within four business days of receipt of the
17 completed application form.
- 18 (j) If, for any reason, the application fee is not
19 available for deposit, the application shall be deemed void and
20 the department shall inform the applicant in writing that its
21 application has been rejected.



1 (k) The department shall review and verify the information
2 and documentation materials only of applicants whose non-
3 refundable application fee has been processed and deposited.

4 (l) The department shall verify that the information
5 submitted in the application is true and valid and meets the
6 requirements established in section -3(b).

7 (m) Upon verification of the minimum requirements, the
8 department shall place the verified application into the pool of
9 applicants for further review and selection based on a lottery
10 system by the department.

11 (n) A growing facility license, production center license,
12 or retail dispensing license may be renewed annually by payment
13 of an annual renewal fee of \$ and subject to
14 verification by the department that the individual licensee and
15 entity licensee continue to meet all licensing requirements from
16 the date the initial licenses were issued.

17 § -5 **Licenses; selection; issuance.** (a) The department
18 shall provide for a lottery selection process for verified
19 applicants for medical marijuana growing facility licenses,
20 production center licenses, and retail dispensing licenses;
21 provided that any person who received a medical marijuana



1 dispensary program license that allowed the person to cultivate,
2 manufacture, and dispense medical marijuana prior to
3 December 31, 2016, shall be awarded a growing facility license,
4 production center license, and retail dispensing license, as
5 applicable, and shall not count toward the limitation of
6 licenses to be issued pursuant to section -2(c); provided
7 further that upon the issuance of these licenses, the person
8 shall operate any growing facilities, production centers, and
9 retail dispensing locations pursuant to this chapter.

10 (b) Licensees selected after January 1, 2017, will be
11 announced by April 15, 2017. A growing facility, production
12 center, and retail dispensing location licensed pursuant to this
13 chapter may begin dispensing no sooner than July 15, 2017, with
14 the approval of the department.

15 § -6 **Growing facility; operations.** (a) No person shall
16 operate a growing facility, nor engage in the cultivation,
17 manufacture, or sale of marijuana or manufactured marijuana
18 products, unless the person has obtained a license from the
19 department pursuant to this chapter.

20 (b) No growing facility licensee, its officers, employees,
21 or agents shall provide written certification for the use of



1 medical marijuana or manufactured marijuana products for any
2 person.

3 (c) No person under the age of twenty-one shall be
4 employed by a growing facility licensee.

5 (d) Notwithstanding any other law to the contrary,
6 including but not limited to sections 378-2 and 378-2.5, no
7 growing facility shall employ a person convicted of a felony.
8 Employment under this chapter shall be exempt from section 378-
9 2(a)(1), as it relates to arrest and court record
10 discrimination, and section 378-2.5.

11 (e) All growing facilities shall be enclosed indoor
12 facilities and shall maintain twenty-four hour security
13 measures, including but not limited to an alarm system, video
14 monitoring and recording on the premises, and exterior lighting.
15 Growing facilities shall remain locked at all times.

16 (f) In all medical marijuana growing facilities, only the
17 licensee, if an individual, the registered employees of the
18 licensee, and the registered employees of any subcontractors
19 shall be permitted to touch or handle any marijuana.

20 (g) A growing facility shall provide the department with
21 the address, tax map key number, and a copy of the premises



1 lease, if applicable, of the proposed location of a growing
2 facility allowed under a license for a county no later than
3 thirty days prior to any medical marijuana being grown or
4 cultivated at that growing facility.

5 (h) No free samples of marijuana shall be provided at any
6 time, and no consumption of marijuana shall be permitted on any
7 growing facility premises.

8 (i) A growing facility shall not transport marijuana to
9 another county or another island.

10 (j) A growing facility shall be prohibited from off-
11 premises delivery of marijuana.

12 (k) A growing facility shall only sell, transport, or
13 deliver medical marijuana to a production center, certified
14 laboratory, or retail dispensing location.

15 (l) A growing facility licensed pursuant to this chapter
16 shall purchase, operate, and maintain a computer software
17 tracking system that shall:

18 (1) Interface with the department's computer software
19 tracking system established pursuant to section -9;
20 and



1 (2) Allow each licensed growing facility to submit to the
2 department in real time, by automatic identification
3 and data capture, all marijuana and marijuana plants
4 in possession of that growing facility from either
5 seed or immature plant state, including all plants
6 that are derived from cuttings or cloning, until the
7 marijuana is sold or destroyed pursuant to section
8 -10.

9 (m) A growing facility shall provide a cultivation,
10 inventory, and packaging plan and procedures for the oversight
11 of the cultivation area, including a plant monitoring system,
12 container tracking system, and staffing plan.

13 (n) Up to growing facilities shall be allowed under
14 each growing facility license; provided that each growing
15 facility shall be limited to no more than one thousand five
16 hundred marijuana plants.

17 § -7 **Production center; operations.** (a) No person
18 shall operate a production center, nor engage in the manufacture
19 or sale of marijuana or manufactured marijuana products, unless
20 the person has obtained a license from the department pursuant
21 to this chapter.



1 (b) No production center licensee, its officers,
2 employees, or agents shall provide written certification for the
3 use of medical marijuana or manufactured marijuana products for
4 any person.

5 (c) No person under the age of twenty-one shall be
6 employed by a production center licensee.

7 (d) Notwithstanding any other law to the contrary,
8 including but not limited to sections 378-2 and 378-2.5, no
9 production center shall employ a person convicted of a felony.
10 Employment under this chapter shall be exempt from section 378-
11 2(a)(1), as it relates to arrest and court record
12 discrimination, and section 378-2.5.

13 (e) All production centers shall be enclosed indoor
14 facilities and shall maintain twenty-four hour security
15 measures, including but not limited to an alarm system, video
16 monitoring and recording on the premises, and exterior lighting.
17 Production centers shall remain locked at all times.

18 (f) In all production center facilities, only the
19 licensee, if an individual, the registered employees of the
20 production center licensee, and the registered employees of any



1 subcontractors shall be permitted to touch or handle any
2 marijuana or manufactured marijuana products.

3 (g) A production center shall provide the department with
4 the address, tax map key number, and a copy of the premises
5 lease, if applicable, of the proposed location of a production
6 center allowed under a license for a county no later than thirty
7 days prior to any medical marijuana or manufactured marijuana
8 products being produced or manufactured at that production
9 center.

10 (h) A production center licensed pursuant to this chapter
11 shall purchase, operate, and maintain a computer software
12 tracking system that shall:

13 (1) Interface with the department's computer software
14 tracking system established pursuant to section -9;
15 and

16 (2) Allow each licensed production center to submit to the
17 department in real time, by automatic identification
18 and data capture, all marijuana, marijuana plants, and
19 manufactured marijuana product inventory in possession
20 of that production center from either seed or immature
21 plant state, including all plants that are derived



1 from cuttings or cloning, until the marijuana or
2 manufactured marijuana product is sold or destroyed
3 pursuant to section -10.

4 (i) No free samples of marijuana or manufactured marijuana
5 products shall be provided at any time, and no consumption of
6 marijuana or manufactured marijuana products shall be permitted
7 on any production center premises.

8 (j) A production center shall not transport marijuana or
9 manufactured marijuana products to another county or another
10 island.

11 (k) A production center shall be prohibited from off-
12 premises delivery of marijuana or manufactured marijuana
13 products to a retail dispensing location.

14 (l) A production center shall not display marijuana or
15 manufactured marijuana products in windows or in public view.

16 (m) Up to two production centers shall be allowed under
17 each production center license; provided that each production
18 center shall be limited to no more than one thousand five
19 hundred marijuana plants.

20 § -8 **Retail dispensing location; operations.** (a) No
21 person shall operate a retail dispensing location, nor engage in



1 the retail sale of marijuana or manufactured marijuana products,
2 unless the person has obtained a license from the department
3 pursuant to this chapter.

4 (b) No retail dispensing licensee, its officers,
5 employees, or agents shall provide written certification for the
6 use of medical marijuana or manufactured marijuana products for
7 any person.

8 (c) No person under the age of twenty-one shall be
9 employed by a retail dispensing licensee.

10 (d) Notwithstanding any other law to the contrary,
11 including but not limited to sections 378-2 and 378-2.5, no
12 retail dispensing location shall employ a person convicted of a
13 felony. Employment under this chapter shall be exempt from
14 section 378-2(a)(1), as it relates to arrest and court record
15 discrimination, and section 378-2.5.

16 (e) Retail dispensing locations shall not be open for
17 retail sales before 8:00 a.m. or after 8:00 p.m., Hawaii-
18 Aleutian Standard Time, Monday through Saturday. Retail
19 dispensing locations shall be closed on Sundays and official
20 state and federal holidays.



1 (f) All retail dispensing locations shall be enclosed
2 indoor facilities and shall maintain twenty-four hour security
3 measures, including but not limited to an alarm system, video
4 monitoring and recording on the premises, and exterior lighting.
5 Retail dispensing locations shall remain locked at all times,
6 other than business hours as authorized by subsection (e), and
7 shall only be opened for authorized persons.

8 (g) In all retail dispensing locations, only the licensee,
9 if an individual, the registered employees of the retail
10 dispensing licensee, and the registered employees of any
11 subcontractors shall be permitted to touch or handle any
12 marijuana or manufactured marijuana products, except that a
13 qualifying patient or the primary caregiver of a qualifying
14 patient may receive manufactured marijuana products at a retail
15 dispensing location following completion of a sale.

16 (h) A retail dispensing location shall provide the
17 department with the address, tax map key number, and a copy of
18 the premises lease, if applicable, of the proposed location of
19 each retail dispensing location allowed under a license not less
20 than sixty days prior to opening for business.



1 (i) A retail dispensing location licensed pursuant to this
2 chapter shall purchase, operate, and maintain a computer
3 software tracking system that shall:

4 (1) Interface with the department's computer software
5 tracking system established pursuant to section -9;

6 (2) Allow the licensed retail dispensing location to
7 submit to the department in real time, by automatic
8 identification and data capture, all marijuana,
9 marijuana plants, and manufactured marijuana product
10 inventory in possession of that retail dispensary
11 location from either seed or immature plant state,
12 including all plants that are derived from cuttings or
13 cloning, until the marijuana or manufactured marijuana
14 product is sold or destroyed pursuant to section
15 -10; and

16 (3) Allow the licensed retail dispensing location to
17 submit to the department in real time the total amount
18 of marijuana and manufactured marijuana product
19 purchased by a qualifying patient or primary caregiver
20 from the retail dispensing location in the State in
21 any fifteen day period; provided that the software



1 tracking system shall impose an automatic stopper in
2 real time, which cannot be overridden, on any further
3 purchases of marijuana or manufactured marijuana
4 products, if the maximum allowable amount of marijuana
5 has already been purchased for the applicable fifteen
6 day period; provided further that additional purchases
7 shall not be permitted until the next applicable
8 period.

9 (j) No free samples of marijuana or manufactured marijuana
10 products shall be provided at any time, and no consumption of
11 marijuana or manufactured marijuana products shall be permitted
12 on any retail dispensing location premises.

13 (k) A retail dispensing location shall not transport
14 marijuana or manufactured marijuana products to another county
15 or another island.

16 (l) A retail dispensing location shall be prohibited from
17 off-premises delivery of marijuana or manufactured marijuana
18 products to qualifying patients or to primary caregivers of
19 qualifying patients.

20 (m) A retail dispensing location shall not:



1 (1) Display marijuana or manufactured marijuana products
2 in windows or in public view; or

3 (2) Post any signage other than a single sign no greater
4 than one thousand six hundred square inches bearing
5 only the business or trade name in text without any
6 pictures or illustrations; provided that if any
7 applicable law or ordinance restricting outdoor
8 signage is more restrictive, that law or ordinance
9 shall govern.

10 (n) A retail dispensing licensee may establish up to two
11 retail dispensing locations under the licensee's retail
12 dispensing license.

13 (o) Notwithstanding any other law to the contrary, a
14 retail dispensing location shall not be subject to the
15 prescription requirement of section 329-38 or to the board of
16 pharmacy licensure or regulatory requirements under chapter 461.

17 § -9 **Medical marijuana dispensary program facilities;**
18 **computer software; tracking.** (a) The department shall
19 establish, maintain, and control a computer software tracking
20 system that shall have real time, twenty-four hour access to the



1 data of all growing facilities, production centers, and retail
2 dispensing locations relating to:

3 (1) The total amount of marijuana in possession of all
4 licensees from either seed or immature plant state,
5 including all plants that are derived from cuttings or
6 cloning, until the marijuana, marijuana plants, or
7 manufactured marijuana product is sold or destroyed
8 pursuant to section -10, if applicable;

9 (2) The total amount of manufactured marijuana product
10 inventory, including the equivalent physical weight of
11 marijuana that is used to manufacture manufactured
12 marijuana products, purchased by a qualifying patient
13 and primary caregiver from all retail dispensing
14 locations in the State in any fifteen day period, if
15 applicable;

16 (3) The amount of waste produced by each plant at harvest,
17 if applicable; and

18 (4) The transport of marijuana and manufactured marijuana
19 products between growing facilities, certified
20 laboratories, production centers, and retail
21 dispensing locations, including tracking



1 identification issued by the tracking system, the
2 identity of the person transporting the marijuana or
3 manufactured marijuana products, and the make, model,
4 and license number of the vehicle being used for the
5 transport.

6 (b) The procurement of the computer software tracking
7 system pursuant to subsection (a) shall be exempt from chapter
8 103D; provided that:

9 (1) The department shall publicly solicit at least three
10 proposals for the computer software tracking system;
11 and

12 (2) The selection of the computer software tracking system
13 shall be approved by the director of health and the
14 chief information officer.

15 **§ -10 Medical marijuana dispensary program; standards.**

16 The department shall establish standards with respect to:

17 (1) The number of medical marijuana growing facilities,
18 production centers, and retail dispensing locations
19 that shall be permitted to operate in the State;

20 (2) A fee structure for the submission of applications and
21 renewals of licenses for growing facilities,



1 production centers, and retail dispensing locations;
2 provided that the department shall consider the market
3 conditions in each county in determining the license
4 renewal fee amounts;

5 (3) Procedures for the review and lottery selection of
6 applicants for licensure;

7 (4) Specific requirements regarding annual audits and
8 reports required from each growing facility,
9 production center, and retail dispensing location
10 licensed pursuant to this chapter;

11 (5) Procedures for announced and unannounced inspections
12 by the department or its agents of growing facilities,
13 production centers, and retail dispensing locations
14 licensed pursuant to this chapter;

15 (6) Security requirements for the operation of growing
16 facilities, production centers, and retail dispensing
17 locations; provided that, at a minimum, the following
18 shall be required:

19 (A) For growing facilities and production centers:

20 (i) Video monitoring and recording of the
21 premises;



- 1 (ii) Fencing that surrounds the premises and that
- 2 is sufficient to reasonably deter intruders
- 3 and prevent anyone outside the premises from
- 4 viewing any marijuana in any form;
- 5 (iii) An alarm system; and
- 6 (iv) Other reasonable security measures to deter
- 7 or prevent intruders, as deemed necessary by
- 8 the department; and
- 9 (B) For retail dispensing locations:
 - 10 (i) Presentation of a valid government-issued
 - 11 photo identification and a valid
 - 12 identification as issued by the department
 - 13 pursuant to section 329-123, by a qualifying
 - 14 patient or caregiver, upon entering the
 - 15 premises;
 - 16 (ii) Video monitoring and recording of the
 - 17 premises;
 - 18 (iii) An alarm system;
 - 19 (iv) Exterior lighting; and
 - 20 (v) Other reasonable security measures as deemed
 - 21 necessary by the department;



- 1 (7) Security requirements for the transportation of
2 marijuana and manufactured marijuana products between
3 growing facilities, certified laboratories, production
4 centers, and retail dispensing locations;
- 5 (8) Standards and criminal background checks to ensure the
6 reputable and responsible character and fitness of all
7 license applicants, licensees, employees,
8 subcontractors and their employees, and prospective
9 employees of medical marijuana growing facilities,
10 production centers, and retail dispensing locations;
11 provided that the standards, at a minimum, shall
12 exclude from licensure or employment any person
13 convicted of any felony;
- 14 (9) The training and certification of operators and
15 employees of growing facilities, production centers,
16 and retail dispensing locations;
- 17 (10) The types of manufactured marijuana products that
18 production centers shall be authorized to manufacture
19 and sell pursuant to sections -12 and -13;



1 (11) Laboratory standards related to testing marijuana and
2 manufactured marijuana products for content,
3 contamination, and consistency;

4 (12) The quantities of marijuana and manufactured marijuana
5 products that a retail dispensing location may sell or
6 provide to a qualifying patient or primary caregiver;
7 provided that no retail dispensing location shall sell
8 or provide to a qualifying patient or primary
9 caregiver any combination of marijuana and
10 manufactured products that:

11 (A) During a period of fifteen consecutive days,
12 exceeds the equivalent of four ounces of
13 marijuana; or

14 (B) During a period of thirty consecutive days,
15 exceeds the equivalent of eight ounces of
16 marijuana;

17 (13) Growing facility, production center, and retail
18 dispensing location inventory controls to prevent the
19 unauthorized diversion of marijuana or manufactured
20 marijuana products or the distribution of marijuana or
21 manufactured marijuana products to qualifying patients



1 or primary caregivers in quantities that exceed limits
2 established by this chapter; provided that the
3 controls, at a minimum, shall include:

4 (A) A computer software tracking system as specified
5 in section -9; and

6 (B) Product packaging standards sufficient to allow
7 law enforcement personnel to reasonably determine
8 the contents of an unopened package;

9 (14) Limitation to the size or format of signs placed
10 outside a retail dispensing location; provided that
11 the signage limitations, at a minimum, shall comply
12 with section -8(m)(2) and shall not include the
13 image of a cartoon character or other design intended
14 to appeal to children;

15 (15) The disposal or destruction of unwanted or unused
16 marijuana and manufactured marijuana products;

17 (16) The enforcement of the following prohibitions against:

18 (A) The sale or provision of marijuana or
19 manufactured marijuana products to unauthorized
20 persons;



- 1 (B) The sale or provision of marijuana or
2 manufactured marijuana products to qualifying
3 patients or primary caregivers in quantities that
4 exceed limits established by this chapter;
- 5 (C) Any use or consumption of marijuana or
6 manufactured marijuana products on the premises
7 of a growing facility, production center, or
8 retail dispensing location; and
- 9 (D) The distribution of marijuana or manufactured
10 marijuana products, for free, on the premises of
11 a growing facility, production center, or retail
12 dispensing location;
- 13 (17) The establishment of a range of penalties for
14 violations of this chapter or rule adopted pursuant to
15 this chapter; and
- 16 (18) A process to recognize and register patients who are
17 authorized to purchase, possess, and use medical
18 marijuana in another state, United States territory,
19 or the District of Columbia as qualifying patients in
20 this State; provided that this registration process
21 may commence no sooner than January 1, 2018.



1 § -11 **Laboratory standards and testing; laboratory**
2 **certification.** (a) The department shall establish and enforce
3 standards for laboratory-based testing of marijuana and
4 manufactured marijuana products for content, contamination, and
5 consistency.

6 (b) The department may certify laboratories that can test
7 marijuana and manufactured marijuana products prior to the sale
8 of marijuana and manufactured marijuana products.

9 § -12 **Manufacturing of medical marijuana products.** (a)
10 Any medical marijuana production center licensed by the
11 department pursuant to this chapter shall be permitted to
12 manufacture marijuana products; provided that the production
13 center shall also obtain any other state or county permits or
14 licenses that may be necessary for a particular manufacturing
15 activity.

16 (b) The department shall establish health, safety, and
17 sanitation standards regarding the production or manufacture of
18 manufactured marijuana products.

19 (c) Any licensed medical marijuana production center that
20 manufactures manufactured marijuana products shall calculate the
21 equivalent physical weight of the marijuana that is used to



1 manufacture the product and shall make the equivalency
2 calculations available to the department and to a consumer of
3 the manufactured marijuana product.

4 § -13 **Types of manufactured marijuana products.** (a)

5 The types of medical marijuana products that may be manufactured
6 and distributed pursuant to this chapter shall be limited to:

- 7 (1) Capsules;
 - 8 (2) Lozenges;
 - 9 (3) Pills;
 - 10 (4) Oils and oil extracts;
 - 11 (5) Tinctures;
 - 12 (6) Ointments and skin lotions; and
 - 13 (7) Other products as specified by the department.
- 14 (b) As used in this section, "lozenge" means a small
15 tablet manufactured in a manner to allow for the dissolving of
16 its medicinal or therapeutic component slowly in the mouth.

17 § -14 **Advertising and packaging.** (a) The department

18 shall establish standards regarding the advertising and
19 packaging of marijuana and manufactured marijuana products;
20 provided that the standards, at a minimum, shall require the use
21 of packaging that:



- 1 (1) Is child-resistant and opaque so that the product
2 cannot be seen from outside the packaging;
- 3 (2) Uses only black lettering on a white background with
4 no pictures or graphics;
- 5 (3) Is clearly labeled with the phrase "For medical use
6 only";
- 7 (4) Is clearly labeled with the phrase "Not for resale or
8 transfer to another person";
- 9 (5) Includes instructions for use and "use by date";
- 10 (6) Contains information about the contents and potency of
11 the product;
- 12 (7) Includes the name of the growing facility and
13 production center where marijuana in the product or
14 manufactured marijuana product was produced, including
15 the batch number and date of packaging;
- 16 (8) Includes a barcode generated by tracking software; and
- 17 (9) In the case of a manufactured marijuana product, a
18 listing of the equivalent physical weight of the
19 marijuana used to manufacture the amount of the
20 product that is within the packaging, pursuant to
21 section -12(c).



1 (b) Any capsule, lozenge, or pill containing marijuana or
2 its principal psychoactive constituent tetrahydrocannabinol
3 shall be packaged so that one dose, serving, or single wrapped
4 item contains no more than ten milligrams of
5 tetrahydrocannabinol; provided that no manufactured marijuana
6 product that is sold in a pack of multiple doses, servings, or
7 single wrapped items, nor any containers of oils, shall contain
8 more than a total of one hundred milligrams of
9 tetrahydrocannabinol per pack or container.

10 § -15 **Background checks.** Each applicant and licensee
11 for a medical marijuana growing facility, production center, and
12 retail dispensing license, including the individual applicant
13 and all officers, directors, shareholders with at least twenty-
14 five per cent ownership interest or more, members, and managers
15 of an entity applicant; each employee of a medical marijuana
16 growing facility, production center, and retail dispensing; each
17 subcontractor of a growing facility, production center, and
18 retail dispensing location; all officers, directors,
19 shareholders with at least twenty-five per cent ownership
20 interest or more in a subcontractor of a growing facility,
21 production center, or retail dispensing location; and any person



1 permitted to enter and remain in any facility pursuant to
2 section -18(a)(3), -19(a)(3), or -20(a)(4), shall be
3 subject to background checks conducted by the department or its
4 designee, including but not limited to criminal history record
5 checks in accordance with section 846-2.7. The person
6 undergoing the background check shall provide written consent
7 and all applicable processing fees to the department or its
8 designee to conduct the background checks.

9 § -16 **Qualifying patients and primary caregivers;**
10 **dispensing limits; other states.** (a) A qualifying patient or a
11 primary caregiver on behalf of a qualifying patient shall be
12 allowed to purchase no more than four ounces of marijuana within
13 a consecutive period of fifteen days, or no more than eight
14 ounces of marijuana within a consecutive period of thirty days.

15 (b) A qualifying patient or a primary caregiver on behalf
16 of a qualifying patient may purchase marijuana from any retail
17 dispensing location in the State, subject to the limits set
18 forth in subsection (a).

19 (c) Beginning on January 1, 2018, this section shall apply
20 to qualifying patients from other states, territories of the
21 United States, or the District of Columbia; provided that the



1 patient is verified as a patient in the patient's home state and
2 registers with the department through a registration process
3 established by the department.

4 § -17 Prohibited acts related to exceeding limits;
5 **fraud; penalties.** (a) It shall be unlawful for any person to
6 obtain or attempt to procure any medical marijuana or medical
7 marijuana product by:

- 8 (1) Fraud, deceit, misrepresentation, embezzlement, or
9 theft;
 - 10 (2) The forgery or alteration of a medical marijuana
11 permit;
 - 12 (3) Furnishing fraudulent medical information or the
13 concealment of a material fact;
 - 14 (4) The use of a false name or patient identification
15 number, or the giving of a false address; or
 - 16 (5) The alteration of a state issued medical use of
17 marijuana permit card.
- 18 (b) Any person who violates subsection (a) shall be guilty
19 of a class C felony.

20 § -18 Criminal offense; unauthorized access to growing
21 **facilities.** (a) No person shall intentionally or knowingly



1 enter or remain upon the premises of a medical marijuana growing
2 facility unless the person is:

3 (1) An individual licensee or registered employee of the
4 growing facility;

5 (2) A government employee or official acting in the
6 person's official capacity; or

7 (3) Previously included on a current department-approved
8 list provided to the department by the licensee of
9 those persons who are allowed into that growing
10 facility for a specific purpose for that growing
11 facility, including but not limited to construction,
12 maintenance, repairs, legal counsel, or investors;
13 provided that:

14 (A) The person has been individually approved by the
15 department to be included on the list;

16 (B) The person is at least twenty-one years of age,
17 as verified by a valid government issued
18 identification card;

19 (C) The department has confirmed that the person has
20 no felony convictions;



1 (D) The person is escorted by an individual licensee
2 or registered employee of the growing facility at
3 all times while in the growing facility;

4 (E) The person is only permitted within those
5 portions of the growing facility as necessary to
6 fulfill the person's purpose for entering;

7 (F) The person is only permitted within the growing
8 facility during the times and for the duration
9 necessary to fulfill the person's purpose for
10 entering;

11 (G) The growing facility shall keep an accurate
12 record of each person's identity, date and times
13 upon entering and exiting the growing facility,
14 purpose for entering, and the identity of the
15 escort; and

16 (H) The approved list shall be effective for one year
17 from the date of department approval.

18 (b) No individual licensee or registered employee of a
19 medical marijuana growing facility with control over or
20 responsibility for a growing facility shall intentionally or
21 knowingly allow another to enter or remain upon the premises of



1 the growing facility, unless the other is permitted to enter and
2 remain as specified in subsection (a).

3 (c) Unauthorized access to a growing facility is a class C
4 felony.

5 § -19 Criminal offense; unauthorized access to

6 production centers. (a) No person shall intentionally or
7 knowingly enter or remain upon the premises of a medical
8 marijuana production center unless the person is:

- 9 (1) An individual licensee or registered employee of the
10 production center;
- 11 (2) A government employee or official acting in the
12 person's official capacity; or
- 13 (3) Previously included on a current department-approved
14 list provided to the department by the licensee of
15 those persons who are allowed into that production
16 center's facilities for a specific purpose for that
17 production center, including but not limited to
18 construction, maintenance, repairs, legal counsel, or
19 investors; provided that:
 - 20 (A) The person has been individually approved by the
21 department to be included on the list;



- 1 (B) The person is at least twenty-one years of age,
2 as verified by a valid government issued
3 identification card;
- 4 (C) The department has confirmed that the person has
5 no felony convictions;
- 6 (D) The person is escorted by an individual licensee
7 or registered employee of the production center
8 at all times while in the production center;
- 9 (E) The person is only permitted within those
10 portions of the production center as necessary to
11 fulfill the person's purpose for entering;
- 12 (F) The person is only permitted within the
13 production center during the times and for the
14 duration necessary to fulfill the person's
15 purpose for entering;
- 16 (G) The production center shall keep an accurate
17 record of each person's identity, date and times
18 upon entering and exiting the production center,
19 purpose for entering, and the identity of the
20 escort; and



1 (H) The approved list shall be effective for one year
2 from the date of department approval.

3 (b) No individual licensee or registered employee of a
4 medical marijuana production center with control over or
5 responsibility for a production center shall intentionally or
6 knowingly allow another to enter or remain upon the premises of
7 the production center, unless the other is permitted to enter
8 and remain as specified in subsection (a).

9 (c) Unauthorized access to a production center is a class
10 C felony.

11 § -20 Criminal offense; unauthorized access to retail
12 dispensing locations. (a) No person shall intentionally or

13 knowingly enter or remain upon the premises of a medical
14 marijuana retail dispensing location unless the individual is:

15 (1) An individual licensee or registered employee of the
16 retail dispensing location;

17 (2) A qualifying patient or primary caregiver of a
18 qualifying patient;

19 (3) A government employee or official acting in the
20 person's official capacity; or



- 1 (4) Previously included on a current department-approved
2 list provided to the department by the licensee of
3 those persons who are allowed into that retail
4 dispensing location's facilities for a specific
5 purpose for that retail dispensing location, including
6 but not limited to construction, maintenance, repairs,
7 legal counsel, or investors; provided that:
- 8 (A) The person has been individually approved by the
9 department to be included on the list;
- 10 (B) The person is at least twenty-one years of age,
11 as verified by a valid government issued
12 identification card;
- 13 (C) The department has confirmed that the person has
14 no felony convictions;
- 15 (D) The person is escorted by an individual licensee
16 or registered employee of the retail dispensing
17 location at all times while in the retail
18 dispensing location;
- 19 (E) The person is only permitted within those
20 portions of the retail dispensing location as



1 necessary to fulfill the person's purpose for
2 entering;

3 (F) The person is only permitted within the retail
4 dispensing location during the times and for the
5 duration necessary to fulfill the person's
6 purpose for entering;

7 (G) The retail dispensing location shall keep an
8 accurate record of each person's first and last
9 name, date and times upon entering and exiting
10 the retail dispensing location, purpose for
11 entering, and the identity of the escort; and

12 (H) The approved list shall be effective for one year
13 from the date of the department approval.

14 (b) No individual licensee or registered employee of a
15 medical marijuana retail dispensing location with control over
16 or responsibility for a retail dispensing location shall
17 intentionally or knowingly allow another to enter or remain upon
18 the premises of the retail dispensing location, unless the other
19 is permitted to enter and remain as specified in subsection (a).

20 (c) Unauthorized access to a retail dispensing location is
21 a class C felony.



1 § -21 **Prohibition of distribution of medical marijuana**
2 **and medical marijuana products to minors; penalties.** (a) A
3 person commits the offense of promoting medical marijuana or
4 medical marijuana products to a minor if the person
5 intentionally or knowingly distributes any amount of marijuana
6 or manufactured marijuana products that came from a growing
7 facility, production center, or retail dispensing location to a
8 minor who is not a registered qualifying patient.

9 (b) Any person who violates this section shall be guilty
10 of a class B felony.

11 § -22 **Diversion from growing facility, production**
12 **center, certified laboratory, or retail dispensing location;**
13 **penalties.** (a) A person commits diversion from a growing
14 facility, production center, certified laboratory, or retail
15 dispensing location if the person is a licensee, operator, or
16 employee of a growing facility, production center, certified
17 laboratory, or retail dispensing location and intentionally or
18 knowingly diverts to the person's own use or other unauthorized
19 or illegal use, or takes, makes away with, or secretes, with
20 intent to divert to the person's own use or other unauthorized
21 or illegal use, any medical marijuana, manufactured marijuana



1 product, or marijuana concentrate under the person's possession,
2 care, or custody as a licensee, operator, or employee of a
3 medical marijuana growing facility, production center, certified
4 laboratory, or retail dispensing location licensed by the
5 department.

6 (b) Any person who violates this section shall be guilty
7 of a class C felony.

8 § -23 **Criminal offense; alteration or falsification of**
9 **medical marijuana records.** (a) A person commits the offense of
10 alteration or falsification of medical marijuana records if the
11 person intentionally or knowingly:

12 (1) Makes or causes a false entry in medical marijuana
13 records;

14 (2) Alters, erases, obliterates, deletes, removes, or
15 destroys a true entry in medical marijuana records;

16 (3) Omits to make a true entry in medical marijuana
17 records in violation of a duty that the person knows
18 to be imposed upon the person by law or by the nature
19 of the person's position; or

20 (4) Prevents the making of a true entry or causes the
21 omission thereof in medical marijuana records.



1 (b) Alteration or falsification of medical marijuana
2 records is a class C felony.

3 (c) For the purposes of this section:

4 "Electronic" means relating to technology having
5 electrical, digital, magnetic, wireless, optical,
6 electromagnetic, or other similar capabilities.

7 "Information" includes data, text, images, sounds, codes,
8 computer programs, software, or databases.

9 "Medical marijuana records" means any inventory tracking
10 records and other records maintained by a licensed medical
11 marijuana growing facility, production center, certified
12 laboratory, or retail dispensing location that are required by
13 law to be created and retained or provided to the department.

14 "Record" means information that is written or printed or
15 that is stored in an electronic or other medium and is
16 retrievable in a perceivable form.

17 **§ -24 Law enforcement access to growing facility,**
18 **production center, certified laboratory, and retail dispensing**
19 **location records.** Notwithstanding any other law, the department
20 shall disclose information, documents, and other records
21 regarding medical marijuana growing facilities, production



1 centers, certified laboratories, and retail dispensing
2 locations, upon request, to any state, federal, or county agency
3 engaged in the criminal investigation or prosecution of
4 violations of applicable state, county, or federal laws or
5 regulations related to the operations or activities of a medical
6 marijuana growing facility, production center, certified
7 laboratory, or retail dispensing location.

8 § -25 **Revocation and suspension of licenses.** (a) In
9 addition to any other actions authorized by law, the department
10 may deny, revoke, or suspend any license applied for or issued
11 by the department, in accordance with this chapter, and to fine
12 or otherwise discipline a licensee for any cause authorized by
13 law, including but not limited to the following:

- 14 (1) Procuring a license through fraud, misrepresentation,
15 or deceit;
- 16 (2) Professional misconduct, gross carelessness, or
17 manifest incapacity;
- 18 (3) Violation of any of the provisions of this chapter or
19 the rules adopted pursuant to this chapter;
- 20 (4) False, fraudulent, or deceptive advertising;



1 (5) Any other conduct constituting fraudulent or dishonest
2 dealings;

3 (6) Failure to comply with a department order; and

4 (7) Making a false statement on any document submitted or
5 required to be filed by this chapter, including
6 furnishing false or fraudulent material information in
7 any application.

8 (b) Any person who violates any of the provisions of this
9 chapter or the rules adopted pursuant to this chapter shall be
10 fined not less than \$100 nor more than \$1,000 for each
11 violation.

12 (c) If the department revokes or suspends a license under
13 this section, the licensee shall not:

14 (1) Dispense, sell, transfer, or otherwise dispose of any
15 marijuana or manufactured marijuana products owned by
16 or in the possession of the licensee; or

17 (2) Cultivate marijuana or manufacture marijuana products.

18 Upon a revocation order becoming final, all marijuana and
19 manufactured marijuana products may be forfeited to the State.

20 (d) All proceedings for denial, suspension, or revocation
21 of a license or fining of a licensee on any ground specified in



1 subsection (a) shall be conducted pursuant to chapter 91,
2 including the right to judicial review.

3 § -26 **Medical marijuana; facilities; zoning.** (a)

4 Medical marijuana growing facilities, production centers,
5 certified laboratories, and retail dispensing locations shall
6 comply with all county zoning ordinances, rules, or regulations;
7 provided that:

8 (1) A medical marijuana growing facility and production
9 center shall be permitted in any area in which
10 agricultural production is permitted except as
11 provided within this chapter; and

12 (2) No medical marijuana growing facility, production
13 center, certified laboratory, or retail dispensing
14 location shall be permitted within seven hundred fifty
15 feet of the real property comprising a playground,
16 public housing project or complex, or school.

17 (b) As used in this section:

18 "Playground" means any public outdoor facility, including
19 any parking lot appurtenant thereto, that is intended for
20 recreation, with any portion thereof containing three or more
21 separate apparatus intended for the recreation of children,



1 including but not limited to sliding boards, swing sets, and
2 teeterboards.

3 "Public housing project or complex" means a housing project
4 directly controlled, owned, developed, or managed by the Hawaii
5 public housing authority pursuant to the federal or state low-
6 rent public housing program.

7 "School" means any public or private preschool,
8 kindergarten, elementary, intermediate, middle, secondary, or
9 high school.

10 § -27 **Annual inspections, audits, and reports.** (a)

11 Each medical marijuana growing facility, production center,
12 certified laboratory, and retail dispensing location licensed
13 pursuant to this chapter shall:

14 (1) Be subject to an annual announced inspection and
15 unlimited unannounced inspections of its operations by
16 the department;

17 (2) Submit reports on at least a quarterly basis, or as
18 otherwise required, and in the format specified by the
19 department; and

20 (3) Annually cause an independent financial audit, at the
21 licensee's own expense, to be conducted of the growing



1 facility, production center, or retail dispensing
2 location and shall submit the audit's findings to the
3 department.

4 (b) The department shall report annually to the governor
5 and the legislature on the establishment and regulation of
6 medical marijuana growing facilities, production centers, and
7 retail dispensing locations including but not limited to the
8 number and location of growing facilities, production centers,
9 and retail dispensing locations licensed; the total licensing
10 fees collected; the total amount of taxes collected from growing
11 facilities, production centers, and retail dispensing locations;
12 and any licensing violations determined by the department.

13 § -28 **Cultivation of medical marijuana by qualifying**
14 **patients and primary caregivers.** Nothing in this chapter shall
15 be construed as prohibiting a qualifying patient or primary
16 caregiver from cultivating or possessing an adequate supply of
17 medical marijuana pursuant to part IX of chapter 329.

18 § -29 **Coordination among state and federal agencies.**
19 The department shall initiate ongoing dialogue among relevant
20 state and federal agencies to identify processes and policies
21 that ensure the privacy of qualifying patients and the



1 compliance of qualifying patients, primary caregivers, and
2 medical marijuana growing facilities, production centers,
3 certified laboratories, and retail dispensing locations with
4 state laws and regulations related to medical marijuana.

5 § -30 **Public education.** (a) The department shall
6 conduct a continuing education and training program to explain
7 and clarify the purposes and requirements of this chapter or to
8 provide substance abuse prevention and education. The program
9 shall target community partner agencies, physicians and other
10 health care providers, patients and caregivers, law enforcement
11 agencies, law and policy makers, and the general public.

12 (b) The department shall employ at least one full-time
13 staff member whose qualifications and duties include the
14 provision of medical marijuana health education.

15 § -31 **Administrative rules.** (a) The department shall
16 adopt rules pursuant to chapter 91 to effectuate the purposes of
17 this chapter.

18 (b) No later than July 1, 2017, the department shall adopt
19 interim rules, which shall be exempt from chapter 91 and chapter
20 201M, to effectuate the purposes of this chapter; provided that
21 the interim rules shall remain in effect until January 1, 2020,



1 or until rules are adopted pursuant to subsection (a), whichever
2 occurs sooner."

3 PART II

4 SECTION 2. Section 46-4, Hawaii Revised Statutes, is
5 amended by amending subsection (f) to read as follows:

6 "(f) Neither this section nor any other law, county
7 ordinance, or rule shall prohibit the use of land for medical
8 marijuana growing facilities, medical marijuana production
9 centers, or medical marijuana [dispensaries] retail dispensing
10 locations established and licensed pursuant to chapter [~~329D~~]
11 _____; provided that the land is otherwise zoned for
12 agriculture, manufacturing, or retail purposes."

13 PART III

14 SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) There is established within the state treasury the
17 medical marijuana registry and regulation special fund. The
18 fund shall be expended at the discretion of the director of
19 health:

- 20 (1) To establish and regulate a system of medical
21 marijuana [~~dispensaries~~] growing facilities,



1 production centers, and retail dispensing locations in
2 the State;

3 (2) To offset the cost of the processing and issuance of
4 patient registry identification certificates and
5 primary caregiver registration certificates;

6 (3) To fund positions and operating costs authorized by
7 the legislature;

8 (4) To establish and manage a secure and confidential
9 database;

10 (5) To fund public education as required by
11 section [~~329D-26~~] -30;

12 (6) To fund substance abuse prevention and education
13 programs; and

14 (7) For any other expenditure necessary, consistent with
15 this chapter and chapter [~~329D,~~] , to implement
16 medical marijuana registry and regulation programs.

17 (b) The fund shall consist of all moneys derived from fees
18 collected pursuant to subsection (c) and section [~~329D-4~~.]
19 -4. There is established within the medical marijuana
20 registry and regulation special fund:



1 (1) A medical marijuana registry program sub-account, into
2 which shall be deposited all fees collected pursuant
3 to subsection (c); and

4 (2) A medical marijuana dispensary program sub-account,
5 into which shall be deposited all fees collected
6 pursuant to section [~~329D-4.~~] -4."

7 PART IV

8 SECTION 4. Section 329-121, Hawaii Revised Statutes, is
9 amended by amending the definition of "adequate supply" to read
10 as follows:

11 ""Adequate supply" means an amount of marijuana jointly
12 possessed between the qualifying patient and the primary
13 caregiver that is not more than is reasonably necessary to
14 ensure the uninterrupted availability of marijuana for the
15 purpose of alleviating the symptoms or effects of a qualifying
16 patient's debilitating medical condition; provided that an
17 "adequate supply" shall not exceed: seven marijuana plants,
18 whether immature or mature, and four ounces of usable marijuana
19 at any given time. The four ounces of usable marijuana shall
20 include any combination of usable marijuana and manufactured
21 marijuana products, as provided in chapter [~~329D-7~~] , with



1 the marijuana in the manufactured marijuana products being
2 calculated using information provided pursuant to section
3 [~~329D-9(e).~~] -12(c)."

4 SECTION 5. Section 329-122, Hawaii Revised Statutes, is
5 amended by amending subsections (c) and (d) to read as follows:

6 "(c) The authorization for the medical use of marijuana in
7 this section shall not apply to:

8 (1) The medical use of marijuana that endangers the health
9 or well-being of another person;

10 (2) The medical use of marijuana:

11 (A) In a school bus, public bus, or any moving
12 vehicle;

13 (B) In the workplace of one's employment;

14 (C) On any school grounds;

15 (D) At any public park, public beach, public
16 recreation center, recreation or youth center; or

17 (E) At any other place open to the public; provided
18 that a qualifying patient, primary caregiver, or
19 an owner or employee of a medical marijuana

20 [~~dispensary~~] growing facility, production center,
21 or retail dispensing location licensed under



1 chapter [329D] _____ shall not be prohibited from
2 transporting marijuana or any manufactured
3 marijuana product, as that term is defined in
4 section [329D-1,] _____-1 in any public place;
5 provided further that the marijuana or
6 manufactured marijuana product shall be
7 transported in a sealed container, not be visible
8 to the public, and shall not be removed from its
9 sealed container or consumed or used in any way
10 while it is in the public place; and

11 (3) The use of marijuana by a qualifying patient, parent,
12 or primary caregiver for purposes other than medical
13 use permitted by this part.

14 (d) For the purposes of this section, "transport" means
15 the transportation of marijuana, usable marijuana, or any
16 manufactured marijuana product between:

17 (1) A qualifying patient and the qualifying patient's
18 primary caregiver; or

19 (2) The growing facility, production centers, and [~~the~~]
20 retail dispensing locations under a [~~dispensary~~]
21 licensee's license;



1 provided that "transport" does not include the interisland
2 transportation of marijuana, usable marijuana, or any
3 manufactured marijuana product."

4 SECTION 6. Section 329-125.6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~§~~329-125.6~~§~~] **Protections afforded to an owner or**
7 **qualified employee of a licensed medical marijuana [~~dispensary-~~**
8 **growing facility, production center, or retail dispensing**

9 **location.** (a) An owner or employee of a medical marijuana
10 [~~dispensary~~] growing facility, production center, or retail
11 dispensing location that is licensed under chapter [~~329D~~] _____
12 may assert the cultivation, production, or distribution of
13 medical marijuana as an affirmative defense to any prosecution
14 involving marijuana under this part, chapter [~~329D~~], _____, or
15 chapter 712; provided that the owner or employee strictly
16 complied with the requirements of chapter [~~329D~~] _____ and any
17 administrative rules adopted thereunder.

18 (b) An owner or employee of a licensed medical marijuana
19 [~~dispensary~~] growing facility, production center, or retail
20 dispensing location not strictly complying with the requirements
21 of chapter [~~329D~~], _____, and any administrative rules adopted



1 thereunder, shall not be afforded the protections provided by
2 subsection (a)."

3 SECTION 7. Section 329-130, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§329-130[+] **Authorized sources of medical marijuana.**

6 (a) After December 31, 2018, a qualifying patient shall obtain
7 medical marijuana or manufactured marijuana products only:

8 (1) From a [~~dispensary~~] retail dispensing location
9 licensed pursuant to chapter [~~329D,~~] _____; provided
10 that the marijuana shall be purchased and paid for at
11 the time of purchase; or

12 (2) By cultivating marijuana in an amount that does not
13 exceed an adequate supply for the qualifying patient,
14 pursuant to section 329-122.

15 After December 31, 2018, no primary caregiver shall be
16 authorized to cultivate marijuana for any qualifying patient.

17 (b) This section shall not apply to:

18 (1) A qualifying patient who is a minor or an adult
19 lacking legal capacity and the primary caregiver is
20 the parent, guardian, or person having legal custody



1 of a qualifying patient described in this paragraph;

2 or

3 (2) A qualifying patient on any island on which there is
4 no medical marijuana [~~dispensary~~] retail dispensing
5 location licensed pursuant to chapter [~~329D~~] _____."

6 PART V

7 SECTION 8. Section 846-2.7, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

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

10 (1) The department of health or its designee on operators
11 of adult foster homes for individuals with
12 developmental disabilities or developmental
13 disabilities domiciliary homes and their employees, as
14 provided by section 321-15.2;

15 (2) The department of health or its designee on
16 prospective employees, persons seeking to serve as
17 providers, or subcontractors in positions that place
18 them in direct contact with clients when providing
19 non-witnessed direct mental health or health care
20 services as provided by section 321-171.5;



- 1 (3) The department of health or its designee on all
2 applicants for licensure or certification for,
3 operators for, prospective employees, adult
4 volunteers, and all adults, except adults in care, at
5 health care facilities as defined in section 321-15.2;
- 6 (4) The department of education on employees, prospective
7 employees, and teacher trainees in any public school
8 in positions that necessitate close proximity to
9 children as provided by section 302A-601.5;
- 10 (5) The counties on employees and prospective employees
11 who may be in positions that place them in close
12 proximity to children in recreation or child care
13 programs and services;
- 14 (6) The county liquor commissions on applicants for liquor
15 licenses as provided by section 281-53.5;
- 16 (7) The county liquor commissions on employees and
17 prospective employees involved in liquor
18 administration, law enforcement, and liquor control
19 investigations;
- 20 (8) The department of human services on operators and
21 employees of child caring institutions, child placing



1 organizations, and foster boarding homes as provided
2 by section 346-17;

3 (9) The department of human services on prospective
4 adoptive parents as established under section
5 346-19.7;

6 (10) The department of human services on applicants to
7 operate child care facilities, prospective employees
8 of the applicant, and new employees of the provider
9 after registration or licensure as provided by section
10 346-154;

11 (11) The department of human services on persons exempt
12 pursuant to section 346-152 to be eligible to provide
13 child care and receive child care subsidies as
14 provided by section 346-152.5;

15 (12) The department of health on operators and employees of
16 home and community-based case management agencies and
17 operators and other adults, except for adults in care,
18 residing in community care foster family homes as
19 provided by section 321-15.2;



- 1 (13) The department of human services on staff members of
2 the Hawaii youth correctional facility as provided by
3 section 352-5.5;
- 4 (14) The department of human services on employees,
5 prospective employees, and volunteers of contracted
6 providers and subcontractors in positions that place
7 them in close proximity to youth when providing
8 services on behalf of the office or the Hawaii youth
9 correctional facility as provided by section 352D-4.3;
- 10 (15) The judiciary on employees and applicants at detention
11 and shelter facilities as provided by section 571-34;
- 12 (16) The department of public safety on employees and
13 prospective employees who are directly involved with
14 the treatment and care of persons committed to a
15 correctional facility or who possess police powers
16 including the power of arrest as provided by section
17 353C-5;
- 18 (17) The board of private detectives and guards on
19 applicants for private detective or private guard
20 licensure as provided by section 463-9;



- 1 (18) Private schools and designated organizations on
2 employees and prospective employees who may be in
3 positions that necessitate close proximity to
4 children; provided that private schools and designated
5 organizations receive only indications of the states
6 from which the national criminal history record
7 information was provided pursuant to section 302C-1;
- 8 (19) The public library system on employees and prospective
9 employees whose positions place them in close
10 proximity to children as provided by section
11 302A-601.5;
- 12 (20) The State or any of its branches, political
13 subdivisions, or agencies on applicants and employees
14 holding a position that has the same type of contact
15 with children, vulnerable adults, or persons committed
16 to a correctional facility as other public employees
17 who hold positions that are authorized by law to
18 require criminal history record checks as a condition
19 of employment as provided by section 78-2.7;
- 20 (21) The department of health on licensed adult day care
21 center operators, employees, new employees,



1 subcontracted service providers and their employees,
2 and adult volunteers as provided by section 321-15.2;

3 (22) The department of human services on purchase of
4 service contracted and subcontracted service providers
5 and their employees serving clients of the adult
6 protective and community services branch, as provided
7 by section 346-97;

8 (23) The department of human services on foster grandparent
9 program, senior companion program, and respite
10 companion program participants as provided by section
11 346-97;

12 (24) The department of human services on contracted and
13 subcontracted service providers and their current and
14 prospective employees that provide home and community-
15 based services under section 1915(c) of the Social
16 Security Act, title 42 United States Code section
17 1396n(c), or under any other applicable section or
18 sections of the Social Security Act for the purposes
19 of providing home and community-based services, as
20 provided by section 346-97;



1 (25) The department of commerce and consumer affairs on
2 proposed directors and executive officers of a bank,
3 savings bank, savings and loan association, trust
4 company, and depository financial services loan
5 company as provided by section 412:3-201;

6 (26) The department of commerce and consumer affairs on
7 proposed directors and executive officers of a
8 nondepository financial services loan company as
9 provided by section 412:3-301;

10 (27) The department of commerce and consumer affairs on the
11 original chartering applicants and proposed executive
12 officers of a credit union as provided by section
13 412:10-103;

14 (28) The department of commerce and consumer affairs on:
15 (A) Each principal of every non-corporate applicant
16 for a money transmitter license; and
17 (B) The executive officers, key shareholders, and
18 managers in charge of a money transmitter's
19 activities of every corporate applicant for a
20 money transmitter license,
21 as provided by sections 489D-9 and 489D-15;



1 (29) The department of commerce and consumer affairs on
2 applicants for licensure and persons licensed under
3 title 24;

4 (30) The Hawaii health systems corporation on:

5 (A) Employees;

6 (B) Applicants seeking employment;

7 (C) Current or prospective members of the corporation
8 board or regional system board; or

9 (D) Current or prospective volunteers, providers, or
10 contractors,

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

13 (31) The department of commerce and consumer affairs on:

14 (A) An applicant for a mortgage loan originator
15 license; and

16 (B) Each control person, executive officer, director,
17 general partner, and manager of an applicant for

18 a mortgage loan originator company license,
19 as provided by chapter 454F;

20 (32) The state public charter school commission or public
21 charter schools on employees, teacher trainees,



1 prospective employees, and prospective teacher
2 trainees in any public charter school for any position
3 that places them in close proximity to children, as
4 provided in section 302D-33;

5 (33) The counties on prospective employees who work with
6 children, vulnerable adults, or senior citizens in
7 community-based programs;

8 (34) The counties on prospective employees for fire
9 department positions which involve contact with
10 children or vulnerable adults;

11 (35) The counties on prospective employees for emergency
12 medical services positions which involve contact with
13 children or vulnerable adults;

14 (36) The counties on prospective employees for emergency
15 management positions and community volunteers whose
16 responsibilities involve planning and executing
17 homeland security measures including viewing,
18 handling, and engaging in law enforcement or
19 classified meetings and assisting vulnerable citizens
20 during emergencies or crises;



- 1 (37) The State and counties on employees, prospective
2 employees, volunteers, and contractors whose position
3 responsibilities require unescorted access to secured
4 areas and equipment related to a traffic management
5 center;
- 6 (38) The State and counties on employees and prospective
7 employees whose positions involve the handling or use
8 of firearms for other than law enforcement purposes;
- 9 (39) The State and counties on current and prospective
10 systems analysts and others involved in an agency's
11 information technology operation whose position
12 responsibilities provide them with access to
13 proprietary, confidential, or sensitive information;
- 14 (40) The department of commerce and consumer affairs on
15 applicants for real estate appraiser licensure or
16 certification as provided by chapter 466K;
- 17 (41) The department of health or its designee on all
18 license applicants, licensees, employees, contractors,
19 and prospective employees of medical marijuana
20 ~~[dispensaries,]~~ growing facilities, production
21 centers, or retail dispensing locations, and



1 individuals permitted to enter and remain in medical
2 marijuana [~~dispensary facilities~~] growing facilities,
3 production centers, or retail dispensing locations as
4 provided under sections [~~329D-15(a)(4) and~~
5 ~~329D-16(a)(3);~~] -18(a)(3), -19(a)(3), and
6 -20(a)(4); and

7 (42) Any other organization, entity, or the State, its
8 branches, political subdivisions, or agencies as may
9 be authorized by state law."

10 PART VI

11 SECTION 9. Chapter 329D, Hawaii Revised Statutes, is
12 repealed.

13 PART VII

14 SECTION 10. No later than March 15, 2017, the director of
15 health, or the director's designee, shall submit a report and
16 provide an informational briefing to the legislature concerning
17 the progress of implementing part I of this Act, including the
18 status of rulemaking by the department of health pertaining to
19 the licensure of medical marijuana growing facilities,
20 production centers, and retail dispensing locations.

21 PART VIII



1 SECTION 11. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

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

10 SECTION 13. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 14. This Act shall take effect on January 1, 2017;
13 provided that part VI of this Act shall take effect on
14 December 31, 2016.

15

INTRODUCED BY: Will Eyer
Mike Gabbard
Bill Piro
Russ E. P.



S.B. NO. 2307

Report Title:

Medical Marijuana Dispensary Program; Operations; Licensing

Description:

Beginning January 1, 2017, establishes a licensing system for medical marijuana growing facilities, production centers, and retail dispensing locations. Allows persons authorized to use and possess medical marijuana in other states to be treated similarly to qualifying patients in this State pursuant to rules adopted by the department of health after 1/1/2018. Authorizes the department of health to conduct criminal history checks on license applicants; licensees; prospective employees of growing facilities, production centers, and retail dispensing locations; subcontractors; and persons authorized to enter and remain on such premises. Repeals chapter 329D on December 31, 2016.

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

