

STAND. COM. REP. NO. 3141

Honolulu, Hawaii

MAR 24 2016

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

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

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 2707, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require 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) Require the Department of Business, Economic Development, and Tourism to provide an analysis of the aggregated data to the Department of Health, Medical Marijuana Advisory Commission, and Legislature;
- (3) Establish the Medical Marijuana Advisory Commission to advise the Department of Health regarding the oversight, operation, and regulation of medical marijuana dispensaries;
- (4) Exclude medical marijuana dispensary activities from being considered an eligible business activity for purposes of the state enterprise zone program;



- (5) Specify the application and non-application 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 and clarify that amounts received for the sale of marijuana or manufactured marijuana products are not exempt from the state general excise tax;
- (6) Clarify that prohibitions regarding drug paraphernalia shall not apply to persons who lawfully cultivate, possess, or use medical marijuana;
- (7) Include advanced practice registered nurses with prescriptive authority as a type of health care professional who may provide written certification for a qualifying patient to lawfully use medical marijuana;
- (8) Provide definitions of various terms used in relation to the licensing and regulation of medical marijuana dispensaries;
- (9) Provide 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;
- (10) Clarify that a dispensary licensee may engage service contractors for various purposes that do not involve the handling of medical marijuana;
- (11) Permit retail dispensing locations to be open for retail sales on Sundays;
- (12) Clarify that a medical marijuana dispensary shall not be prohibited from transporting marijuana or manufactured marijuana products 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;
- (13) Require a certified laboratory to issue a certificate of analysis for each batch of marijuana and manufactured marijuana products tested by the laboratory;
- (14) Specify chemical compounds and substances for which testing shall be conducted by certified laboratories;



- (15) Allow transdermal patches and substances designed to be inhaled to be among the types of medical marijuana products that may be manufactured and distributed;
- (16) Clarify that background checks shall be required for employees of subcontracting operators and shall not be required for qualifying patients and their primary caregivers who visit a medical marijuana retail dispensing location for a lawful transaction or for government officials and employees acting in an official capacity and as authorized at a medical marijuana retail dispensing location or production center; and
- (17) Allow 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 to conduct testing and research regarding medical marijuana.

Your Committee received testimony in support of this measure from the Drug Policy Forum of Hawai'i; Hawai'i Dispensary Alliance; Hawaii Association of Professional Nurses; Manoa Botanicals LLC; NuWayve Unlimited; The Medical Cannabis Coalition of Hawaii; Americans for Safe Access, Big Island Chapter; Drug Policy Action Group; and sixteen individuals. Your Committee received testimony in opposition to this measure from the Department of Health; Department of Transportation; Honolulu Police Department; Maui Police Department; Department of the Prosecuting Attorney, City and County of Honolulu; Coalition for a Drug-Free Hawaii; and one individual. Your Committee received comments on this measure from the Department of the Attorney General; Department of Business, Economic Development, and Tourism; Department of Taxation; University of Hawai'i System; Board of Nursing; Tax Foundation of Hawaii; and three individuals.

Your Committee finds that chapter 329, part IX, Hawaii Revised Statutes, was enacted to create a state medical use of marijuana law and exemption from criminal sanctions. Furthermore, chapter 329D, Hawaii Revised Statutes, was enacted to establish medical marijuana dispensaries that may begin operations in July 2016. As Hawaii expands its medical marijuana program through the use of highly regulated and monitored dispensaries and more patients are anticipated to consider medical marijuana as a viable



treatment, this measure seeks to improve the medical marijuana system in the State.

Your Committee has amended this measure by:

- (1) Deleting language that would have established the Medical Marijuana Advisory Commission;
- (2) Deleting language that would have amended section 329-43.5, Hawaii Revised Statutes, to clarify that prohibitions regarding drug paraphernalia shall not apply to persons who lawfully cultivate, possess, or use medical marijuana and instead inserting language to allow assertion of the medical use of marijuana as an affirmative defense to prosecution involving marijuana under part IV of chapter 329, Hawaii Revised Statutes, in sections 329-125 and 329-125.6, Hawaii Revised Statutes;
- (3) Deleting the definition of "health care professional";
- (4) Inserting definitions for "advanced practice registered nurse", "bona fide advanced practice registered nurse-patient relationship", and "bona fide physician-patient relationship";
- (5) Specifying clearly that an advanced practice registered nurse with prescriptive authority may provide written certification for a qualifying patient to lawfully use medical marijuana;
- (6) Restoring the definition of "physician" and repealing language that states the term does not include an advanced practice registered nurse with prescriptive authority;
- (7) Clarifying the definition of "transport":
 - (A) To include the transportation of marijuana, usable marijuana, or any manufactured marijuana product between a production center or retail dispensing location and a certified laboratory for the purpose of laboratory testing; and



- (B) To allow for the interisland transport of marijuana, usable marijuana, or any manufactured marijuana product for laboratory testing purposes, subject to certain conditions and with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State;
- (8) Deleting the definitions of "accreditation body", "batch", "certificate of accreditation", "certified laboratory", "service contractor", and "subcontracting operator";
- (9) Inserting a definition for "subcontractor" or "contractor";
- (10) Amending the definition of "manufactured marijuana product" to:
 - (A) Not include marijuana cigarettes; and
 - (B) Include inhalers or nebulizers;
- (11) Deleting language that specifies that a dispensary licensee may engage one or more subcontracting operators to operate or assist in the operation of production centers and retail dispensing locations;
- (12) Deleting language that specifies that a dispensary licensee may engage one or more service contractors to assist in various purposes that do not involve the handling of medical marijuana;
- (13) Clarifying that in all dispensary facilities, only the licensee, registered employees of the dispensary, registered employees of a subcontracted production center or retail dispensing location, and employees of a certified laboratory for testing purposes shall be permitted to touch or handle any marijuana or manufactured marijuana products;
- (14) Specifying that the allowable interisland transport of marijuana or manufactured marijuana products for purposes of laboratory testing in the absence of a laboratory in the county or on island shall be limited



to an amount and manner determined by the Department of Health through rules;

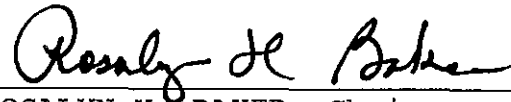
- (15) Deleting language that would have required a certified laboratory to issue a certificate of analysis for each batch of marijuana and manufactured marijuana products tested by the laboratory;
- (16) Deleting language that would have specified chemical compounds and substances for which testing would have been conducted by certified laboratories;
- (17) Clarifying that background checks are required for employees and officers, directors, and certain shareholders of subcontracted production centers or retail dispensing locations and are not required for employees of certified laboratories when entering or remaining on the premises of a retail dispensing location or production center for testing purposes;
- (18) Inserting language that allows the Department of Health to amend the interim rules, which shall be exempt from chapters 91 and 201M, Hawaii Revised Statutes; provided that the interim rules shall remain in effect until July 1, 2018, or until final rules are adopted, whichever occurs sooner;
- (19) Deleting language that would have allowed certain University of Hawaii branches to conduct marijuana-related testing and research;
- (20) Inserting language that allows the University of Hawaii to establish medical marijuana testing and research programs that qualify as commercial enterprises to provide services to state-approved medical marijuana dispensaries;
- (21) Inserting language to establish a legislative oversight working group to develop and recommend legislation to improve the medical marijuana dispensary system in the State to ensure safe and legal access to medical marijuana for qualified patients;
- (22) Inserting an effective date of July 1, 2050, to encourage further discussion;



- (23) Specifying that the application and non-application 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 shall apply to taxable years beginning after December 31, 2015; and
- (24) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2707, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2707, H.D. 1, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2707, HD1	CPH, JDL/WAM	3-21-16		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
KIDANI, Michelle N. (VC)	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
SLOM, Sam	/			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes