
A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

PART I

1
2 SECTION 1. The legislature finds that Hawaii's medical use
3 of marijuana law was enacted on June 14, 2000, as Act 228,
4 Session Laws of Hawaii 2000, to provide medical relief for
5 seriously ill individuals in the State. While the current law
6 recognizes the beneficial use of marijuana in treating or
7 alleviating pain or other symptoms associated with certain
8 debilitating illnesses, it is silent on how patients can obtain
9 medical marijuana if they or their caregivers are unable to grow
10 their own supply of medical marijuana. The legislature further
11 finds that many of the State's nearly thirteen thousand
12 qualifying patients lack the ability to grow their own supply of
13 medical marijuana due to a number of factors, including
14 disability and limited space to grow medical marijuana. As a
15 result, a regulated statewide dispensary system for medical
16 marijuana is urgently needed by qualifying patients in the
17 State.



1 "Manufactured marijuana product" means any capsule,
2 lozenge, oil, or pill that has been manufactured using
3 marijuana.

4 "Marijuana" shall have the same meaning as in section 329-
5 121.

6 "Medical marijuana dispensary" or "dispensary" means an
7 entity that holds a dispensary license and operates one or more
8 cultivation sites, manufacture sites, and retail dispensing
9 locations.

10 "Person" means an individual, firm, corporation,
11 partnership, association, or any form of business or legal
12 entity.

13 "Primary caregiver" shall have the same meaning as in
14 section 329-121.

15 "Production" means the planting, cultivation, growing, or
16 harvesting of marijuana. "Production" includes the manufacture
17 of medical marijuana products pursuant to this part.

18 "Qualifying patient" shall have the same meaning as in
19 section 329-121.



1 §321-B Medical marijuana dispensaries; licensure; fees;
2 inspection. (a) This section applies to the distribution of
3 marijuana for medical use, as defined in section 329-121.

4 (b) No person shall act as a dispensary unless the person:

5 (1) Has obtained a license from the department pursuant to
6 this part; and

7 (2) Is a resident of the State.

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

11 (d) The director of health shall grant medical marijuana
12 dispensary licenses to allow dispensaries registered under this
13 section to acquire, possess, cultivate, manufacture, deliver,
14 transfer, transport, supply, or dispense marijuana, or related
15 supplies and educational materials, to registered qualifying
16 patients.

17 (e) Each license shall allow acquisition, possession,
18 cultivation, manufacture, transfer, transport, delivery, supply
19 and dispensing of medical marijuana only in the county for which
20 it is granted.



1 (f) There shall be up to dispensary licenses granted
2 in each county of the State; provided that there shall not be a
3 dispensary license granted in the county of Kalawao. There
4 shall be up to cultivation sites and dispensing
5 locations allowed under each dispensary license.

6 (g) Each licensee granted a dispensary license pursuant to
7 this section shall:

8 (1) Be a licensed health care provider organized in the
9 State;

10 (2) Be a legal entity formed under the laws of the State;

11 (3) Not be a legal entity formed under the laws of any
12 other state;

13 (4) Not be an insurance company or mutual benefit society,
14 nor directly owned or controlled by an insurance
15 company or mutual benefit society;

16 (5) Have obtained a Hawaii general excise tax license
17 pursuant to section 237-9; and

18 (6) Be at least twenty-one years of age.

19 (h) The director of health shall approve an application
20 for a dispensary license if the application meets all dispensary



1 licensing requirements and criteria pursuant to this section
2 and, if approved, shall issue the license to the dispensary
3 within days of receiving the application. The director
4 shall issue dispensary licenses to qualifying applicants in the
5 order in which applications are received.

6 (i) Dispensaries licensed pursuant to this section shall
7 be open for business and have medical marijuana for sale to
8 patients no later than days from the date of license
9 approval.

10 (j) The department of health shall commence accepting
11 applications for the dispensary license that is applicable to
12 each county beginning on .

13 (k) A single dispensary may be granted a dispensary
14 license in more than one county if the dispensary meets all
15 licensing requirements.

16 (l) Each person seeking licensure as a dispensary shall
17 submit an application that includes the following:

18 (1) Documentation that demonstrates that the dispensary
19 controls at least \$ for each license and at
20 least \$ for each dispensing location allowed



1 under the license or licenses applied for in the form
 2 of escrow accounts, letters of credit, surety bonds,
 3 bank statements, lines of credit, or the equivalent,
 4 to begin operating the dispensary; and that the
 5 dispensary has controlled the required amount for at
 6 least days prior to the date the license
 7 application was submitted;

8 (2) Documentation that demonstrates the capacity of the
 9 dispensary to conduct chemical and pharmaceutical
 10 analysis of medical marijuana to ensure quality,
 11 consistency, purity, and potency of medication for at
 12 least days prior to the date the license
 13 application was submitted;

14 (3) A fee of \$; provided that:
 15 (A) The applicant shall submit the fee in the form of
 16 two checks in the amount of \$;
 17 (B) If the application is unsuccessful, the
 18 department shall retain the fee of \$,
 19 and destroy the remaining check for \$;
 20 and



1 (C) Application fees of successful applicants are
2 nonrefundable;

3 (4) Documentation that demonstrates that the dispensary is
4 a legal entity formed under the laws of the State; and

5 (5) A general excise tax license number.

6 (m) All dispensary licenses shall expire on ,
7 and may be renewed by application submitted beginning on

8 .
9 (n) The department shall establish and collect an annual
10 renewal fee of \$ from a medical marijuana dispensary
11 license.

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

15 (p) Notwithstanding any other law to the contrary, no
16 dispensary shall employ a person convicted of a felony anywhere
17 in the United States.

18 (q) At least per cent of the interests in a
19 dispensary shall be held at all times by full-time Hawaii
20 residents or entities wholly controlled by Hawaii residents who



1 have documented Hawaii residency for at least years
 2 immediately preceding the date of the license application. No
 3 more than per cent of the interests in a dispensary shall
 4 be held at any time by individuals who do not have documented
 5 Hawaii residency for at least years immediately preceding
 6 the date of the license application.

7 (r) Each individual or entity who holds per cent or
 8 more interest in a dispensary shall:

9 (1) Be a principal officer or board member of the
 10 dispensary;

11 (2) Have been a Hawaii resident for at least years
 12 immediately preceding the date of the license
 13 application;

14 (3) Be a legal resident of the State; and

15 (4) Maintain a full-time residence in the State.

16 (s) Dispensaries licensed pursuant to this section shall
 17 operate and maintain a real-time software system of accounting
 18 for the total amount of medical marijuana, including the
 19 equivalent physical weight of marijuana used to manufacture
 20 manufactured marijuana products, that a qualifying patient and



1 primary caregiver purchase from all dispensing locations in the
2 State.

3 (t) No samples or consumption of marijuana products shall
4 be permitted on dispensary premises or within yards of the
5 premises.

6 **§321-C Qualifying patients; limits; other states.** (a) A
7 qualifying patient shall be allowed to purchase a total limit of
8 ounces of medical marijuana per month and a limit of
9 ounces in any two week period.

10 (b) A qualifying patient may purchase medical marijuana
11 from any dispensary location in the State.

12 (c) This section shall apply to qualifying patients from
13 other states; provided that the patient provides a written
14 certification, as defined in section 329-121, or similar
15 documentation.

16 **§321-D Public education.** (a) The department shall engage
17 in a continuing education and training program to explain and
18 clarify the purposes and requirements of this part. The program
19 shall target community partner agencies, physicians and other
20 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 licensed by the department
8 pursuant to this part shall be permitted to manufacture medical
9 marijuana; provided that the dispensary shall also obtain any
10 other state or county permits or licenses that may be necessary
11 for a particular manufacturing activity.

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

17 (c) A manufacturer of a manufactured marijuana product
18 shall calculate the equivalent physical weight of the marijuana
19 that is used to manufacture the product and shall make the
20 equivalency calculations available to the department and to a
21 consumer of the manufactured marijuana product.



1 **§321-F Types of manufactured marijuana products.** (a) The
2 types of medical marijuana products that may be manufactured and
3 distributed pursuant to this part shall be limited to:

- 4 (1) Capsules;
- 5 (2) Lozenges;
- 6 (3) Oils; and
- 7 (4) Pills.

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

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

- 15 (1) Is child-resistant and opaque so that the product
16 cannot be seen from outside the packaging;
- 17 (2) Is clearly labeled with the phrase "For medical use
18 only";
- 19 (3) Contains information about the contents and potency of
20 the product; and



1 (4) In the case of manufactured marijuana products, lists
2 the equivalent physical weight of the marijuana used
3 to manufacture the amount of the product that is
4 within the packaging, pursuant to section 321-E.

5 (b) Any capsule, lozenge, or pill containing medical
6 marijuana or its principal psychoactive constituent
7 tetrahydrocannabinol shall be packaged so that one dose,
8 serving, or single wrapped item contains no more than ten
9 milligrams of tetrahydrocannabinol; provided that no product
10 shall contain more than a total of milligrams of
11 tetrahydrocannabinol.

12 (c) Dispensaries licensed pursuant to this section shall
13 not:

14 (1) Do any commercial advertising; and

15 (2) Sell any products other than medical marijuana and
16 manufactured medical marijuana products.

17 **§321-H Medical marijuana dispensary rules.** The department
18 shall adopt interim rules, which shall be exempt from chapter 91
19 and be effective upon the effective date of this Act, that
20 include but are not limited to the following:



- 1 (1) Any specific requirements regarding annual audits and
- 2 reports pertaining to each dispensary that is licensed
- 3 pursuant to this part;
- 4 (2) Security requirements for the operation of
- 5 dispensaries; provided that the requirements, at a
- 6 minimum, shall require for dispensaries:
- 7 (A) Presentation of valid identification as issued by
- 8 the department pursuant to section 329-123, by a
- 9 qualifying patient or caregiver, upon entering
- 10 the premises;
- 11 (B) Video monitoring and recording of the premises;
- 12 (C) An alarm system;
- 13 (D) Exterior lighting; and
- 14 (E) Other reasonable security measures as deemed
- 15 necessary by the department;
- 16 (3) Standards and criminal background checks for operators
- 17 and employees of dispensaries; provided that the
- 18 standards, at a minimum, shall exclude from licensure
- 19 or employment any person convicted of any felony;
- 20 (4) The training and certification of operators and
- 21 employees of dispensaries; provided that the



1 department shall establish a training or certification
2 program for dispensary employees;

3 (5) The types of medical marijuana products that
4 dispensaries shall be authorized to grow, manufacture,
5 sell, or provide pursuant to section 321-F;

6 (6) Standards and methodologies related to testing medical
7 marijuana products for content, contamination, and
8 consistency;

9 (7) The quantities of manufactured marijuana products that
10 a dispensary may sell or provide to a qualifying
11 patient or primary caregiver; provided that no
12 dispensary or dispensaries shall sell or provide to a
13 qualifying patient or primary caregiver any
14 combination of marijuana and manufactured marijuana
15 products that:

16 (A) During a period of fifteen consecutive days,
17 exceeds the equivalent of ounces of
18 marijuana; or

19 (B) During a period of thirty consecutive days,
20 exceeds the equivalent of ounces of
21 marijuana;



- 1 (8) Dispensary inventory controls to prevent the
2 unauthorized diversion of marijuana or the
3 distribution of medical marijuana or manufactured
4 marijuana products to qualifying patients or primary
5 caregivers in quantities that exceed limits
6 established by this section; provided that the
7 controls, at a minimum, shall include:
- 8 (A) A computer software tracking system that will
9 allow the department to track all medical
10 marijuana and medical marijuana product inventory
11 from either seed or immature plant stage until
12 the marijuana or marijuana product is sold to a
13 customer or destroyed; and
- 14 (B) Product packaging standards sufficient to allow
15 law enforcement personnel to reasonably determine
16 the contents of an unopened package;
- 17 (9) The destruction or disposal of any marijuana products;
18 provided that the department shall have a record on
19 inventory that requires witness and reverse
20 distribution for final disposal; and



1 (10) Any limitations to the size or format of any signs
 2 placed outside a dispensary; provided that no sign
 3 shall include the image of a cartoon character or
 4 other design intended to appeal to children;
 5 provided that the interim rules shall apply up to the date of
 6 the department's adoption of final rules in accordance with
 7 chapter 91.

8 §321-I Prohibited acts; exceeding limits; fraud; unlawful
 9 manufacturing of medical marijuana products. (a) It is
 10 unlawful for any qualifying patient or primary caregiver who
 11 visits more than one dispensary to knowingly or intentionally
 12 withhold information regarding prior dispensary visits for the
 13 purpose of obtaining quantities of medical marijuana or
 14 manufactured marijuana products that exceed limits established
 15 by this part.

16 (b) It is unlawful for any person to:
 17 (1) Obtain or attempt to procure any medical marijuana or
 18 marijuana product from a dispensary by:
 19 (A) Fraud, deceit, misrepresentation, embezzlement,
 20 or theft;



- 1 (B) The forgery or alteration of a medical marijuana
- 2 permit;
- 3 (C) Furnishing fraudulent medical information or the
- 4 concealment of a material fact;
- 5 (D) The use of a false name or patient identification
- 6 number, or the giving of a false address; or
- 7 (E) The alteration of a state issued medical use of
- 8 marijuana permit card;
- 9 (2) Furnish false or fraudulent material information in or
- 10 omit any material information from any application,
- 11 report, or other document required to be kept or filed
- 12 under this part;
- 13 (3) Misapply or divert to the person's own use or other
- 14 unauthorized or illegal use or to take, make away
- 15 with, or secrete, with intent to misapply or divert to
- 16 the person's own use or other unauthorized or illegal
- 17 use, any marijuana that shall have come into the
- 18 person's possession or under the person's care while
- 19 working in a dispensary by virtue of the person's
- 20 employment; or



1 (4) Make, distribute, possess, or sell any medical use of
2 marijuana permit form whether blank, faxed, computer
3 generated, photocopied, electronically transmitted, or
4 reproduced in any other manner without the
5 authorization of the department of health medical use
6 of marijuana program.

7 (c) It is unlawful for any dispensary to use flammable
8 solvents to extract tetrahydrocannabinol from marijuana for the
9 purposes of manufacturing medical marijuana products.

10 (d) Any person who violates subsection (a) is guilty of a
11 misdemeanor and subject to a fine of \$500. Any person who
12 violates subsection (b) is guilty of a class C felony. Any
13 dispensary who violates subsection (c) is guilty of a class B
14 felony.

15 **§321-J Revocation and suspension of license.** (a) In
16 addition to any other actions authorized by law, the department
17 shall have the power to deny, revoke, or suspend any license
18 applied for or issued by the department in accordance with this
19 part, and to fine or otherwise discipline a licensee for any
20 cause authorized by law, including but not limited to the
21 following:



- 1 (1) Procuring a license through fraud, misrepresentation,
2 or deceit;
- 3 (2) Professional misconduct, gross carelessness, or
4 manifest incapacity;
- 5 (3) Violation of any of the provisions of this part or the
6 rules adopted pursuant thereto;
- 7 (4) False, fraudulent, or deceptive advertising;
- 8 (5) Any other conduct constituting fraudulent or dishonest
9 dealings;
- 10 (6) Failure to comply with a department order; and
- 11 (7) Making a false statement on any document submitted or
12 required to be filed by this part, including
13 furnishing false or fraudulent material information in
14 any application.
- 15 (b) Any person who violates any of the provisions of this
16 chapter or the rules adopted pursuant thereto shall be fined not
17 less than \$ nor more than \$ for each
18 violation.
- 19 (c) If the department revokes or suspends a license, the
20 licensee shall not:



1 (1) Dispense, sell, transfer, or otherwise dispose of any
2 marijuana or manufactured marijuana products owned by
3 or in the possession of the licensee; or

4 (2) Manufacture marijuana products,
5 until the time for taking an appeal has elapsed or until all
6 appeals have been concluded. Upon a revocation order becoming
7 final, all marijuana and manufactured marijuana products shall
8 be forfeited to the State.

9 (d) All proceedings for denial, suspension, fine, or
10 revocation of a license on any grounds specified in subsection
11 (a) shall be conducted pursuant to chapter 91, including the
12 right of judicial review.

13 **§321-K Medical marijuana zoning.** (a) Medical marijuana
14 dispensaries shall comply with all county zoning ordinances,
15 rules, or regulations; provided that:

16 (1) A medical marijuana dispensary shall be permitted in
17 any area in which agricultural production is permitted
18 except as provided within this part; and

19 (2) No medical marijuana dispensary shall be permitted
20 within seven hundred fifty feet of the real property



1 comprising a playground, public housing project or
2 complex, or school.

3 (b) As used in this section:

4 "Playground" means any public outdoor facility, including
5 any parking lot appurtenant thereto, that is intended for
6 recreation, with any portion thereof containing three or more
7 separate apparatus intended for the recreation of children,
8 including but not limited to sliding boards, swing sets, and
9 teeterboards.

10 "Public housing project or complex" means a housing project
11 directly controlled, owned, developed, or managed by the Hawaii
12 public housing authority pursuant to the federal or state low-
13 rent public housing program.

14 "School" means any public or private preschool,
15 kindergarten, elementary, intermediate, middle secondary, high
16 school, or university.

17 §321-L Annual inspections, audits, and reports. (a) Each
18 medical marijuana dispensary licensed pursuant to this part
19 shall:



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

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

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

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

19 **§321-N Coordination among state and federal agencies.** The
20 department shall initiate ongoing dialogue among relevant state
21 and federal agencies to identify processes and policies that



1 ensure the privacy of medical marijuana patients and the
2 compliance of patients, caregivers, producers, and dispensaries
3 with state laws and regulations related to medical marijuana.

4 §321-O Criminal offenses; dispensary premises; penalties.

5 (a) No person shall intentionally or knowingly enter or remain
6 upon licensed dispensary premises unless the person is:

7 (1) An authorized operator or employee of the dispensary
8 and is registered with the department's dispensary
9 program;

10 (2) An adult patient or caregiver registered with the
11 department's medical marijuana program;

12 (3) A government employee or official acting in the
13 person's official capacity; or

14 (4) A person who has obtained written authorization from
15 the department to be upon the premises.

16 (b) No operator or employee of a licensed dispensary shall
17 intentionally, knowingly, or recklessly allow a person to enter
18 or remain upon the licensed dispensary's premises unless that
19 person is permitted pursuant to subsection (a).

20 (c) Any person in violation of this section shall be
21 guilty of a class C felony.



1 **§321-P Prohibition of distribution of marijuana and**
2 **marijuana products to minors; storage; penalties.** (a) A person
3 commits the offense of promoting marijuana to a minor if the
4 person intentionally, knowingly, or recklessly distributes any
5 amount of marijuana to a minor who is not a registered
6 qualifying patient. Any person in violation of this subsection
7 shall be guilty of a class B felony.

8 (b) A person commits the offense of failure to store
9 marijuana if the person intentionally, knowingly, or recklessly
10 leaves any amount of marijuana, marijuana product, or marijuana
11 concentrate unattended by that person in premises occupied by a
12 minor who is not a registered qualifying patient, unless the
13 marijuana, marijuana product, or marijuana concentrate is
14 securely locked in a container or location that a reasonable
15 person would believe to be secure and inaccessible to a minor.
16 Any person in violation of this subsection shall be guilty of a
17 class C felony.

18 **§321-Q Diversion from a dispensary; penalties.** (a) A
19 person commits diversion from a dispensary if the person is an
20 operator or employee of a licensed medical marijuana dispensary
21 and intentionally or knowingly diverts to the person's own use



1 or other unauthorized or illegal use, or takes, makes away with,
2 or secretes, with intent to divert to the person's own use or
3 other unauthorized or illegal use, any marijuana, marijuana
4 product, or marijuana concentrate under the person's possession,
5 care, or custody.

6 (b) Any person in violation of this section shall be
7 guilty of a class B felony.

8 §321-R Prohibition against alteration or falsification of
9 medical marijuana dispensary records. (a) A person commits the
10 offense of falsification of medical marijuana records if the
11 person intentionally, knowingly, or recklessly:

12 (1) Makes or causes a false entry in medical marijuana
13 dispensary records;

14 (2) Alters, erases, obliterates, deletes, removes, or
15 destroys a true entry in medical marijuana dispensary
16 records;

17 (3) Omits a true entry in medical marijuana dispensary
18 records in violation of a duty that the person knows
19 to be imposed upon the person by law or by the nature
20 of the person's position; or



1 (4) Prevents the making of a true entry or causes the
2 omission thereof in medical marijuana dispensary
3 records.

4 (b) Any person in violation of this section shall be
5 guilty of a class C felony.

6 (c) For the purposes of this section:

7 "Electronic" means relating to technology having
8 electrical, digital, magnetic, wireless, optical,
9 electromagnetic, or other similar capabilities.

10 "Information" means data, text, images, sounds, codes,
11 computer programs, software, or databases.

12 "Medical marijuana dispensary records" means any inventory
13 tracking records and other records of a licensed medical
14 marijuana dispensary.

15 "Record" means information that is written, printed, or
16 stored in an electronic or other medium and is retrievable in a
17 perceivable form.

18 **§321-S Law enforcement; access to dispensary records.** The
19 department shall disclose information, documents, and other
20 records regarding medical marijuana dispensaries to police
21 departments, prosecutors' offices, the attorney general's



1 office, and any other state, county, or federal agency engaged
2 in the detection, investigation, or prosecution of violations of
3 applicable state, county, and federal laws or regulations
4 related to the operations or activities of a medical marijuana
5 dispensary."

6 **PART III**

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

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

14 Zoning in all counties shall be accomplished within the
15 framework of a long-range, comprehensive general plan prepared
16 or being prepared to guide the overall future development of the
17 county. Zoning shall be one of the tools available to the
18 county to put the general plan into effect in an orderly manner.
19 Zoning in the counties of Hawaii, Maui, and Kauai means the
20 establishment of districts of such number, shape, and area, and
21 the adoption of regulations for each district to carry out the



1 purposes of this section. In establishing or regulating the
2 districts, full consideration shall be given to all available
3 data as to soil classification and physical use capabilities of
4 the land to allow and encourage the most beneficial use of the
5 land consonant with good zoning practices. The zoning power
6 granted herein shall be exercised by ordinance which may relate
7 to:

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



- 1 (6) The location, height, bulk, number of stories, and
2 size of buildings and other structures;
- 3 (7) The location of roads, schools, and recreation areas;
- 4 (8) Building setback lines and future street lines;
- 5 (9) The density and distribution of population;
- 6 (10) The percentage of a lot that may be occupied, size of
7 yards, courts, and other open spaces;
- 8 (11) Minimum and maximum lot sizes; and
- 9 (12) Other regulations the boards or city council find
10 necessary and proper to permit and encourage the
11 orderly development of land resources within their
12 jurisdictions.

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

20 Any civil fine or penalty provided by ordinance under this
21 section may be imposed by the district court, or by the zoning



1 agency after an opportunity for a hearing pursuant to chapter
2 91. The proceeding shall not be a prerequisite for any
3 injunctive relief ordered by the circuit court.

4 Nothing in this section shall invalidate any zoning
5 ordinance or regulation adopted by any county or other agency of
6 government pursuant to the statutes in effect prior to July 1,
7 1957.

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

17 Neither this section nor any ordinance enacted pursuant to
18 this section shall prohibit the continued lawful use of any
19 building or premises for any trade, industrial, residential,
20 agricultural, or other purpose for which the building or
21 premises is used at the time this section or the ordinance takes



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

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

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

18 (d) Neither this section nor any other law, county
19 ordinance, or rule shall prohibit group living in facilities
20 with eight or fewer residents for purposes or functions that are
21 licensed, certified, registered, or monitored by the State;



1 provided that a resident manager or a resident supervisor and
2 the resident manager's or resident supervisor's family shall not
3 be included in this resident count. These group living
4 facilities shall meet all applicable county requirements not
5 inconsistent with the intent of this subsection, including but
6 not limited to building height, setback, maximum lot coverage,
7 parking, and floor area requirements.

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

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

19 **PART IV**

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



1 " ~~[+]~~ §321-30.1 ~~[+]~~ Medical marijuana registry and regulation
2 special fund; established. (a) There is established within the
3 state treasury the medical marijuana registry and regulation
4 special fund. The fund shall be expended at the discretion of
5 the director of health:

6 (1) To establish and regulate a system of medical
7 marijuana dispensaries in the State;

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

11 ~~[+2]~~ (3) To fund positions authorized by the legislature;

12 ~~[+3]~~ (4) To establish and manage a secure and confidential
13 database; and

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

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



1 owner or employee strictly complied with the requirements of
2 chapter 321, part _____.

3 (b) An owner or employee of a licensed medical marijuana
4 dispensary not complying with the permitted scope of the
5 production or distribution of medical marijuana under chapter
6 321, part _____, shall not be afforded the protections provided
7 by subsection (a).

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 dispensary licensed and operating under chapter 321,
11 part _____.

12 §329- _____ Prohibited acts; flammable solvents. (a) No
13 qualifying patient or primary caregiver shall use flammable
14 solvents to extract tetrahydrocannabinol from marijuana plants.

15 (b) Any person who violates this section shall be guilty
16 of a class B felony."

17 SECTION 6. Section 329-121, Hawaii Revised Statutes, is
18 amended by amending the definition of "adequate supply" to read
19 as follows:

20 "Adequate supply" means an amount of marijuana jointly
21 possessed between the qualifying patient and the primary



1 caregiver that is not more than is reasonably necessary to
2 [assure] ensure the uninterrupted availability of marijuana for
3 the purpose of alleviating the symptoms or effects of a
4 qualifying patient's debilitating medical condition; provided
5 that an "adequate supply" shall not exceed: seven marijuana
6 plants, whether immature or mature, and four ounces of usable
7 marijuana at any given time[-]; or any combination of usable
8 marijuana and marijuana products manufactured pursuant to
9 part of chapter 321 that exceed four ounces of usable
10 marijuana or the equivalent of four ounces of usable marijuana,
11 as calculated using information provided pursuant to section
12 321-G(a)(4)."

13 SECTION 7. Section 329-122, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

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

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

19 (2) The medical use of marijuana:

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



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

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

15 SECTION 8. Section 329-123, Hawaii Revised Statutes, is
 16 amended by amending subsection (a) to read as follows:

17 "(a) Physicians who issue written certifications shall
 18 provide, in each written certification, the name, address,
 19 patient identification number, and other identifying information
 20 of the qualifying patient. The department of health shall
 21 require, in rules adopted pursuant to chapter 91, that all



1 written certifications comply with a designated form completed
 2 by or on behalf of a qualifying patient. The form shall require
 3 information from the applicant, primary caregiver, and [primary
 4 care] physician as specifically required or permitted by this
 5 chapter. The form shall require the address of the location
 6 where the marijuana is grown and shall appear on the registry
 7 card issued by the department of health. [~~The certifying
 8 physician shall be required to be the qualifying patient's
 9 primary care physician.~~] All current active medical marijuana
 10 permits shall be honored through their expiration date."

11 **PART VI**

12 SECTION 9. There is appropriated out of the general
 13 revenues of the State of Hawaii the sum of \$ or so
 14 much thereof as may be necessary for fiscal year 2015-2016 and
 15 the same sum or so much thereof as may be necessary for fiscal
 16 year 2016-2017 to be deposited into the medical marijuana
 17 registry and regulation special fund established pursuant to
 18 section 321-30.1, Hawaii Revised Statutes.

19 SECTION 10. There is appropriated out of the medical
 20 marijuana registry and regulation special fund the sum of
 21 \$ or so much thereof as may be necessary for fiscal



1 year 2015-2016 and the same sum or so much thereof as may be
2 necessary for fiscal year 2016-2017 to carry out the purposes of
3 this Act, including the hiring of full-time
4 equivalent (FTE) positions to carry out the purposes of the
5 medical marijuana dispensary program established pursuant to
6 this Act.

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

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

18 **PART VII**

19 SECTION 12. Not later than March 15, 2016, the director of
20 health shall submit a report and provide an informational
21 briefing to the legislature concerning the progress of



1 implementing the provisions of part II of this Act, including
2 the status of rulemaking by the department of health pertaining
3 to the licensure of medical marijuana dispensaries.

4 PART VIII

5 SECTION 13. In codifying the new sections added by section
6 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 14. If any provision of this Act, or the
10 application thereof to any person or circumstance, is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act that can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

15 SECTION 15. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 16. This Act shall take effect on ;
18 provided that:

- 19 (1) Part VI shall take effect on July 1, 2050; and
- 20 (2) This Act shall be repealed on , and sections
- 21 46-4, 321-30.1, 329-122(c), and 329-123(a), and the



1 definition of "adequate supply" in section 329-121,
2 Hawaii Revised Statutes, shall be reenacted in the
3 form in which they read on the day prior to the
4 effective date of this Act.



Report Title:

Medical Marijuana; Dispensaries; Appropriation

Description:

Establishes a system of medical marijuana dispensaries and limits on amounts that can be purchased. Prohibits counties from enacting zoning regulations that prohibit the use of land for licensed dispensaries. Clarifies the right of qualifying patients and primary caregivers to transport medical marijuana. Establishes various criminal offenses to protect against unauthorized access to dispensary premises, distribution of marijuana to minors, diversion of marijuana, and alteration or falsification of dispensary records. Authorizes any licensed physician, rather than only the primary care physician, of a qualifying patient to issue a written certification. Appropriates funds. Repeals on an unspecified date. (SD1)

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

