

573

Honolulu, Hawaii

FEBRUARY 20, 2015

RE: H.B. No. 321

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 H.B. No. 321 entitled:

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

beg leave to report as follows:

The purpose of this measure is to establish a system of medical marijuana dispensaries and production centers in the State.

Specifically, this measure:

- (1) Establishes licensing and regulatory schemes for the operation of dispensaries and production centers;
- (2) Requires the Department of Health to engage in public education and training regarding medical marijuana;
- (3) Allows the manufacture of certain medical marijuana products;
- (4) Requires the Department of Health to establish standards regarding the advertising and packaging of medical marijuana products;
- (5) Requires the Department of Health to adopt rules regarding:



- (a) The number of dispensaries and production centers that shall be permitted to operate;
 - (b) A fee structure for the submission of applications and renewal of licenses to operate dispensaries and production centers;
 - (c) Any specific requirements regarding annual audits and reports pertaining to each licensed dispensary and production center;
 - (d) Security requirements for the operation of production centers and dispensaries;
 - (e) Standards and criminal background checks for operators and employees of dispensaries and production centers;
 - (f) Training and certification of operators and employees of dispensaries and production centers;
 - (g) The types of medical marijuana products that may be manufactured and distributed;
 - (h) Standards and methodologies related to testing medical marijuana products for content, contamination, and consistency;
 - (i) Dispensary and production center inventory controls to prevent the unauthorized diversion of marijuana;
 - (j) The enforcement of prohibitions against the sale or provision of medical marijuana to unauthorized persons;
 - (k) Any limitations to the size or format of signs placed outside a dispensary or production center; and
 - (l) Penalties for violations;
- (6) Requires dispensaries and production centers to comply with all county zoning ordinances, rules, or regulations; specifies that production centers shall be permitted in areas where agricultural production is permitted and dispensaries shall be permitted in areas



where pharmacies are permitted; and prohibits dispensaries and production centers within five hundred feet of a public school;

- (7) Requires dispensaries and production centers to allow inspections and have annual financial audits conducted;
- (8) Requires the Department of Health to annually report to the governor and the legislature on the establishment and regulation of dispensaries and production centers;
- (9) Specifies that qualifying patients and primary caregivers shall retain the authority to grow an adequate supply of medical marijuana;
- (10) Requires the Department of Health to initiate dialogue with federal and state agencies to identify processes and policies to ensure the privacy of patients and compliance with state laws and regulations;
- (11) Prohibits counties from prohibiting the use of land for dispensaries and production centers;
- (12) Provides that the medical marijuana registry special fund shall include sub-accounts for the deposit of licensing fees collected from dispensaries and production centers, and re-names the special fund the medical marijuana registry and regulation special fund;
- (13) Establishes affirmative defense protections for an owner or employee of a licensed dispensary or production center to a prosecution involving marijuana;
- (14) Clarifies that qualifying medical marijuana patients and primary caregivers may transport medical marijuana in any public place;
- (15) Appropriates \$510,000 in general funds into and out of the medical marijuana registry and regulation special fund for five full-time positions in the Department of Health to support the medical marijuana dispensary program; and
- (16) Requires the Department of Health to establish and commence a plan and schedule to repay the funds



appropriated to the medical marijuana registry and regulation special fund.

The American Civil Liberties Union of Hawaii, Americans for Democratic Action, Americans for Safe Access - Big Island Chapter, Community Alliance on Prisons, Drug Policy Action Group, Drug Policy Forum of Hawaii, Epilepsy Foundation, Green Futures, Hawaii Cannabis Care, Hawaii Safe Access Group, Hawaiian Standard, Libertarian Party of Hawaii, Natural Cancer Wellness, and seventy-four individuals submitted testimony in support of this measure.

The Honolulu Department of the Prosecuting Attorney, Honolulu Police Department, Maui Police Department, Coalition for a Drug-Free Hawaii, Hawaii Building and Construction Trades Council, Hawaii Catholic Conference, Hawaii Family Advocates, Kaloko Rentals and Services LLC, Laulima Pacific Inc., and thirty-nine individuals submitted testimony in opposition to this measure.

The Department of the Attorney General, Office of the Auditor, Hawaii County Police Department, Hawaii Substance Abuse Coalition, Hui Kahu Malama Puhipono, and one individual submitted comments.

Your Committees find that establishing a comprehensive licensing scheme for medical marijuana dispensaries and production centers and clarifying the right of qualifying patients and primary caregivers to possess marijuana in a public place will ensure that:

- (1) Qualifying patients who benefit from the use of medical marijuana have legal access to marijuana that is tested and labeled to provide information about quality and potency;
- (2) Adequate security measures are instituted to prevent the diversion of medical marijuana to unauthorized consumers, including children;
- (3) Qualifying patients and primary caregivers are able to legally transport medical marijuana to and from places where it may legally be used; and
- (4) The ability of qualifying patients and primary caregivers to grow an adequate supply of medical marijuana, if they are able and so choose, is protected.



Your Committees have amended this measure by:

- (1) Adding a definition of "manufactured marijuana product" to define those products as capsules, lozenges, oils, or pills, and limiting the types of manufactured marijuana products that may be manufactured or distributed to those that meet the definition;
- (2) Clarifying that the Department of Health shall "offer", rather than "grant", a minimum number of licenses to qualified dispensary and production center applicants by dates certain;
- (3) Allowing the Department of Health to begin offering licenses to production centers on July 1, 2016, rather than January 1, 2017;
- (4) Requiring that a manufacturer of marijuana products calculate the equivalent physical weight of the marijuana that is used to manufacture the product and make the equivalency calculations available to the Department of Health and to consumers of the product;
- (5) Requiring the inclusion of equivalency weight information on packaging of manufactured marijuana products, in order to provide an equivalency basis for statutory limitations on the amount of marijuana that may be purchased or possessed;
- (6) Adding minimum requirements for rules pertaining to security for the inter-island transportation of marijuana or manufactured marijuana products;
- (7) Specifying that the amount of marijuana and equivalent amount of manufactured marijuana products that may be obtained from a dispensary is limited to a combined total of four ounces in a period of fifteen consecutive days and eight ounces in thirty consecutive days;
- (8) Adding minimum requirements for rules pertaining to inventory controls, to prevent purchases of unauthorized amounts of marijuana and manufactured marijuana products;
- (9) Prohibiting a medical marijuana purchaser from withholding information about previous purchases from



other dispensaries in order to obtain unauthorized amounts of marijuana or manufactured marijuana products;

- (10) Adding specific provisions for the suspension and revocation of dispensary and production center licenses;
- (11) Prohibiting the establishment of a dispensary or production center within seven hundred and fifty feet of a playground, public housing project or complex, or school, and defining those facilities;
- (12) Amending the definition of "adequate supply" in section 329-121, Hawaii Revised Statutes, to include manufactured marijuana products and marijuana equivalencies within the four-ounce limitation of an adequate supply;
- (13) Changing the appropriation amount to an unspecified sum, and changing the number of full-time equivalency positions to be established to an unspecified number; and
- (14) Specifying that the appropriation shall take effect on July 1, 2050.

Should the Committee on Finance deliberate this measure further, your Committees respectfully request that it consider methods of ensuring that the Department of Health has sufficient funds and resources to regulate a system of medical marijuana dispensaries and production centers. Your Committees note that, according to the Department of Health's projections, appropriations in the amount of \$510,000 for fiscal year 2015-2016 and the same amount in fiscal year 2016-2017, and the addition of five full-time equivalency positions should be sufficient for the department to regulate the system.

Your Committees also note that the Medical Marijuana Dispensary System Task Force recommended that medical marijuana dispensaries and production centers be subject to the general excise tax, as well as a licensing fee structure. Your Committees, however, have concerns that the revenues generated may not be sufficient to sustain a regulated system of medical marijuana dispensaries and cultivation centers. Accordingly, your Committees respectfully request that the Committee on Finance also consider whether other financing options, such as additional fee structures or taxing methodologies, are necessary to ensure that



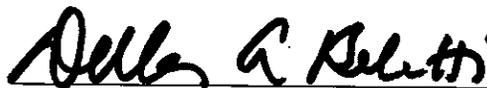
regulation of the system of medical marijuana dispensaries and production centers is self-sustaining.

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. 321, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 321, 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, Chair



DELLA AU BELATTI, Chair



