

JAN 22 2016

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# A BILL FOR AN ACT

RELATING TO LICENSING INSPECTIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the department of  
2 health is responsible for licensing, certifying, and monitoring  
3 several types of facilities, including care facilities and  
4 medical marijuana dispensary facilities, to ensure a standard of  
5 quality. To certify that these facilities are providing a high  
6 standard of quality on a day-to-day basis, inspections and  
7 visits of these facilities should be unannounced to prevent a  
8 prepared appearance that does not truly portray the regular  
9 quality of operations that the facility provides on an on-going  
10 basis.

11           The purpose of this Act is to require the department of  
12 health to conduct visits and relicensing inspections without  
13 notice for state-licensed care facilities and medical marijuana  
14 dispensaries.

15           SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:



1           "§321-     Inspections; visits; state-licensed care  
2 facilities.   (a)   The department shall conduct unannounced  
3 visits and inspections, including inspections for relicensing,  
4 for the following state-licensed care facilities on an annual  
5 basis and at such intervals as determined by the department to  
6 ensure the health, safety, and welfare of each resident:

- 7           (1)   Adult day health centers;
- 8           (2)   Adult day care centers;
- 9           (3)   Community care foster family homes;
- 10          (4)   Developmental disabilities domiciliary homes;
- 11          (5)   Developmentally disabled adult foster homes;
- 12          (6)   Long-term care facilities, including but not limited  
13          to:
  - 14           (A)   Adult residential care homes;
  - 15           (B)   Expanded adult residential care homes;
  - 16           (C)   Assisted living facilities;
  - 17           (D)   Intermediate care facilities;
  - 18           (E)   Nursing facilities; and
  - 19           (F)   Skilled nursing facilities; and
  - 20          (7)   Special treatment facilities.



1        (b) Unannounced visits may be conducted during or outside  
2 regular business hours. All inspections relating to follow-up  
3 visits, visits to confirm correction of deficiencies, or visits  
4 to investigate complaints or suspicion of abuse or neglect shall  
5 be conducted unannounced during or outside regular business  
6 hours. Annual inspections for relicensing may be conducted  
7 during regular business hours or at intervals determined by the  
8 department. Annual inspections for relicensing shall be  
9 conducted without notice.

10        (c) The department shall adopt rules pursuant to chapter  
11 91 to effectuate the purposes of this section."

12        SECTION 3. Section 321-15.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14        "(a) All adult residential care homes shall be licensed to  
15 ensure the health, safety, and welfare of the individuals placed  
16 therein. The department shall conduct [~~unannounced visits,~~  
17 ~~other than the inspection for relicensing, to every licensed~~  
18 ~~adult residential care home and expanded adult residential care~~  
19 ~~home on an annual basis and at such intervals as determined by~~  
20 ~~the department to ensure the health, safety, and welfare of each~~  
21 ~~resident. Unannounced visits may be conducted during or outside~~



1 ~~regular business hours. All inspections relating to follow-up~~  
2 ~~visits, visits to confirm correction of deficiencies, or visits~~  
3 ~~to investigate complaints or suspicion of abuse or neglect shall~~  
4 ~~be conducted unannounced during or outside regular business~~  
5 ~~hours. Annual inspections for relicensing may be conducted~~  
6 ~~during regular business hours or at intervals determined by the~~  
7 ~~department. Annual inspections for relicensing shall be~~  
8 ~~conducted with notice, unless otherwise determined by the~~  
9 ~~department.] visits and inspections pursuant to section 321- ."~~

10 SECTION 4. Section 321-15.62, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) All expanded adult residential care homes shall be  
13 licensed to ensure the health, safety, and welfare of the  
14 individuals placed therein. The department shall conduct visits  
15 and inspections pursuant to section 321- ."

16 SECTION 5. Section 329D-4, Hawaii Revised Statutes, is  
17 amended by amending subsection (n) to read as follows:

18 "(n) A dispensary license may be renewed annually by  
19 payment of an annual renewal fee of \$50,000 and subject to  
20 verification by the department through an unannounced inspection  
21 that the individual licensee and entity licensee continue to



1 meet all licensing requirements from the date the initial  
2 licenses were issued."

3 SECTION 6. Section 329D-7, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§329D-7[+] Medical marijuana dispensary rules. The  
6 department shall establish standards with respect to:

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

9 (2) A fee structure for the submission of applications and  
10 renewals of licenses to dispensaries; provided that  
11 the department shall consider the market conditions in  
12 each county in determining the license renewal fee  
13 amounts;

14 (3) Criteria and procedures for the consideration and  
15 selection, based on merit, of applications for  
16 licensure of dispensaries; provided that the criteria  
17 shall include but not be limited to an applicant's:

18 (A) Ability to operate a business;

19 (B) Financial stability and access to financial  
20 resources; provided that applicants for medical  
21 marijuana dispensary licenses shall provide



- 1 documentation that demonstrates control of not  
2 less than \$1,000,000 in the form of escrow  
3 accounts, letters of credit, surety bonds, bank  
4 statements, lines of credit or the equivalent to  
5 begin operating the dispensary;
- 6 (C) Ability to comply with the security requirements  
7 developed pursuant to paragraph (6);
- 8 (D) Capacity to meet the needs of qualifying  
9 patients;
- 10 (E) Ability to comply with criminal background check  
11 requirements developed pursuant to paragraph (8);  
12 and
- 13 (F) Ability to comply with inventory controls  
14 developed pursuant to paragraph (13);
- 15 (4) Specific requirements regarding annual audits and  
16 reports required from each production center and  
17 dispensary licensed pursuant to this chapter;
- 18 (5) Procedures for announced and unannounced inspections  
19 by the department or its agents of production centers  
20 and dispensaries licensed pursuant to this chapter;



1           provided that inspections for relicensing shall be  
2           unannounced;

3           (6) Security requirements for the operation of production  
4           centers and retail dispensing locations; provided  
5           that, at a minimum, the following shall be required:

6           (A) For production centers:

7                   (i) Video monitoring and recording of the  
8                   premises;

9                   (ii) Fencing that surrounds the premises and that  
10                   is sufficient to reasonably deter intruders  
11                   and prevent anyone outside the premises from  
12                   viewing any marijuana in any form;

13                   (iii) An alarm system; and

14                   (iv) Other reasonable security measures to deter  
15                   or prevent intruders, as deemed necessary by  
16                   the department;

17           (B) For retail dispensing locations:

18                   (i) Presentation of a valid government-issued  
19                   photo identification and a valid

20                   identification as issued by the department

21                   pursuant to section 329-123, by a qualifying



- 1 patient or caregiver, upon entering the
- 2 premises;
- 3 (ii) Video monitoring and recording of the
- 4 premises;
- 5 (iii) An alarm system;
- 6 (iv) Exterior lighting; and
- 7 (v) Other reasonable security measures as deemed
- 8 necessary by the department;
- 9 (7) Security requirements for the transportation of
- 10 marijuana and manufactured marijuana products between
- 11 production centers and retail dispensing locations;
- 12 (8) Standards and criminal background checks to ensure the
- 13 reputable and responsible character and fitness of all
- 14 license applicants, licensees, employees,
- 15 subcontractors and their employees, and prospective
- 16 employees of medical marijuana dispensaries to operate
- 17 a dispensary; provided that the standards, at a
- 18 minimum, shall exclude from licensure or employment
- 19 any person convicted of any felony;
- 20 (9) The training and certification of operators and
- 21 employees of production centers and dispensaries;





- 1       (10) The types of manufactured marijuana products that
- 2               dispensaries shall be authorized to manufacture and
- 3               sell pursuant to sections 329D-9 and 329D-10;
- 4       (11) Laboratory standards related to testing marijuana and
- 5               manufactured marijuana products for content,
- 6               contamination, and consistency;
- 7       (12) The quantities of marijuana and manufactured marijuana
- 8               products that a dispensary may sell or provide to a
- 9               qualifying patient or primary caregiver; provided that
- 10              no dispensary shall sell or provide to a qualifying
- 11              patient or primary caregiver any combination of
- 12              marijuana and manufactured products that:
  - 13              (A) During a period of fifteen consecutive days,
  - 14                      exceeds the equivalent of four ounces of
  - 15                      marijuana; or
  - 16              (B) During a period of thirty consecutive days,
  - 17                      exceeds the equivalent of eight ounces of
  - 18                      marijuana;
- 19       (13) Dispensary and production center inventory controls to
- 20               prevent the unauthorized diversion of marijuana or
- 21               manufactured marijuana products or the distribution of



- 1 marijuana or manufactured marijuana products to  
2 qualifying patients or primary caregivers in  
3 quantities that exceed limits established by this  
4 chapter; provided that the controls, at a minimum,  
5 shall include:
- 6 (A) A computer software tracking system as specified  
7 in section 329D-6(j) and (k); and
  - 8 (B) Product packaging standards sufficient to allow  
9 law enforcement personnel to reasonably determine  
10 the contents of an unopened package;
- 11 (14) Limitation to the size or format of signs placed  
12 outside a retail dispensing location or production  
13 center; provided that the signage limitations, at a  
14 minimum, shall comply with section 329D-6(o)(2) and  
15 shall not include the image of a cartoon character or  
16 other design intended to appeal to children;
- 17 (15) The disposal or destruction of unwanted or unused  
18 marijuana and manufactured marijuana products;
- 19 (16) The enforcement of the following prohibitions against:



- 1 (A) The sale or provision of marijuana or  
2 manufactured marijuana products to unauthorized  
3 persons;
- 4 (B) The sale or provision of marijuana or  
5 manufactured marijuana products to qualifying  
6 patients or primary caregivers in quantities that  
7 exceed limits established by this chapter;
- 8 (C) Any use or consumption of marijuana or  
9 manufactured marijuana products on the premises  
10 of a retail dispensing location or production  
11 center; and
- 12 (D) The distribution of marijuana or manufactured  
13 marijuana products, for free, on the premises of  
14 a retail dispensing location or production  
15 center;
- 16 (17) The establishment of a range of penalties for  
17 violations of this chapter or rule adopted thereto;  
18 and
- 19 (18) A process to recognize and register patients who are  
20 authorized to purchase, possess, and use medical  
21 marijuana in another state, United States territory,



1 or the District of Columbia as qualifying patients in  
2 this State; provided that this registration process  
3 may commence no sooner than January 1, 2018."

4 SECTION 7. Section 329D-23, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) Each medical marijuana production center and  
7 dispensary licensed pursuant to this part shall:

8 (1) Be subject to an annual announced inspection and  
9 unlimited unannounced inspections of its operations by  
10 the department; provided that inspections for  
11 relicensing shall be unannounced;

12 (2) Submit reports on at least a quarterly basis, or as  
13 otherwise required, and in the format specified by the  
14 department; and

15 (3) Annually cause an independent financial audit, at the  
16 dispensary licensee's own expense, to be conducted of  
17 the dispensary, its production center, and retail  
18 dispensing locations and shall submit the audit's  
19 findings to the department."

20 SECTION 8. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# S.B. NO. 2384

1 SECTION 9. This Act shall take effect on July 1, 2016.

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# S.B. NO. 2384

**Report Title:**

Licensing; State-licensed Care Facilities; Marijuana  
Dispensaries; Unannounced Inspections

**Description:**

Requires the department of health to conduct unannounced visits  
and relicensing inspections for state-licensed care facilities  
and medical marijuana dispensaries.

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

