

STAND. COM. REP. NO.

1104

Honolulu, Hawaii

MAR 27 2015

RE: H.B. No. 321
H.D. 1
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committees on Health and Public Safety,
Intergovernmental and Military Affairs, to which was referred H.B.
No. 321, H.D. 1, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a system of medical marijuana dispensaries and production centers;
- (2) Prohibit counties from enacting zoning ordinances or rules that prohibit the use of land for licensed dispensaries and production centers;
- (3) Clarify the right of qualifying patients, primary caregivers, and owners or employees of licensed dispensaries and production centers to transport medical marijuana in a public place; and
- (4) Appropriate funds into the medical marijuana registry and regulation special fund.

Your Committees received testimony in support of this measure from the GLBT Caucus of the Democratic Party of Hawaii; Epilepsy Foundation of Hawaii; Capitol Consultants of Hawaii, LLP; Drug Policy Action Group; The Drug Policy Forum of Hawaii; Hawaii

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Farmers Union United; Community Alliance on Prisons; Americans for Safe Access, Big Island Chapter; Hawaii Cannabis Care; American Civil Liberties Union of Hawaii; and eighty-three individuals. Your Committees received testimony in opposition to this measure from the Hawai'i Police Department; Honolulu Police Department; Maui Police Department; Alternative Pain Management Pu'uhoehoe, LLC; State of Hawaii Organization of Police Officers; and seventeen individuals. Your Committees received comments on this measure from the Department of the Attorney General, Hawaii Substance Abuse Coalition, Hawaii Catholic Conference, Hawaii Family Forum, Hawaii Family Advocates, and two individuals.

Your Committees find that Hawaii's medical use of marijuana law was enacted on June 14, 2000, as Act 228, Session Laws of Hawaii 2000, to provide medical relief for seriously ill individuals in the State. While existing law recognizes the beneficial use of marijuana in treating or alleviating pain or other symptoms associated with certain debilitating illnesses, it is silent on how patients can obtain medical marijuana if they or their caregivers are unable to grow their own supply of medical marijuana.

Your Committees further find that many of the State's nearly thirteen thousand qualifying patients lack the ability to grow their own supply of medical marijuana due to a number of factors, including disability and limited space to grow medical marijuana. As a result, a regulated statewide dispensary system for medical marijuana is urgently needed by qualifying patients in the State.

Your Committees have amended this measure by:

- (1) Amending the definition of "medical marijuana dispensary" or "dispensary" to mean an entity that holds a dispensary license and operates one or more cultivation sites, manufacture sites, and retail dispensing locations;
- (2) Deleting the definition of "medical marijuana production center" or "production center";
- (3) Amending language related to medical marijuana dispensaries licensure procedures and fees to, among other things:



- (A) Prohibit a person from acting as a dispensary unless the person is a resident of the State;
- (B) Require the Director of Health to grant medical marijuana dispensary licenses to allow dispensaries to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana, or related supplies and educational materials, to registered qualifying patients;
- (C) Specify that each license allows acquisition, possession, cultivation, manufacture, transfer, transport, delivery, supply, and dispensing of medical marijuana only in a county for which it is granted;
- (D) Establish an unspecified limit on the number of dispensary licenses allowed in each county except Kalawao;
- (E) Establish an unspecified limit on the number of cultivation sites and dispensing locations allowed under each license;
- (F) Specify certain eligibility requirements for dispensary licensees;
- (G) Require the Director of Health to approve an application for a dispensary license if the application meets all dispensary licensing requirements and criteria within an unspecified number of days after receiving the application;
- (H) Specify the dispensary license application process;
- (I) Establish an unspecified expiration date for all dispensary licenses;
- (J) Require that a minimum, unspecified percentage of the interests in a dispensary shall be held at all times by full-time Hawaii residents or entities wholly controlled by Hawaii residents who have documented Hawaii residency for an unspecified number of years;



- (K) Establish requirements for individuals or entities who hold an unspecified minimum percentage interest in a dispensary;
 - (L) Require dispensaries to operate and maintain a real-time software system of accounting for the total amount of medical marijuana, including the equivalent physical weight of marijuana used to manufacture manufactured marijuana products, that a qualifying patient and primary caregiver purchase from all dispensing locations in the State; and
 - (M) Prohibit sampling or consumption of marijuana product on or within an unspecified distance of the dispensary premises;
- (4) Inserting language that establishes a total limit on the amount of medical marijuana a qualifying patient may purchase per month and per any two week period;
 - (5) Inserting language that allows qualifying patients from other states to purchase medical marijuana from dispensaries in the State;
 - (6) Deleting language related to medical marijuana production centers and licensure procedures;
 - (7) Inserting language that prohibits dispensaries from commercial advertising and selling any products other than medical marijuana and manufactured medical marijuana products;
 - (8) Inserting language that prohibits a product sold in a dispensary from containing more than an unspecified total amount of tetrahydrocannabinol;
 - (9) Clarifying that the Department of Health shall adopt interim rules that shall be exempt from chapter 91 and be effective upon the effective date of this measure and up to the date of the Department's adoption of final rules in accordance with chapter 91, Hawaii Revised Statutes;



- (10) Deleting provisions related to medical marijuana dispensary rules, including but not limited to provisions related to:
- (A) The number of medical marijuana dispensaries permitted in the State;
 - (B) A fee structure for applications and license renewals to operate a dispensary;
 - (C) Security requirements for the transportation of medical marijuana;
 - (D) Rules adopted by the Department of Health exempting persons convicted of a felony that was specifically related to marijuana;
 - (E) The enforcement of prohibitions against the sale or provision of medical marijuana or manufactured marijuana products in quantities that exceed certain limits; and
 - (F) The establishment of a range of penalties for violations of medical marijuana dispensary rules;
- (11) Inserting provisions related to medical marijuana dispensary rules related to the destruction or disposal of marijuana products;
- (12) Inserting language that prohibits fraud and other prohibited acts;
- (13) Amending the grade of offense for the penalty related to visits to more than one dispensary to obtain medical marijuana or manufactured marijuana products from a petty misdemeanor to a misdemeanor;
- (14) Requiring all marijuana and manufactured marijuana products to be forfeited to the State upon a revocation order becoming final;
- (15) Amending the definition of "school" as used in the prohibition on dispensaries within a radius of a school to include universities;



- (16) Inserting language that prohibits everyone except certain individuals from the dispensary premises;
- (17) Inserting language that prohibits the distribution of medical marijuana to minors who are not registered qualifying patients;
- (18) Inserting language that prohibits diversion from a dispensary;
- (19) Inserting language that prohibits the alteration or falsification of medical marijuana dispensary records;
- (20) Inserting language that allows law enforcement access to dispensary records under certain conditions;
- (21) Inserting language that prohibits the use of flammable solvents by a qualifying patient or primary caregiver to extract tetrahydrocannabinol from marijuana plants;
- (22) Inserting language that allows any licensed physician, rather than only the qualifying patient's primary care physician, to issue a written certification for the use of medical marijuana;
- (23) Inserting an unspecified repeal date; and
- (24) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

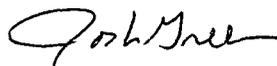
As affirmed by the records of votes of the members of your Committees on Health and Public Safety, Intergovernmental and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 321, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 321, H.D. 1, S.D. 1, and be referred to the Committees on Judiciary and Labor and Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Health and Public
Safety, Intergovernmental and
Military Affairs,



WILL ESPERO, Chair



JOSH GREEN, Chair



