

Honolulu, Hawaii

March 27, 2015

RE: S.B. No. 682
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Sir:

Your Committees on Health and Judiciary, to which was referred S.B. No. 682, S.D. 2, entitled:

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

beg leave to report as follows:

The purpose of this measure is to facilitate the acquisition and use of medical marijuana by qualifying patients under state law.

More specifically, this measure:

- (1) 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;
- (2) Requires that medical marijuana transported in a public place be kept in a sealed container, not be visible to the public, and not be consumed or used in any way in the public place;
- (3) Repeals a requirement that a certifying physician be the qualifying patient's primary care physician; and



- (4) Has an effective date of July 1, 2050, that is contingent upon the passage and subsequent enactment of S.B. No. 1302, in any form, during the Regular Session of 2015.

Your Committees received testimony in support of this measure from the American Civil Liberties Union of Hawaii, the Community Alliance on Prisons, the Drug Policy Action Group, the Drug Policy Forum of Hawaii, Green Futures, the University of Hawaii Biology Alumni Association, and eight individuals. Testimony in opposition to this measure was submitted by the Department of the Prosecuting Attorney of the City and County of Honolulu. The Department of the Attorney General, the Department of Health, and one individual submitted written comments on the measure.

Your Committees note that the provisions in this measure are intended to facilitate the effective use of medical marijuana for qualifying patients within the context of a medical marijuana dispensary scheme, but were separated from the provisions of S.B. No. 1302 due to concerns raised by the Attorney General as to whether they fit under the scope of that measure's title. Rather than making these provisions effective contingent upon the passage of S.B. No. 1302 in any form, your Committees believe that it would be both more cogent and more efficient to keep these provisions together with provisions establishing a comprehensive medical marijuana dispensary scheme, such as that found in H.B. No. 321, H.D.1.

Your Committees find that legitimate concerns have been raised regarding the potential for unauthorized diversion of medical marijuana from licensed dispensaries and production centers and that additional, prudent regulatory practices are needed to address those concerns and ensure a well-regulated, tightly controlled medical marijuana dispensary scheme.

Your Committees further find that a regulatory system that phases in limited numbers of licensed dispensaries and production centers over two or more years would provide additional safeguards and allow additional time to identify and respond to any problems that may arise with regard to the medical marijuana dispensary scheme.

Accordingly, your Committees have amended this measure by adding to the measure the substantive provisions of H.B. No. 321,



H.D. 1, which establish a system of medical marijuana dispensaries and production centers in the State and prohibit counties from enacting zoning regulations that discriminate against licensed dispensaries and productions centers. Your Committees have further amended the measure by:

- (1) Defining "transport" of medical marijuana to allow only transportation of medical marijuana on the same island between a:
 - (a) Qualifying patient and primary caregiver;
 - (b) Production center and a dispensary; or
 - (c) Production center and another production center;and making conforming amendments deleting language related to interisland transportation of marijuana;
- (2) Changing the requirement that a physician who is certifying that a qualifying patient would benefit from the use of medical marijuana be the qualifying patient's primary care physician to a requirement that the physician have a bona fide physician-patient relationship with the qualifying patient;
- (3) Amending the date on which the Department of Health may begin offering medical marijuana dispensary licenses from January 1, 2017, to July 1, 2016;
- (4) Amending the date on which licensed dispensaries may begin dispensing medical marijuana from July 1, 2017, to January 1, 2017;
- (5) Amending the number of medical marijuana dispensary licenses that shall be offered by the Department of Health from twenty-six by January 1, 2019, to six that may be offered by July 1, 2016, and twelve that may be offered by July 1, 2017;
- (6) Providing that, of the six initial dispensary licenses that may be offered by July 1, 2016, two licenses may be offered in the City and County of Honolulu, two may be



offered in the County of Hawaii, and one may be offered in each of the counties of Kauai and Maui;

- (7) Providing that the Department of Health may consider whether to offer additional medical marijuana dispensary licenses after July 1, 2017, based on qualifying patient need;
- (8) Amending the number of medical marijuana production center licenses that may be offered by the Department of Health from thirty commencing on July 1, 2016, to unspecified numbers on March 1, 2016, and March 1, 2017, respectively;
- (9) Changing to unspecified sums the fee amounts for dispensary and production center licenses from \$20,000 for a dispensary license and \$30,000 for a license renewal, and \$2,000 for a production center license to cultivate an unspecified number of plants and \$4,000 for a production center license to cultivate a second unspecified number of plants;
- (10) Requiring that a numerical tag be affixed to each marijuana plant controlled by a production center, and specifying that the tag shall be the basis for the inventory tracking system to be required by the Department of Health pursuant to rules;
- (11) Requiring the establishment of a medical marijuana advisory commission that shall include voting members with specific subject matter expertise appointed by the Governor, Senate, House of Representatives, and the Mayor of each county, respectively, and ex-officio non-voting members who represent the Department of Agriculture, Department of Health, and Department of Taxation;
- (12) Requiring that any combination of qualifying patients and primary caregivers who jointly cultivate more than twenty-eight marijuana plants register with the Department of Health and implement constant video monitoring and recording of the cultivation site and other reasonable security measures deemed necessary by the Department of Health;



- (13) Establishing an unspecified limit on the number of marijuana plants that may be jointly cultivated by a combination of qualifying patients and primary caregivers without requiring a production center license;
- (14) Prohibiting primary caregivers from cultivating medical marijuana for qualifying patients after June 30, 2018; provided that a primary caregiver who is the parent, guardian, or person having legal custody of a qualifying patient who is a minor or an adult lacking legal capacity may cultivate marijuana for the qualifying patient;
- (15) Requiring the Legislative Reference Bureau to submit to the Legislature, not later than twenty days prior to the convening of the regular session of 2018, proposed legislation to conform chapters 321 and 329, Hawaii Revised Statutes, with the provisions of this measure regarding the prohibition of primary caregivers cultivating medical marijuana;
- (16) Changing the effective date to an unspecified date and providing that the appropriation section shall take effect on July 1, 2050, to facilitate further discussion on the measure; and
- (17) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

Should the Committee on Finance decide to hear this measure, your Committees respectfully request that it consider providing an appropriation of \$750,000 and five full-time equivalent (FTE) positions in the Department of Health to adequately fund and implement the provisions of this measure.

Your Committees also respectfully request that subsequent committees that may consider this measure consult with the Department of Health to determine the appropriate number of medical marijuana production center licenses that should be offered in light of the changes being made in this measure.



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 S.B. No. 682, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 682, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

Karl Rhoads

KARL RHOADS, Chair

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DELLA AU BELATTI, Chair



