

Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 2707
H.D. 1

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

Sir:

Your Committees on Health and Judiciary, to which was referred H.B. No. 2707 entitled:

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

beg leave to report as follows:

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

Specifically, this measure:

- (1) Establishes the Medical Marijuana Advisory Commission to advise the Department of Health regarding the oversight, operation, and regulation of medical marijuana dispensaries;
- (2) Provides that certain state tax provisions shall not apply to medical marijuana purchases or dispensary activities;
- (3) Clarifies that prohibitions regarding drug paraphernalia shall not apply to persons who lawfully cultivate, possess, or use medical marijuana;
- (4) Provides that an advanced practice registered nurse with prescriptive authority may provide written certification for a qualifying patient to lawfully use medical marijuana;



- (5) Provides that medical marijuana may be transported between islands of the State for purposes of testing the marijuana;
- (6) Provides definitions of various terms used in relation to the licensing and regulation of medical marijuana dispensaries;
- (7) Provides that no subcontracting operator shall be employed by or under contract with more than one dispensary licensee to operate medical marijuana production centers or retail dispensary locations;
- (8) Clarifies that a dispensary licensee may engage contractors for various purposes that do not involve the handling of medical marijuana;
- (9) Provides that a certified laboratory shall issue a certificate of analysis for each batch of marijuana and manufactured marijuana products tested by the laboratory, and specifies chemical compounds and substances for which testing shall be conducted; and
- (10) Provides that transdermal patches and substances designed to be inhaled are among the types of medical marijuana products that may lawfully be manufactured and distributed.

Your Committees received testimony in support of this measure from Americans for Safe Access Big Island Chapter, the Drug Policy Action Group, the Drug Policy Forum of Hawaii, the Hawaii Association of Professional Nurses, the Hawaii Dispensary Alliance, Kush Bottles Hawaii, and six individuals.

Testimony in opposition was received from the Department of Transportation, Honolulu Police Department, Honolulu Department of the Prosecuting Attorney, Coalition for a Drug-Free Hawaii, and two individuals.

The Department of the Attorney General, Department of Business, Economic Development, and Tourism, Department of Health, Department of Taxation, and the Tax Foundation of Hawaii submitted written comments on the measure.



Your Committees find that it is necessary to clarify and amend 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 Committees further find that ensuring the safe, efficient, and responsible operation of medical marijuana dispensaries and safe access to medical marijuana for qualifying patients are in the best interest of the State.

Your Committees have amended this measure by:

- (1) Clarifying that the Department of Health and licensed medical marijuana dispensaries shall provide aggregated de-identified data to the Department of Business, Economic Development, and Tourism upon request;
- (2) Providing that the Department of Business, Economic Development, and Tourism shall provide an analysis of the aggregated de-identified data to the Legislature upon request;
- (3) Revising the membership and appointing authority of the Medical Marijuana Advisory Commission to ensure representation of qualifying patients, health care professionals, and the medical marijuana dispensary industry;
- (4) Clarifying that background checks shall not be required for qualifying patients and their primary caregivers who visit a medical marijuana dispensing location for a lawful transaction or for government officials and employees acting in an official capacity and as



authorized at a medical marijuana dispensing location or production center;

- (5) Clarifying that for purposes of the state income tax law, Section 280E of the Internal Revenue Code shall not be operative with respect to the production and sale of medical marijuana and manufactured marijuana products by subcontractors of medical marijuana dispensaries;
- (6) Revising the format of certain applicable laboratory testing standards regarding medical marijuana;
- (7) Clarifying that a medical marijuana dispensary shall not be prohibited from transporting marijuana from one county or island to another if a testing laboratory is unavailable in the county or on the island where the dispensary is located;
- (8) Amending the definition of "manufactured marijuana product" to include a transdermal patch, marijuana cigarette, or pre-filled and sealed container used to aerosolize and deliver medical marijuana orally;
- (9) Providing that the University of Hawaii's John A. Burns School of Medicine, Cancer Center, Daniel K. Inouye College of Pharmacy, and College of Tropical Agriculture and human resources may conduct testing and research regarding medical marijuana;
- (10) Changing the effective date to December 31, 2070, to facilitate further discussion on the measure; and
- (11) Making technical amendments for the purposes of clarity, consistency, and style.



As affirmed by the records of votes of the members of your Committees on Health and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2707, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2707, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committees on Health and
Judiciary,

Karl Rhoads

KARL RHOADS, Chair

Della A. Belatti

DELLA AU BELATTI, Chair



