





1 tetrahydrocannabinol by a qualifying patient or primary  
2 caregiver for the qualifying patient's use.

3 "Marijuana" shall have the same meaning as in section 329-  
4 121.

5 "Medical marijuana dispensary" or "dispensary" means an  
6 establishment operated by an organization or business licensed  
7 by the State pursuant to this part where medical marijuana is  
8 made available for retail sale to qualifying patients or primary  
9 caregivers pursuant to this part and to section 329-122.

10 "Medical marijuana production center" or "production  
11 center" means a farm or facility operated by an organization or  
12 business licensed by the State pursuant to this part where  
13 marijuana or marijuana products are cultivated, processed, or  
14 packaged with the limited and express intent that the marijuana  
15 or marijuana products be supplied to medical marijuana  
16 dispensaries or other medical marijuana production centers,  
17 pursuant to this part and to section 329-122.

18 "Person" means an individual, firm, corporation,  
19 partnership, association, or any form of business or legal  
20 entity.



1 "Primary caregiver" shall have the same meaning as in  
2 section 329-121.

3 "Qualifying patient" shall have the same meaning as in  
4 section 329-121.

5 § -B Medical marijuana dispensaries; licensure; fees;  
6 inspection. (a) No person may act as a dispensary unless the  
7 person has obtained a license from the department pursuant to  
8 this part.

9 (b) The department shall adopt rules, in accordance with  
10 chapter 91, to provide for the licensure and standards for  
11 dispensaries in this State.

12 (c) The department shall determine the number of  
13 dispensaries appropriate to meet the needs of qualifying  
14 patients in this State; provided that:

- 15 (1) Not less than twenty-six dispensaries shall be  
16 licensed in the State by January 1, 2019;
- 17 (2) At least one dispensary shall be licensed in each  
18 county; provided that a dispensary shall not be  
19 required in the county of Kalawao;
- 20 (3) Licenses shall be issued in proportion to qualifying  
21 patient density within each county, which the



1 department shall review and determine annually;  
2 provided that the department shall make available one  
3 license per five hundred registered patients. For the  
4 purposes of this section, qualifying patient density  
5 shall be calculated by using a qualifying patient's  
6 county of residency; and

7 (4) If an island in the State, or the county of Kalawao,  
8 lacks a single licensed dispensary by July 1, 2017, a  
9 dispensary that is licensed and established on another  
10 island or in another county may petition the  
11 department to allow an owner or employee of the  
12 licensed dispensary to deliver medical marijuana  
13 products to a qualified patient or caregiver on the  
14 island that lacks a dispensary or in the county of  
15 Kalawao; provided that the owner or employee of the  
16 licensed dispensary shall at all times retain  
17 possession of the medical marijuana products until  
18 they are delivered to the qualified patient or  
19 caregiver. The department shall grant the petition  
20 within sixty days unless the department determines  
21 that there is good cause to deny the petition.



1 (d) The department may begin offering licenses to  
2 dispensaries on January 1, 2017;

3 (e) Dispensaries licensed pursuant to this section may  
4 begin operations on July 1, 2017.

5 (f) Each person seeking licensure as a dispensary shall  
6 submit an application in the form prescribed by the department,  
7 as well as a fee of \$20,000; provided that:

8 (1) The applicant shall submit the fee in the form of one  
9 check in the amount of \$2,000 and a second check in  
10 the amount of \$18,000;

11 (2) If the application is unsuccessful, the department  
12 shall retain the fee of \$2,000, and destroy the check  
13 for \$18,000; and

14 (3) Application fees of successful applicants are  
15 nonrefundable.

16 (g) The department shall establish and collect an annual  
17 renewal fee of \$30,000 from a medical marijuana dispensary;  
18 provided that the amount of the renewal fee shall be subject to  
19 review and revision by the department; provided further that the  
20 renewal fee shall be sufficient to cover the department's  
21 expenses in carrying out this part.



1 (h) All fees collected pursuant to this section shall be  
2 deposited in the medical marijuana registry and regulation  
3 special fund pursuant to section 321-30.1.

4 §321-C Medical marijuana production centers; licensure;  
5 fees; inspection. (a) No person may act as a medical marijuana  
6 production center unless the person has obtained a license from  
7 the department pursuant to this part.

8 (b) The department shall adopt rules, in accordance with  
9 chapter 91, to provide for the licensure and standards for  
10 medical marijuana production centers in this State.

11 (c) Medical marijuana production centers may distribute  
12 marijuana only to dispensaries or other production centers  
13 licensed pursuant to this part. Medical marijuana production  
14 centers shall not distribute marijuana directly to qualifying  
15 patients or primary caregivers.

16 (d) The department shall determine the number of medical  
17 marijuana production centers appropriate to meet the needs of  
18 qualifying patients and dispensaries in this State; provided  
19 that the department shall base this determination on the  
20 presumption that no single production center shall acquire,  
21 cultivate, manufacture, possess, or transport more than one



1 thousand marijuana plants in total at any one time; provided  
2 further that not less than production centers shall be  
3 licensed in the State by

4 (e) The department may begin offering a minimum of thirty  
5 licenses to production centers on January 1, 2017.

6 (f) The department shall offer two types of licenses,  
7 which shall authorize qualified production centers to acquire,  
8 cultivate, manufacture, possess, or transport either no more  
9 than:

10 (1) Five hundred plants in total at any one time; or

11 (2) One thousand plants in total at any one time.

12 (g) Each person seeking a license pursuant to subsection  
13 (f)(1) shall submit an application in the form prescribed by the  
14 department, as well as a fee of \$2,000; provided that:

15 (1) The applicant shall submit the fee in the form of two  
16 checks in the amount of \$1,000 each;

17 (2) If the application is unsuccessful, the department  
18 shall retain the fee of \$1,000, and destroy the second  
19 check for \$1,000; and

20 (3) Application fees of successful applicants are  
21 nonrefundable.



1 (h) Each person seeking a license pursuant to subsection  
2 (f) (2) shall submit an application in the form prescribed by the  
3 department, as well as a fee of \$4,000; provided that:

4 (1) The applicant shall submit the fee in the form of two  
5 checks in the amount of \$2,000 each;

6 (2) If the application is unsuccessful, the department  
7 shall retain the fee of \$2,000, and destroy the second  
8 check for \$2,000; and

9 (3) Application fees of successful applicants are  
10 nonrefundable.

11 (i) The department shall establish and collect an annual  
12 renewal fee from medical marijuana production centers sufficient  
13 to cover the department's expenses in carrying out this part.

14 (j) All fees collected pursuant to this section shall be  
15 deposited in the medical marijuana registry and regulation  
16 special fund pursuant to section 321-30.1.

17 **§321-D Public education.** (a) The department shall engage  
18 in a continuing education and training program to explain and  
19 clarify the purposes and requirements of this part. The program  
20 shall target community partner agencies, physicians and other  
21 health care providers, patients and caregivers, law enforcement



1 agencies, individuals under eighteen years of age, law and  
2 policy makers, and the general public.

3 (b) The department shall employ at least one full time  
4 staff member whose qualifications and duties include the  
5 provision of medical marijuana health education.

6 **§321-E Manufacturing of medical marijuana products. (a)**

7 Any medical marijuana dispensary or production center licensed  
8 by the department pursuant to this part shall be permitted to  
9 manufacture medical marijuana; provided that the dispensary or  
10 production center shall also obtain any other state or county  
11 permits or licenses that may be necessary for a particular  
12 manufacturing activity.

13 (b) The department shall establish standards regarding the  
14 manufacture of medical marijuana products; provided that any  
15 area within a dispensary or production center where marijuana  
16 will be manufactured into an edible form shall comply with the  
17 food safety code, chapter 11-50, Hawaii Administrative Rules.

18 **§321-F Types of medical marijuana products. (a)** The

19 department shall adopt rules regarding the type of medical  
20 marijuana products that may be manufactured and distributed  
21 pursuant to this part; provided that no candy products



1 containing medical marijuana shall be permitted; provided  
2 further that nothing in this section shall be construed as  
3 prohibiting the manufacture and distribution of lozenges.

4 (b) As used in this section, "lozenge" means a small  
5 tablet manufactured in a manner to allow for the dissolving of  
6 its medicinal or therapeutic component slowly in the mouth.

7 §321-G Advertising and packaging. (a) The department  
8 shall establish standards regarding the advertising and  
9 packaging of medical marijuana products; provided that the  
10 standards, at a minimum, shall require the use of packaging  
11 that:

12 (1) Is child-resistant and opaque so that the product  
13 cannot be seen from outside the packaging;

14 (2) Is clearly labeled with the phrase "For medical use  
15 only"; and

16 (3) Contains information about the contents and potency of  
17 the product.

18 (b) Any lozenge, capsule, or pill containing medical  
19 marijuana or its principal psychoactive constituent  
20 tetrahydrocannabinol shall be packaged so that one dose,



1 serving, or single wrapped item contains no more than ten  
2 milligrams of tetrahydrocannabinol.

3 §321-H Medical marijuana production center and dispensary  
4 rules. The department shall adopt rules pursuant to chapter 91  
5 for the purposes of this part and with respect to:

6 (1) The number of medical marijuana production centers and  
7 dispensaries that shall be permitted to operate in the  
8 State;

9 (2) A fee structure for the submission of applications and  
10 renewal of licenses to operate production centers or  
11 dispensaries;

12 (3) Any specific requirements regarding annual audits and  
13 reports pertaining to each production center and  
14 dispensary that is licensed pursuant to this part;

15 (4) Security requirements for the operation of production  
16 centers and dispensaries; provided that the  
17 requirements, at a minimum, shall require:

18 (A) For production centers:

19 (i) Video monitoring and recording of the  
20 premises;



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- 1                   (ii) Fencing that surrounds the premises and that
- 2                   is sufficient to reasonably deter intruders
- 3                   and prevent anyone outside the premises from
- 4                   viewing any area where marijuana is
- 5                   cultivated, processed, or stored;
- 6                   (iii) An alarm system; and
- 7                   (iv) Other reasonable security measures to deter
- 8                   or prevent intruders, as deemed necessary by
- 9                   the department;
- 10                  (B) For dispensaries:
- 11                   (i) Presentation of valid identification as
- 12                   issued by the department pursuant to section
- 13                   329-123, by a qualifying patient or
- 14                   caregiver, upon entering the premises;
- 15                   (ii) Video monitoring and recording of the
- 16                   premises;
- 17                   (iii) An alarm system;
- 18                   (iv) Exterior lighting; and
- 19                   (v) Other reasonable security measures as deemed
- 20                   necessary by the department;



- 1 (5) Standards and criminal backgrounds checks for  
2 operators and employees of production centers and  
3 dispensaries; provided that the standards, at a  
4 minimum, shall exclude from licensure or employment  
5 any person convicted of any felony; provided that the  
6 department may adopt rules exempting from this  
7 paragraph a person who was convicted of a felony that  
8 was specifically related to marijuana, if the  
9 conviction was at least ten years prior to the  
10 licensure or employment;
- 11 (6) The training and certification of operators and  
12 employees of production centers and dispensaries;  
13 provided that the department shall establish a  
14 training or certification program for dispensary  
15 employees;
- 16 (7) The types of medical marijuana products that  
17 production centers and dispensaries shall be  
18 authorized to grow, manufacture, sell, or provide;
- 19 (8) Standards and methodologies related to testing medical  
20 marijuana products for content, contamination, and  
21 consistency;



1 (9) Dispensary and production center inventory controls to  
2 prevent the unauthorized diversion of marijuana;  
3 provided that the controls, at a minimum, shall  
4 include:

5 (A) A computer software tracking system that will  
6 allow the department to track all medical  
7 marijuana and medical marijuana product inventory  
8 from either seed or immature plant stage until  
9 the marijuana or marijuana product is sold to a  
10 customer or destroyed; and

11 (B) Product packaging standards sufficient to allow  
12 law enforcement personnel to reasonably determine  
13 the contents of an unopened package;

14 (10) The enforcement of prohibitions against the sale or  
15 provision of medical marijuana products to  
16 unauthorized persons;

17 (11) Any limitations to the size or format of any signs  
18 placed outside a dispensary or production center;  
19 provided that no sign shall include the image of a  
20 cartoon character or other design intended to appeal  
21 to children; and



1 (12) Penalties for violations of this part or rules adopted  
2 thereunder.

3 §321-I Medical marijuana zoning. Medical marijuana  
4 production centers and dispensaries shall comply with all county  
5 zoning ordinances, rules, or regulations; provided that:

6 (1) A medical marijuana production center shall be  
7 permitted in any area in which agricultural production  
8 is permitted except as provided within this part;

9 (2) A medical marijuana dispensary shall be permitted in  
10 any area in which a pharmacy is permitted; and

11 (3) No medical marijuana production center or dispensary  
12 shall be permitted within five hundred feet of the  
13 real property comprising a public school as defined in  
14 section 302A-101.

15 §321-J Annual inspections, audits, and reports. (a) Each  
16 medical marijuana production center and dispensary licensed  
17 pursuant to this part shall:

18 (1) Be subject to an annual announced inspection and  
19 unannounced inspections of its operations by the  
20 department; and

1           (2) Annually cause an independent financial audit, at the  
2           production center or dispensary operator's own  
3           expense, to be conducted of the production center or  
4           dispensary and shall submit the audit's findings to  
5           the department.

6           (b) The department shall report annually to the governor  
7           and the legislature on the establishment and regulation of  
8           medical marijuana production centers and dispensaries including,  
9           but not limited to, the number and location of production  
10          centers and dispensaries licensed, the total licensing fees  
11          collected, and any licensing violations determined by the  
12          department.

13          §321-K Cultivation of medical marijuana by qualifying  
14          patients and primary caregivers. Nothing in this part shall be  
15          construed as prohibiting a qualifying patient or primary  
16          caregiver from cultivating or possessing an adequate supply of  
17          medical marijuana pursuant to part IX of chapter 329.

18          §321-L Coordination among state and federal agencies. The  
19          department shall initiate ongoing dialogue among relevant state  
20          and federal agencies to identify processes and policies that  
21          ensure the privacy of medical marijuana patients and the



1 compliance of patients, caregivers, producers, and dispensaries  
2 with state laws and regulations related to medical marijuana."

3 PART III

4 SECTION 3. Section 46-4, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§46-4 County zoning. (a) This section and any  
7 ordinance, rule, or regulation adopted in accordance with this  
8 section shall apply to lands not contained within the forest  
9 reserve boundaries as established on January 31, 1957, or as  
10 subsequently amended.

11 Zoning in all counties shall be accomplished within the  
12 framework of a long-range, comprehensive general plan prepared  
13 or being prepared to guide the overall future development of the  
14 county. Zoning shall be one of the tools available to the  
15 county to put the general plan into effect in an orderly manner.

16 Zoning in the counties of Hawaii, Maui, and Kauai means the  
17 establishment of districts of such number, shape, and area, and  
18 the adoption of regulations for each district to carry out the  
19 purposes of this section. In establishing or regulating the  
20 districts, full consideration shall be given to all available  
21 data as to soil classification and physical use capabilities of



1 the land to allow and encourage the most beneficial use of the  
2 land consonant with good zoning practices. The zoning power  
3 granted herein shall be exercised by ordinance which may relate  
4 to:

- 5 (1) The areas within which agriculture, forestry,  
6 industry, trade, and business may be conducted;
- 7 (2) The areas in which residential uses may be regulated  
8 or prohibited;
- 9 (3) The areas bordering natural watercourses, channels,  
10 and streams, in which trades or industries, filling or  
11 dumping, erection of structures, and the location of  
12 buildings may be prohibited or restricted;
- 13 (4) The areas in which particular uses may be subjected to  
14 special restrictions;
- 15 (5) The location of buildings and structures designed for  
16 specific uses and designation of uses for which  
17 buildings and structures may not be used or altered;
- 18 (6) The location, height, bulk, number of stories, and  
19 size of buildings and other structures;
- 20 (7) The location of roads, schools, and recreation areas;
- 21 (8) Building setback lines and future street lines;



- 1           (9)    The density and distribution of population;
- 2           (10)   The percentage of a lot that may be occupied, size of
- 3                 yards, courts, and other open spaces;
- 4           (11)   Minimum and maximum lot sizes; and
- 5           (12)   Other regulations the boards or city council find
- 6                 necessary and proper to permit and encourage the
- 7                 orderly development of land resources within their
- 8                 jurisdictions.

9           The council of any county shall prescribe rules,  
10 regulations, and administrative procedures and provide personnel  
11 it finds necessary to enforce this section and any ordinance  
12 enacted in accordance with this section. The ordinances may be  
13 enforced by appropriate fines and penalties, civil or criminal,  
14 or by court order at the suit of the county or the owner or  
15 owners of real estate directly affected by the ordinances.

16           Any civil fine or penalty provided by ordinance under this  
17 section may be imposed by the district court, or by the zoning  
18 agency after an opportunity for a hearing pursuant to chapter  
19 91. The proceeding shall not be a prerequisite for any  
20 injunctive relief ordered by the circuit court.



1           Nothing in this section shall invalidate any zoning  
2 ordinance or regulation adopted by any county or other agency of  
3 government pursuant to the statutes in effect prior to July 1,  
4 1957.

5           The powers granted herein shall be liberally construed in  
6 favor of the county exercising them, and in such a manner as to  
7 promote the orderly development of each county or city and  
8 county in accordance with a long-range, comprehensive general  
9 plan to ensure the greatest benefit for the State as a whole.  
10 This section shall not be construed to limit or repeal any  
11 powers of any county to achieve these ends through zoning and  
12 building regulations, except insofar as forest and water reserve  
13 zones are concerned and as provided in subsections (c) and (d).

14           Neither this section nor any ordinance enacted pursuant to  
15 this section shall prohibit the continued lawful use of any  
16 building or premises for any trade, industrial, residential,  
17 agricultural, or other purpose for which the building or  
18 premises is used at the time this section or the ordinance takes  
19 effect; provided that a zoning ordinance may provide for  
20 elimination of nonconforming uses as the uses are discontinued,  
21 or for the amortization or phasing out of nonconforming uses or



1 signs over a reasonable period of time in commercial,  
2 industrial, resort, and apartment zoned areas only. In no event  
3 shall such amortization or phasing out of nonconforming uses  
4 apply to any existing building or premises used for residential  
5 (single-family or duplex) or agricultural uses. Nothing in this  
6 section shall affect or impair the powers and duties of the  
7 director of transportation as set forth in chapter 262.

8 (b) Any final order of a zoning agency established under  
9 this section may be appealed to the circuit court of the circuit  
10 in which the land in question is found. The appeal shall be in  
11 accordance with the Hawaii rules of civil procedure.

12 (c) Each county may adopt reasonable standards to allow  
13 the construction of two single-family dwelling units on any lot  
14 where a residential dwelling unit is permitted.

15 (d) Neither this section nor any other law, county  
16 ordinance, or rule shall prohibit group living in facilities  
17 with eight or fewer residents for purposes or functions that are  
18 licensed, certified, registered, or monitored by the State;  
19 provided that a resident manager or a resident supervisor and  
20 the resident manager's or resident supervisor's family shall not  
21 be included in this resident count. These group living



1 facilities shall meet all applicable county requirements not  
2 inconsistent with the intent of this subsection, including but  
3 not limited to building height, setback, maximum lot coverage,  
4 parking, and floor area requirements.

5 (e) Neither this section nor any other law, county  
6 ordinance, or rule shall prohibit the use of land for employee  
7 housing and community buildings in plantation community  
8 subdivisions as defined in section 205-4.5(a)(12); in addition,  
9 no zoning ordinance shall provide for the elimination,  
10 amortization, or phasing out of plantation community  
11 subdivisions as a nonconforming use.

12 (f) Neither this section nor any other law, county  
13 ordinance, or rule shall prohibit the use of land for medical  
14 marijuana production centers or dispensaries established and  
15 licensed pursuant to part of chapter 321."

16 PART IV

17 SECTION 4. Section 321-30.1, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§321-30.1[+] Medical marijuana registry and regulation  
20 special fund; established. (a) There is established within the  
21 state treasury the medical marijuana registry and regulation



1 special fund. The fund shall be expended at the discretion of  
2 the director of health:

3 (1) To establish and regulate a system of medical  
4 marijuana production centers and dispensaries in the  
5 State;

6 ~~[(1)]~~ (2) To offset the cost of the processing and issuance  
7 of patient registry identification certificates and  
8 primary caregiver registration certificates;

9 ~~[(2)]~~ (3) To fund positions authorized by the legislature;

10 ~~[(3)]~~ (4) To establish and manage a secure and confidential  
11 database; and

12 ~~[(4)]~~ (5) For any other expenditure necessary, as  
13 authorized by the legislature, to implement [a]  
14 medical marijuana registry and regulation ~~[program]~~  
15 programs.

16 (b) The fund shall consist of all moneys derived from fees  
17 collected pursuant to subsection (c) ~~[-]~~ and sections 321-B and  
18 321-C. There is established within the medical marijuana  
19 registry and regulation special fund:

20 (1) A medical marijuana registry program sub-account, into  
21 which shall be deposited ~~[All]~~ all fees collected



1        (b) An owner or employee of a licensed medical marijuana  
 2 production center or licensed medical marijuana dispensary not  
 3 complying with the permitted scope of the medical production or  
 4 medical distribution of marijuana shall not be afforded the  
 5 protections against searches and seizures pertaining to the  
 6 misapplication of the medical production or medical distribution  
 7 of marijuana.

8        (c) No person shall be subject to arrest or prosecution  
 9 for merely being in the presence or vicinity of a medical  
 10 marijuana production center or medical marijuana dispensary  
 11 licensed and operating under chapter 321, part ."

12        SECTION 6. Section 329-122, Hawaii Revised Statutes, is  
 13 amended by amending subsection (c) to read as follows:

14        "(c) The authorization for the medical use of marijuana in  
 15 this section shall not apply to:

16        (1) The medical use of marijuana that endangers the health  
 17 or well-being of another person;

18        (2) The medical use of marijuana:

19            (A) In a school bus, public bus, or any moving  
 20 vehicle;

21            (B) In the workplace of one's employment;



- 1 (C) On any school grounds;
- 2 (D) At any public park, public beach, public  
3 recreation center, recreation or youth center; or
- 4 (E) ~~Other~~ At any other place open to the public;  
5 provided that a qualifying patient, parent,  
6 primary caregiver, or an owner or employee of a  
7 medical marijuana production center or dispensary  
8 licensed under sections 321-B and 321-C shall not  
9 be prohibited from transporting medical marijuana  
10 in any public place; and

11 (3) The use of marijuana by a qualifying patient, parent,  
12 or primary caregiver for purposes other than medical  
13 use permitted by this part."

14 PART VI

15 SECTION 7. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$510,000 or so much  
17 thereof as may be necessary for fiscal year 2015-2016, and the  
18 same sum or so much thereof as may be necessary for fiscal year  
19 2016-2017, to be deposited into the medical marijuana registry  
20 and regulation special fund established pursuant to section 321-  
21 30.1, Hawaii Revised Statutes.



1 SECTION 8. There is appropriated out of the medical  
2 marijuana registry and regulation special fund the sum of  
3 \$510,000 or so much thereof as may be necessary for fiscal year  
4 2015-2016 and the same sum or so much thereof as may be  
5 necessary for fiscal year 2016-2017 to carry out the purposes of  
6 this Act, including the hiring of five full-time equivalent  
7 (FTE) positions to carry out the purposes of the medical  
8 marijuana dispensary program established pursuant to this Act.

9 The sums appropriated shall be expended by the department  
10 of health for the purposes of this Act.

11 SECTION 9. Not later than July 1, 2016, the department of  
12 health shall establish and commence a repayment plan and  
13 schedule to repay to the general fund, the sums deposited into  
14 the medical marijuana registry and regulation special fund  
15 established pursuant to section 321-30.1, Hawaii Revised  
16 Statutes. The department of health shall only use moneys from  
17 the medical marijuana registry and regulation special fund to  
18 repay the general fund. The repayment schedule shall not extend  
19 beyond June 30, .





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JAN 23 2015



# H.B. NO. 321

**Report Title:**

Medical Marijuana; Dispensaries and Production Centers;  
Appropriation

**Description:**

Establishes a system of medical marijuana dispensaries and production centers. Prohibits counties from enacting zoning regulations that discriminate against licensed dispensaries and production centers. Clarifies the right of qualifying patients and primary caregivers to transport medical marijuana. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

