

Honolulu, Hawaii

April 29, 2016

RE: H.B. No. 2707  
H.D. 1  
S.D. 2  
C.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2707, H.D. 1, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL MARIJUANA,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to improve the operation and oversight of the State's medical marijuana program.

More specifically, this measure, among other things:

- (1) Requires the Department of Health and licensed medical marijuana dispensaries to provide aggregated de-identified data to the Department of Business, Economic Development, and Tourism upon request;
- (2) Amends various definitions and provisions establishing procedures and restrictions regarding medical marijuana



dispensary operations, products, paraphernalia, data collection, transportation, and testing;

- (3) Provides that advanced practice registered nurses may certify patients for medical marijuana use;
- (4) Clarifies business procedures for dispensaries, including excluding dispensaries from enterprise zone tax exemptions and setting restrictions for dispensaries in the utilization of subcontracting operators and service contractors;
- (5) Specifies the application and non-application of certain provisions of the Internal Revenue Code to expenses related to the production and sale of medical marijuana and manufactured marijuana products for state income tax purposes;
- (6) Clarifies that amounts received for the sale of marijuana or manufactured marijuana products are not exempt from the state general excise tax;
- (7) Authorizes certain University of Hawaii branches to establish medical marijuana testing and research programs that qualify as commercial enterprises to provide testing services for medical marijuana dispensaries; and
- (8) Establishes a legislative oversight working group to develop and recommend legislation to improve the medical marijuana dispensary system.

Your Committee on Conference notes that Act 241, Session Laws of Hawaii 2015, established a licensing scheme for a statewide system of medical marijuana dispensaries to ensure access to medical marijuana for qualifying patients.

Your Committee on Conference finds that it is necessary to clarify and amend certain statutes pertaining to the State's medical marijuana program consistent with guidance provided in the August 29, 2013, memorandum to all United States Attorneys from Deputy Attorney General James M. Cole regarding the exercise of federal prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. The memorandum emphasized that jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the



cultivation, distribution, sale, and possession of marijuana in compliance with the jurisdiction's laws and regulations are less likely to implicate the federal government's priorities regarding the prohibition of marijuana and criminal activities that may be associated with marijuana, and thus are less likely to experience federal enforcement activities.

Your Committee on Conference further finds that ensuring safe access to medical marijuana for qualifying patients through a regulated and monitored system of safe, efficient, and responsibly operated medical marijuana dispensaries is in the best interest of the State.

Your Committee on Conference has amended this measure by:

- (1) Providing that certain prohibitions related to drug paraphernalia shall not apply to persons authorized to use, facilitate the use of, or dispense medical marijuana;
- (2) Deleting certain unnecessary definitions and establishing a definition of "plant" for purposes of tracking a licensed dispensary's inventory of medical marijuana;
- (3) Providing that a dispensary, licensed pursuant to a license application or license renewal application submitted after January 29, 2016, may operate a production center that includes a transparent or translucent roof, in compliance with applicable building codes and regulations, after notice to the Department of Health;
- (4) Clarifying that authorized state employees and law enforcement officials acting in their official capacity may touch or handle marijuana or manufactured marijuana products in dispensary facilities;
- (5) Reformatting, for ease of reference, statutory language regarding background checks;
- (6) Clarifying that after January 1, 2017, all members of a limited liability company dispensary applicant or licensee, pursuant to a license application or license renewal application submitted after January 29, 2016, shall be subject to criminal history record checks;
- (7) Changing the effective date from July 1, 2050, to July 1, 2016; and



- (8) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2707, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2707, H.D. 1, S.D. 2, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE SENATE


ON THE PART OF THE HOUSE

  
ROSALYN H. BAKER, Chair

  
DELLA AU BELATTI, Co-Chair

  
GILBERT S.C. KEITH-AGARAN,  
Co-Chair

  
KARL RHOADS, Co-Chair

  
JILL N. TOKUDA, Co-Chair

  
SCOTT Y. NISHIMOTO, Co-Chair



