
A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

PART I

1
2 SECTION 1. The legislature finds that Hawaii's medical use
3 of marijuana law was enacted on June 14, 2000, as Act 228,
4 Session Laws of Hawaii 2000, to provide medical relief for
5 seriously ill individuals in the State. While the current law
6 recognizes the beneficial use of marijuana in treating or
7 alleviating pain or other symptoms associated with certain
8 debilitating illnesses, it is silent on how patients can obtain
9 medical marijuana if they or their caregivers are unable to grow
10 their own supply of medical marijuana. The legislature further
11 finds that many of the State's nearly thirteen thousand
12 qualifying patients lack the ability to grow their own supply of
13 medical marijuana due to a number of factors, including
14 disability and limited space to grow medical marijuana. As a
15 result, a regulated statewide dispensary system for medical
16 marijuana is urgently needed by qualifying patients in the
17 State.



1 "Manufactured marijuana product" means any capsule,
2 lozenge, oil, or pill that has been manufactured using
3 marijuana.

4 "Marijuana" shall have the same meaning as in section 329-
5 121.

6 "Medical marijuana dispensary" or "dispensary" means an
7 establishment operated by a person licensed by the State
8 pursuant to this part where medical marijuana or medical
9 marijuana products manufactured pursuant to this part are made
10 available for retail sale to qualifying patients or primary
11 caregivers pursuant to this part and to section 329-122.

12 "Medical marijuana production center" or "production
13 center" means a farm or facility operated by a person licensed
14 by the State pursuant to this part where marijuana is cultivated
15 with the limited and express intent that marijuana or medical
16 marijuana products manufactured pursuant to this part be
17 supplied to medical marijuana dispensaries or other medical
18 marijuana production centers, pursuant to this part and to
19 section 329-122.



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

4 "Primary caregiver" shall have the same meaning as in
5 section 329-121.

6 "Production" means the planting, cultivating, growing, or
7 harvesting of marijuana. "Production" includes the manufacture
8 of medical marijuana products pursuant to this part.

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

11 **§321-B Medical marijuana dispensaries; licensure; fees;**
12 **inspection.** (a) No person may operate a dispensary unless the
13 person has obtained a license from the department pursuant to
14 this section.

15 (b) The department shall adopt rules, in accordance with
16 chapter 91, to provide for the licensure and standards for
17 dispensaries in this State.

18 (c) The department may begin offering licenses to
19 dispensaries on July 1, 2016.



1 (d) Dispensaries licensed pursuant to this section may
2 begin dispensing marijuana to qualifying patients and primary
3 caregivers on January 1, 2017.

4 (e) The department shall determine the number of
5 dispensaries appropriate to meet the needs of qualifying
6 patients in this State; provided that:

7 (1) Six dispensary licenses shall be offered to qualified
8 applicants in the State by July 1, 2016; provided
9 that:

10 (A) Two licenses may be offered in the city and
11 county of Honolulu;

12 (B) Two licenses may be offered in the county of
13 Hawaii;

14 (C) One license may be offered in the county of
15 Kauai; and

16 (D) One license may be offered in the county of Maui;

17 (2) Twelve dispensary licenses in total shall be offered
18 to qualified applicants in the State by July 1, 2017;
19 provided that at least one dispensary license shall be
20 offered in each county; provided further that a



1 dispensary shall not be required in the county of
2 Kalawao; and

3 (3) The department shall determine whether, based on
4 qualifying patient need, additional licenses shall be
5 offered to qualified applicants in the State after
6 July 1, 2017; provided that licenses may be issued in
7 proportion to qualifying patient density within each
8 county, which the department shall review and
9 determine annually after July 1, 2017; provided
10 further that the department may make available no more
11 than one license per five hundred registered patients.
12 For the purposes of this section, qualifying patient
13 density shall be calculated by using a qualifying
14 patient's county of residency.

15 (f) Each person seeking licensure as a dispensary shall
16 submit an application in the form prescribed by the department,
17 as well as a fee of \$; provided that:

18 (1) The applicant shall submit the fee in the form of one
19 payment in the amount of \$ and a second
20 payment in the amount of \$;



1 (2) If the application is unsuccessful, the department
2 shall retain the fee of \$, and return the
3 payment of \$; and

4 (3) Application fees of successful applicants are
5 nonrefundable.

6 (g) The department shall establish and collect an annual
7 renewal fee of \$ from a medical marijuana dispensary;
8 provided that the amount of the renewal fee shall be subject to
9 review and revision by the department; provided further that the
10 renewal fee shall be sufficient to cover the department's
11 expenses in carrying out this part.

12 (h) 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 **§321-C Medical marijuana production centers; licensure;**
16 **fees; inspection.** (a) No person may operate a medical marijuana
17 production center unless the person has obtained a license from
18 the department pursuant to this section.

19 (b) The department shall adopt rules, in accordance with
20 chapter 91, to provide for the licensure and standards for
21 medical marijuana production centers in this State.



1 (c) Medical marijuana production centers may distribute
2 marijuana only to dispensaries or other production centers
3 licensed pursuant to this part. Medical marijuana production
4 centers shall not distribute marijuana directly to qualifying
5 patients or primary caregivers.

6 (d) The department may offer to qualified applicants in
7 the State not more than:

- 8 (1) licenses beginning on March 1, 2016; and
- 9 (2) licenses in total beginning on March 1,
- 10 2017.

11 (e) The department shall determine whether it is necessary
12 and appropriate to offer additional licenses to qualified
13 applicants after March 1, 2017, to meet the needs of qualifying
14 patients and dispensaries in this State; provided that the
15 department shall base this determination on the presumption that
16 no single production center shall acquire, cultivate,
17 manufacture, possess, or transport more than marijuana
18 plants in total at any one time.

19 (f) The department shall offer two types of licenses,
20 which shall authorize qualified production centers to acquire,



1 cultivate, manufacture, possess, or transport either no more
2 than:

- 3 (1) marijuana plants in total at any one time; or
- 4 (2) marijuana plants in total at any one time.

5 (g) Each person seeking a license pursuant to subsection
6 (f) (1) shall submit an application in the form prescribed by the
7 department, as well as a fee of \$; provided that:

8 (1) The applicant shall submit the fee in the form of two
9 payments in the amount of \$ each;

10 (2) If the application is unsuccessful, the department
11 shall retain the initial fee payment of \$,
12 and return the second payment of \$; and

13 (3) Application fees of successful applicants are
14 nonrefundable.

15 (h) Each person seeking a license pursuant to subsection
16 (f) (2) shall submit an application in the form prescribed by the
17 department, as well as a fee of \$; provided that:

18 (1) The applicant shall submit the fee in the form of two
19 payments in the amount of \$ each;



1 (2) If the application is unsuccessful, the department
2 shall retain the initial fee payment of \$,
3 and return the second payment of \$; and

4 (3) Application fees of successful applicants are
5 nonrefundable.

6 (i) The department shall establish and collect an annual
7 renewal fee from medical marijuana production centers sufficient
8 to cover the department's expenses in carrying out this part.

9 (j) All fees collected pursuant to this section shall be
10 deposited in the medical marijuana registry and regulation
11 special fund pursuant to section 321-30.1.

12 (k) A medical marijuana production center shall affix a
13 numerical identification tag, as prescribed by the department,
14 to each marijuana plant under the control of the production
15 center. The numerical identification tag shall serve as the
16 basis of the inventory tracking system required by the
17 department pursuant to rules adopted in accordance with section
18 321-H(11) (A).

19 §321-D Public education. (a) The department shall engage
20 in a continuing education and training program to explain and
21 clarify the purposes and requirements of this part. The program



1 shall target community partner agencies, physicians and other
2 health care providers, patients and caregivers, law enforcement
3 agencies, individuals under eighteen years of age, law and
4 policy makers, and the general public.

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

8 §321-E Manufacturing of medical marijuana products. (a)
9 Any medical marijuana dispensary or production center licensed
10 by the department pursuant to this part shall be permitted to
11 manufacture medical marijuana; provided that the dispensary or
12 production center shall also obtain any other state or county
13 permits or licenses that may be necessary for a particular
14 manufacturing activity.

15 (b) The department shall establish standards regarding the
16 manufacture of medical marijuana products; provided that any
17 area within a dispensary or production center where marijuana
18 will be manufactured into an ingestible form shall comply with
19 the food safety code, chapter 11-50, Hawaii Administrative
20 Rules.



1 (c) A manufacturer of a manufactured marijuana product
2 shall calculate the equivalent physical weight of the marijuana
3 that is used to manufacture the product and shall make the
4 equivalency calculations available to the department and to a
5 consumer of the manufactured marijuana product.

6 §321-F Types of manufactured marijuana products. (a) The
7 types of medical marijuana products that may be manufactured and
8 distributed pursuant to this part shall be limited to:

- 9 (1) Capsules;
- 10 (2) Lozenges;
- 11 (3) Oils; and
- 12 (4) Pills.

13 (b) As used in this section, "lozenge" means a small
14 tablet manufactured in a manner to allow for the dissolving of
15 its medicinal or therapeutic component slowly in the mouth.

16 §321-G Advertising and packaging. (a) The department
17 shall establish standards regarding the advertising and
18 packaging of medical marijuana products; provided that the
19 standards, at a minimum, shall require the use of packaging
20 that:



- 1 (1) Is child-resistant and opaque so that the product
- 2 cannot be seen from outside the packaging;
- 3 (2) Is clearly labeled with the phrase "For medical use
- 4 only";
- 5 (3) Contains information about the contents and potency of
- 6 the product; and
- 7 (4) In the case of manufactured marijuana products, lists
- 8 the equivalent physical weight of the marijuana used
- 9 to manufacture the amount of the product that is
- 10 within the packaging, pursuant to section 321-E.
- 11 (b) Any capsule, lozenge, or pill containing medical
- 12 marijuana or its principal psychoactive constituent
- 13 tetrahydrocannabinol shall be packaged so that one dose,
- 14 serving, or single wrapped item contains no more than ten
- 15 milligrams of tetrahydrocannabinol.

16 **§321-H Medical marijuana production center and dispensary**
17 **rules.** The department shall adopt rules pursuant to chapter 91
18 for the purposes of this part and with respect to:

- 19 (1) The number of medical marijuana production centers and
- 20 dispensaries that shall be permitted to operate in the
- 21 State;



- 1 (2) A fee structure for the submission of applications and
- 2 renewal of licenses to operate production centers or
- 3 dispensaries;
- 4 (3) Any specific requirements regarding annual audits and
- 5 reports pertaining to each production center and
- 6 dispensary that is licensed pursuant to this part;
- 7 (4) Security requirements for the operation of production
- 8 centers and dispensaries; provided that the
- 9 requirements, at a minimum, shall require:
- 10 (A) For production centers:
- 11 (i) Video monitoring and recording of the
- 12 premises;
- 13 (ii) Fencing that surrounds the premises and that
- 14 is sufficient to reasonably deter intruders
- 15 and prevent anyone outside the premises from
- 16 viewing any marijuana in any form;
- 17 (iii) An alarm system; and
- 18 (iv) Other reasonable security measures to deter
- 19 or prevent intruders, as deemed necessary by
- 20 the department;
- 21 (B) For dispensaries:



- 1 (i) Presentation of valid identification as
- 2 issued by the department pursuant to section
- 3 329-123, by a qualifying patient or
- 4 caregiver, upon entering the premises;
- 5 (ii) Video monitoring and recording of the
- 6 premises;
- 7 (iii) An alarm system;
- 8 (iv) Exterior lighting; and
- 9 (v) Other reasonable security measures as deemed
- 10 necessary by the department;
- 11 (5) Security requirements for the transportation of
- 12 medical marijuana and manufactured marijuana products;
- 13 (6) Standards and criminal background checks for operators
- 14 and employees of production centers and dispensaries;
- 15 provided that the standards, at a minimum, shall
- 16 exclude from licensure or employment any person
- 17 convicted of any felony; provided that the department
- 18 may adopt rules exempting from this paragraph a person
- 19 who was convicted of a felony that was specifically
- 20 related to marijuana, if the conviction was at least
- 21 ten years prior to the licensure or employment;



- 1 (7) The training and certification of operators and
2 employees of production centers and dispensaries;
3 provided that the department shall establish a
4 training or certification program for dispensary
5 employees;
- 6 (8) The types of medical marijuana products that
7 production centers and dispensaries shall be
8 authorized to grow, manufacture, sell, or provide
9 pursuant to section 321-F;
- 10 (9) Standards and methodologies related to testing medical
11 marijuana products for content, contamination, and
12 consistency;
- 13 (10) The quantities of manufactured marijuana products that
14 a dispensary may sell or provide to a qualifying
15 patient or primary caregiver; provided that no
16 dispensary or dispensaries shall sell or provide to a
17 qualifying patient or primary caregiver any
18 combination of marijuana and manufactured marijuana
19 products that:



- 1 (A) During a period of fifteen consecutive days,
- 2 exceeds the equivalent of four ounces of
- 3 marijuana; or
- 4 (B) During a period of thirty consecutive days,
- 5 exceeds the equivalent of eight ounces of
- 6 marijuana;
- 7 (11) Dispensary and production center inventory controls to
- 8 prevent the unauthorized diversion of marijuana or the
- 9 distribution of medical marijuana or manufactured
- 10 marijuana products to qualifying patients or primary
- 11 caregivers in quantities that exceed limits
- 12 established by this section; provided that the
- 13 controls, at a minimum, shall include:
- 14 (A) A computer software tracking system that utilizes
- 15 numerical identification tags to allow the
- 16 department to track all medical marijuana and
- 17 medical marijuana product inventory from either
- 18 seed or immature plant stage until the marijuana
- 19 or marijuana product is sold to a customer or
- 20 destroyed; and



1 (B) Product packaging standards sufficient to allow
2 law enforcement personnel to reasonably determine
3 the contents of an unopened package;

4 (12) The enforcement of prohibitions against the sale or
5 provision of medical marijuana or manufactured
6 marijuana products to unauthorized persons or to
7 qualifying patients or primary caregivers in
8 quantities that exceed limits established by this
9 section;

10 (13) Any limitations to the size or format of any signs
11 placed outside a dispensary or production center;
12 provided that no sign shall include the image of a
13 cartoon character or other design intended to appeal
14 to children; and

15 (14) The establishment of a range of penalties for
16 violations of this part or rules adopted thereunder.

17 **§321-I Prohibited acts related to visits to more than one**
18 **dispensary to obtain medical marijuana or manufactured marijuana**
19 **products. (a) It is unlawful for any qualifying patient or**
20 **primary caregiver who visits more than one dispensary to**
21 **knowingly or intentionally withhold information regarding prior**



1 dispensary visits for the purpose of obtaining quantities of
2 medical marijuana or manufactured marijuana products that exceed
3 limits established by this part.

4 (b) Any person who violates this section is guilty of a
5 petty misdemeanor and subject to a fine of \$500.

6 §321-J Revocation and suspension of license. (a) In
7 addition to any other actions authorized by law, the department
8 shall have the power to deny, revoke, or suspend any license
9 applied for or issued by the department in accordance with this
10 part, and to fine or otherwise discipline a licensee for any
11 cause authorized by law, including but not limited to the
12 following:

- 13 (1) Procuring a license through fraud, misrepresentation,
14 or deceit;
- 15 (2) Professional misconduct, gross carelessness, or
16 manifest incapacity;
- 17 (3) Violation of any of the provisions of this part or the
18 rules adopted pursuant thereto;
- 19 (4) False, fraudulent, or deceptive advertising;
- 20 (5) Any other conduct constituting fraudulent or dishonest
21 dealings;



1 (6) Failure to comply with a department order; and
 2 (7) Making a false statement on any document submitted or
 3 required to be filed by this part, including
 4 furnishing false or fraudulent material information in
 5 any application.

6 (b) Any person who violates any of the provisions of this
 7 chapter or the rules adopted pursuant thereto shall be fined not
 8 less than \$ nor more than \$ for each
 9 violation.

10 (c) If the department revokes or suspends a license, the
 11 licensee shall not:

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

15 (2) Manufacture marijuana products,
 16 until the time for taking an appeal has elapsed or until all
 17 appeals have been concluded. Upon a revocation order becoming
 18 final, all marijuana and manufactured marijuana products may be
 19 forfeited to the State.

20 (d) All proceedings for denial, suspension, fine, or
 21 revocation of a license on any grounds specified in subsection



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

3 §321-K Medical marijuana zoning. (a) Medical marijuana
4 production centers and dispensaries shall comply with all county
5 zoning ordinances, rules, or regulations; provided that:

6 (1) A medical marijuana production center shall be
7 permitted in any area in which agricultural production
8 is permitted except as provided within this part; and

9 (2) No medical marijuana production center or dispensary
10 shall be permitted within seven hundred fifty feet of
11 the real property comprising a playground, public
12 housing project or complex, or school.

13 (b) As used in this section:

14 "Playground" means any public outdoor facility, including
15 any parking lot appurtenant thereto, that is intended for
16 recreation, with any portion thereof containing three or more
17 separate apparatus intended for the recreation of children,
18 including but not limited to sliding boards, swing sets, and
19 teeterboards.

20 "Public housing project or complex" means a housing project
21 directly controlled, owned, developed, or managed by the Hawaii



1 public housing authority pursuant to the federal or state low-
2 rent public housing program.

3 "School" means any public or private preschool,
4 kindergarten, elementary, intermediate, middle secondary, or
5 high school.

6 §321-L Annual inspections, audits, and reports. (a) Each
7 medical marijuana production center and dispensary licensed
8 pursuant to this part shall:

9 (1) Be subject to an annual announced inspection and
10 unannounced inspections of its operations by the
11 department; and

12 (2) Annually cause an independent financial audit, at the
13 production center's or dispensary operator's own
14 expense, to be conducted of the production center or
15 dispensary and shall submit the audit's findings to
16 the department.

17 (b) The department shall report annually to the governor
18 and the legislature on the establishment and regulation of
19 medical marijuana production centers and dispensaries including
20 but not limited to the number and location of production centers



1 and dispensaries licensed, the total licensing fees collected,
2 and any licensing violations determined by the department.

3 **§321-M Cultivation of medical marijuana by qualifying**
4 **patients and primary caregivers.** Nothing in this part shall be
5 construed as prohibiting a qualifying patient or primary
6 caregiver from cultivating or possessing an adequate supply of
7 medical marijuana pursuant to part IX of chapter 329.

8 **§321-N Coordination among state and federal agencies.** The
9 department shall initiate ongoing dialogue among relevant state
10 and federal agencies to identify processes and policies that
11 ensure the privacy of medical marijuana patients and the
12 compliance of patients, caregivers, producers, and dispensaries
13 with state laws and regulations related to medical marijuana.

14 **§321-O Interim rules.** The department may adopt interim
15 rules, which shall be exempt from chapter 91, to effectuate the
16 purposes of this part; provided that the interim rules shall be
17 effective for no more than twenty-four months.

18 **§321-P Medical marijuana advisory commission.** (a) There
19 is established within the department a medical marijuana
20 advisory commission which shall:



- 1 (1) Advise the director on all matters related to medical
- 2 marijuana;
- 3 (2) Monitor and evaluate the implementation of the
- 4 regulated statewide dispensary system for medical
- 5 marijuana; and
- 6 (3) Prepare and submit an annual report to the governor
- 7 and the legislature regarding the status of the
- 8 dispensary system for medical marijuana.
- 9 (b) The commission shall be composed of seven voting
- 10 members; provided that at least:
- 11 (1) One member shall have a background in agriculture;
- 12 (2) One member shall have a background in security;
- 13 (3) One member shall have a background in medical patient
- 14 advocacy;
- 15 (4) One member shall have a background in promoting good
- 16 business practices;
- 17 (5) One member shall have a background in taxation; and
- 18 (6) One member shall have legal expertise in regulated
- 19 industries and licensure.



1 The chairperson of the board of agriculture, the director of
2 health, and the director of taxation, or their designated
3 representatives shall serve as ex-officio nonvoting members.

4 (c) The seven voting members shall be appointed to the
5 commission no later than December 31, 2015, as follows:

6 (1) The governor shall appoint a member who shall serve as
7 chairperson of the commission;

8 (2) The president of the senate and the speaker of the
9 house of representatives shall each appoint a member;
10 and

11 (3) The mayor of each county shall appoint a member.

12 (d) The term of each member of the commission shall be for
13 four years; provided that the terms of the initial members of
14 the commission shall be staggered as follows:

15 (1) The member appointed by the governor shall be
16 appointed for a four-year term;

17 (2) The members appointed by the president of the senate
18 and the speaker of the house of representatives shall
19 be appointed for three-year terms; and

20 (3) The members appointed by the mayors of each county
21 shall be appointed for two-year terms.



1 A vacancy shall be filled in the same manner as the original
2 appointment.

3 (e) The members of the commission shall not be compensated
4 but shall be reimbursed for necessary expenses incurred in the
5 performance of their duties."

6 PART III

7 SECTION 3. Section 46-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§46-4 County zoning. (a) This section and any
10 ordinance, rule, or regulation adopted in accordance with this
11 section shall apply to lands not contained within the forest
12 reserve boundaries as established on January 31, 1957, or as
13 subsequently amended.

14 Zoning in all counties shall be accomplished within the
15 framework of a long-range, comprehensive general plan prepared
16 or being prepared to guide the overall future development of the
17 county. Zoning shall be one of the tools available to the
18 county to put the general plan into effect in an orderly manner.
19 Zoning in the counties of Hawaii, Maui, and Kauai means the
20 establishment of districts of such number, shape, and area, and
21 the adoption of regulations for each district to carry out the



1 purposes of this section. In establishing or regulating the
2 districts, full consideration shall be given to all available
3 data as to soil classification and physical use capabilities of
4 the land to allow and encourage the most beneficial use of the
5 land consonant with good zoning practices. The zoning power
6 granted herein shall be exercised by ordinance which may relate
7 to:

- 8 (1) The areas within which agriculture, forestry,
9 industry, trade, and business may be conducted;
- 10 (2) The areas in which residential uses may be regulated
11 or prohibited;
- 12 (3) The areas bordering natural watercourses, channels,
13 and streams, in which trades or industries, filling or
14 dumping, erection of structures, and the location of
15 buildings may be prohibited or restricted;
- 16 (4) The areas in which particular uses may be subjected to
17 special restrictions;
- 18 (5) The location of buildings and structures designed for
19 specific uses and designation of uses for which
20 buildings and structures may not be used or altered;



- 1 (6) The location, height, bulk, number of stories, and
- 2 size of buildings and other structures;
- 3 (7) The location of roads, schools, and recreation areas;
- 4 (8) Building setback lines and future street lines;
- 5 (9) The density and distribution of population;
- 6 (10) The percentage of a lot that may be occupied, size of
- 7 yards, courts, and other open spaces;
- 8 (11) Minimum and maximum lot sizes; and
- 9 (12) Other regulations the boards or city council find
- 10 necessary and proper to permit and encourage the
- 11 orderly development of land resources within their
- 12 jurisdictions.

13 The council of any county shall prescribe rules,
 14 regulations, and administrative procedures and provide personnel
 15 it finds necessary to enforce this section and any ordinance
 16 enacted in accordance with this section. The ordinances may be
 17 enforced by appropriate fines and penalties, civil or criminal,
 18 or by court order at the suit of the county or the owner or
 19 owners of real estate directly affected by the ordinances.

20 Any civil fine or penalty provided by ordinance under this
 21 section may be imposed by the district court, or by the zoning



1 agency after an opportunity for a hearing pursuant to chapter
2 91. The proceeding shall not be a prerequisite for any
3 injunctive relief ordered by the circuit court.

4 Nothing in this section shall invalidate any zoning
5 ordinance or regulation adopted by any county or other agency of
6 government pursuant to the statutes in effect prior to July 1,
7 1957.

8 The powers granted herein shall be liberally construed in
9 favor of the county exercising them, and in such a manner as to
10 promote the orderly development of each county or city and
11 county in accordance with a long-range, comprehensive general
12 plan to ensure the greatest benefit for the State as a whole.
13 This section shall not be construed to limit or repeal any
14 powers of any county to achieve these ends through zoning and
15 building regulations, except insofar as forest and water reserve
16 zones are concerned and as provided in subsections (c) and (d).

17 Neither this section nor any ordinance enacted pursuant to
18 this section shall prohibit the continued lawful use of any
19 building or premises for any trade, industrial, residential,
20 agricultural, or other purpose for which the building or
21 premises is used at the time this section or the ordinance takes



1 effect; provided that a zoning ordinance may provide for
2 elimination of nonconforming uses as the uses are discontinued,
3 or for the amortization or phasing out of nonconforming uses or
4 signs over a reasonable period of time in commercial,
5 industrial, resort, and apartment zoned areas only. In no event
6 shall such amortization or phasing out of nonconforming uses
7 apply to any existing building or premises used for residential
8 (single-family or duplex) or agricultural uses. Nothing in this
9 section shall affect or impair the powers and duties of the
10 director of transportation as set forth in chapter 262.

11 (b) Any final order of a zoning agency established under
12 this section may be appealed to the circuit court of the circuit
13 in which the land in question is found. The appeal shall be in
14 accordance with the Hawaii rules of civil procedure.

15 (c) Each county may adopt reasonable standards to allow
16 the construction of two single-family dwelling units on any lot
17 where a residential dwelling unit is permitted.

18 (d) Neither this section nor any other law, county
19 ordinance, or rule shall prohibit group living in facilities
20 with eight or fewer residents for purposes or functions that are
21 licensed, certified, registered, or monitored by the State;



1 provided that a resident manager or a resident supervisor and
2 the resident manager's or resident supervisor's family shall not
3 be included in this resident count. These group living
4 facilities shall meet all applicable county requirements not
5 inconsistent with the intent of this subsection, including but
6 not limited to building height, setback, maximum lot coverage,
7 parking, and floor area requirements.

8 (e) Neither this section nor any other law, county
9 ordinance, or rule shall prohibit the use of land for employee
10 housing and community buildings in plantation community
11 subdivisions as defined in section 205-4.5(a)(12); in addition,
12 no zoning ordinance shall provide for the elimination,
13 amortization, or phasing out of plantation community
14 subdivisions as a nonconforming use.

15 (f) Neither this section nor any other law, county
16 ordinance, or rule shall prohibit the use of land for medical
17 marijuana production centers or dispensaries established and
18 licensed pursuant to part of chapter 321."

19 PART IV

20 SECTION 4. Section 321-30.1, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " ~~[+]~~§321-30.1~~[+]~~ Medical marijuana registry and regulation
2 special fund; established. (a) There is established within the
3 state treasury the medical marijuana registry and regulation
4 special fund. The fund shall be expended at the discretion of
5 the director of health:

6 (1) To establish and regulate a system of medical
7 marijuana production centers and dispensaries in the
8 State;

9 ~~[(1)]~~ (2) To offset the cost of the processing and issuance
10 of patient registry identification certificates and
11 primary caregiver registration certificates;

12 ~~[(2)]~~ (3) To fund positions authorized by the legislature;

13 ~~[(3)]~~ (4) To establish and manage a secure and confidential
14 database; and

15 ~~[(4)]~~ (5) For any other expenditure necessary, as
16 authorized by the legislature, to implement [a]
17 medical marijuana registry and regulation ~~[program.]~~
18 programs.

19 (b) The fund shall consist of all moneys derived from fees
20 collected pursuant to subsection (c) ~~[-]~~ and sections 321-B and



1 321-C. There is established within the medical marijuana
2 registry and regulation special fund:

3 (1) A medical marijuana registry program sub-account, into
4 which shall be deposited [All] all fees collected
5 pursuant to subsection (c) [~~shall be deposited into~~
6 ~~the medical marijuana registry special fund.]~~; and

7 (2) A medical marijuana dispensary program sub-account,
8 into which shall be deposited all fees collected
9 pursuant to sections 321-B and 321-C.

10 (c) The department, upon completion of the transfer of the
11 medical use of marijuana program, shall charge a medical
12 marijuana registration fee of no more than \$35."

13 PART V

14 SECTION 5. Chapter 329, Hawaii Revised Statutes, is
15 amended by adding three new sections to part IX to be
16 appropriately designated and to read as follows:

17 "§329-A Protections afforded to an owner or qualified
18 employee of a licensed production center or dispensary. (a) An
19 owner or employee of a medical marijuana production center or a
20 medical marijuana dispensary that is licensed under section 321-
21 B or 321-C may assert the production or distribution of medical



1 marijuana as an affirmative defense to any prosecution involving
2 marijuana under this part or chapter 712; provided that the
3 owner or employee strictly complied with the requirements of
4 chapter 321, part _____.

5 (b) An owner or employee of a licensed medical marijuana
6 production center or licensed medical marijuana dispensary not
7 complying with the permitted scope of the production or
8 distribution of medical marijuana under chapter 321, part _____,
9 shall not be afforded the protections provided by subsection
10 (a).

11 (c) No person shall be subject to arrest or prosecution
12 for merely being in the presence or vicinity of a medical
13 marijuana production center or medical marijuana dispensary
14 licensed and operating under chapter 321, part _____.

15 §329-B Joint possession of medical marijuana;
16 registration; security requirements; medical marijuana
17 production center license. (a) Any combination of qualifying
18 patients or primary caregivers who cultivate more than twenty-
19 eight but fewer than _____ marijuana plants, whether mature
20 or immature, at the same location and who are not licensed to
21 operate a medical marijuana production center pursuant to



1 section 321-C, shall register with the department of health,
2 pursuant to rules adopted by the department of health under
3 chapter 91.

4 (b) The qualifying patients or primary caregivers who are
5 required to register under subsection (a) shall:

6 (1) Conduct constant video monitoring and recording of the
7 cultivation site; and

8 (2) Take other reasonable security measures to deter or
9 prevent intruders, as deemed necessary by the
10 department of health.

11 (c) Any combination of qualifying patients or primary
12 caregivers who cultivate _____ or more marijuana plants,
13 whether mature or immature, at the same location shall obtain a
14 license to operate a medical marijuana production center from
15 the department of health, pursuant to section 321-C, and shall
16 comply with all requirements imposed on medical marijuana
17 production centers by part _____ of chapter 321.

18 (d) Notwithstanding any law to the contrary, any person
19 who fails to comply with this section shall be guilty of a petty
20 misdemeanor and subject to a fine of \$500.



1 §329-C Authorized sources of medical marijuana. (a)

2 Commencing July 1, 2018, a qualifying patient shall obtain
3 medical marijuana only:

4 (1) From a dispensary licensed pursuant to section 321-B;
5 provided that the marijuana shall be purchased and
6 paid for at the time of purchase; or

7 (2) By cultivating marijuana in an amount that does not
8 exceed an adequate supply for the qualifying patient,
9 pursuant to section 329-122;

10 After June 30, 2018, no primary caregiver shall be authorized to
11 cultivate marijuana for any qualifying patient.

12 (b) This section shall not apply to:

13 (1) A qualifying patient who is a minor or an adult
14 lacking legal capacity; and

15 (2) A primary caregiver who is the parent, guardian, or
16 person having legal custody of a qualifying patient
17 described in paragraph (1)."

18 SECTION 6. Section 329-121, Hawaii Revised Statutes, is
19 amended by amending the definition of "adequate supply" to read
20 as follows:



1 " Adequate supply" means an amount of marijuana jointly
2 possessed between the qualifying patient and the primary
3 caregiver that is not more than is reasonably necessary to
4 [assure] ensure the uninterrupted availability of marijuana for
5 the purpose of alleviating the symptoms or effects of a
6 qualifying patient's debilitating medical condition; provided
7 that an "adequate supply" shall not exceed: seven marijuana
8 plants, whether immature or mature, and four ounces of usable
9 marijuana at any given time[-]; or any combination of usable
10 marijuana and marijuana products manufactured pursuant to
11 part of chapter 321 that exceed four ounces of usable
12 marijuana or the equivalent of four ounces of usable marijuana,
13 as calculated using information provided pursuant to section
14 321-G(a) (4) ."

15 SECTION 7. Section 329-122, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§329-122 Medical use of marijuana; conditions of use.**

18 Notwithstanding any law to the contrary, the medical use of
19 marijuana by a qualifying patient shall be permitted only if:

- 20 (1) The qualifying patient has been diagnosed by a
- 21 physician as having a debilitating medical condition;



1 (2) The qualifying patient's physician has certified in
2 writing that, in the physician's professional opinion,
3 the potential benefits of the medical use of marijuana
4 would likely outweigh the health risks for the
5 particular qualifying patient; and

6 (3) The amount of marijuana possessed by the qualifying
7 patient does not exceed an adequate supply.

8 (b) Subsection (a) shall not apply to a qualifying patient
9 under the age of eighteen years, unless:

10 (1) The qualifying patient's physician has explained the
11 potential risks and benefits of the medical use of
12 marijuana to the qualifying patient and to a parent,
13 guardian, or person having legal custody of the
14 qualifying patient; and

15 (2) A parent, guardian, or person having legal custody
16 consents in writing to:

17 (A) Allow the qualifying patient's medical use of
18 marijuana;

19 (B) Serve as the qualifying patient's primary
20 caregiver; and



1 (C) Control the acquisition of the marijuana, the
2 dosage, and the frequency of the medical use of
3 marijuana by the qualifying patient.

4 (c) The authorization for the medical use of marijuana in
5 this section shall not apply to:

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

8 (2) The medical use of marijuana:

9 (A) In a school bus, public bus, or any moving
10 vehicle;

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

12 (C) On any school grounds;

13 (D) At any public park, public beach, public
14 recreation center, recreation or youth center; or

15 (E) ~~Other~~ At any other place open to the public;
16 [and] provided that a qualifying patient, primary
17 caregiver, or an owner or employee of a medical
18 marijuana production center or dispensary
19 licensed under sections 321-B and 321-C shall not
20 be prohibited from transporting medical marijuana
21 in any public place; provided further that the



1 medical marijuana shall be transported in a
2 sealed container, not be visible to the public,
3 and shall not be removed from its sealed
4 container or consumed or used in any way while it
5 is in the public place;

6 (3) The use of medical marijuana obtained from a source
7 other than that permitted by section 329-C; and

8 ~~[(3+)]~~ (4) The use of marijuana by a qualifying patient,
9 parent, or primary caregiver for purposes other than
10 medical use permitted by this part.

11 (d) For the purposes of this section, "transport" means
12 the transportation of medical marijuana between:

13 (1) A qualifying patient and the qualifying patient's
14 primary caregiver;

15 (2) A licensed medical marijuana production center and a
16 licensed medical marijuana dispensary; and

17 (3) A licensed medical marijuana production center and
18 another licensed medical marijuana production center;

19 provided that "transport" does not include the interisland
20 transportation of medical marijuana."



1 SECTION 8. Section 329-123, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Physicians who issue written certifications shall
4 provide, in each written certification, the name, address,
5 patient identification number, and other identifying information
6 of the qualifying patient. The department of health shall
7 require, in rules adopted pursuant to chapter 91, that all
8 written certifications comply with a designated form completed
9 by or on behalf of a qualifying patient. The form shall require
10 information from the applicant, primary caregiver, and [~~primary~~
11 ~~care~~] physician as specifically required or permitted by this
12 chapter. The form shall require the address of the location
13 where the marijuana is grown and shall appear on the registry
14 card issued by the department of health. The certifying
15 physician shall be required to [~~be the qualifying patient's~~
16 ~~primary care physician.~~] have a bona fide physician-patient
17 relationship with the qualifying patient. All current active
18 medical marijuana permits shall be honored through their
19 expiration date."



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PART VI

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2015-2016, and the same sum or so much thereof as may be necessary for fiscal year 2016-2017, to be deposited into the medical marijuana registry and regulation special fund established pursuant to section 321-30.1, Hawaii Revised Statutes.

SECTION 10. There is appropriated out of the medical marijuana registry and regulation special fund the sum of \$ or so much thereof as may be necessary for fiscal year 2015-2016 and the same sum or so much thereof as may be necessary for fiscal year 2016-2017 to carry out the purposes of this Act, including the hiring of full-time equivalent (FTE) positions to carry out the purposes of the medical marijuana dispensary program established pursuant to this Act.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 11. Not later than July 1, 2016, the department of health shall establish and commence a repayment plan and schedule to repay to the general fund, the sums deposited into



1 the medical marijuana registry and regulation special fund
2 established pursuant to section 321-30.1, Hawaii Revised
3 Statutes. The department of health shall only use moneys from
4 the medical marijuana registry and regulation special fund to
5 repay the general fund. The repayment schedule shall not extend
6 beyond June 30, .

7 PART VII

8 SECTION 12. Not later than March 15, 2016, the director of
9 health shall submit a report and provide an informational
10 briefing to the legislature concerning the progress of
11 implementing the provisions of part II of this Act, including
12 the status of rulemaking by the department of health pertaining
13 to the licensure of medical marijuana dispensaries and
14 production centers.

15 PART VIII

16 SECTION 13. Not later than twenty days prior to the
17 convening of the regular session of 2018, the legislative
18 reference bureau shall submit to the legislature proposed
19 legislation to conform part of chapter 321 and part IX of
20 chapter 329, Hawaii Revised Statutes, with the provisions of



1 section 329-C, Hawaii Revised Statutes, codified by section 5 of
2 this Act.

3 PART IX

4 SECTION 14. In codifying the new sections added by
5 sections 2 and 5 of this Act, the revisor of statutes shall
6 substitute appropriate section numbers for the letters used in
7 designating the new sections in this Act.

8 SECTION 15. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun before its effective date.

11 SECTION 16. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

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

19 SECTION 18. This Act shall take effect ;
20 provided that part VI shall take effect on July 1, 2050.



Report Title:

Medical Marijuana; Patients and Caregivers; Protections;
Certifying Physician

Description:

Establishes a system of medical marijuana dispensaries and production centers. Requires that the number of licensed dispensaries and production centers increase gradually over an initial phase-in period. Prohibits counties from enacting zoning regulations that discriminate against licensed dispensaries and production centers. Allows a qualifying patient, primary caregiver, or an owner or employee of a medical marijuana production center or dispensary to transport medical marijuana in any public place, under certain conditions. Replaces the requirement that a certifying physician be the qualifying patient's primary care physician with a requirement that the physician have a bona fide physician-patient relationship with the qualifying patient. Prohibits primary caregivers from cultivating medical marijuana after 6/30/2018, subject to certain exceptions. Appropriates funds. (HD1)

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

