

Honolulu, Hawaii

MAY 5, 2015

RE: H.B. No. 321  
H.D. 1  
S.D. 2  
C.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

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

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 321, H.D. 1, S.D. 2, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to establish a system of medical marijuana dispensaries and cultivation and manufacturing sites in the State.

More specifically, this measure:

- (1) Establishes licensing and regulatory schemes for the operation of dispensaries;
- (2) Requires that an applicant for a dispensary license be a health care provider organized in the State;



- (3) Establishes the following fees:
  - (a) A non-refundable \$25,000 dispensary license application fee;
  - (b) An additional \$75,000 fee for each license approved; and
  - (c) A \$25,000 fee for each retail dispensing location allowed under each approved license;
- (4) Allows qualifying patients from other states to purchase medical marijuana from licensed dispensaries in this State;
- (5) Requires the Department of Health to engage in public education and training regarding medical marijuana;
- (6) Allows the manufacture of certain medical marijuana products;
- (7) Requires the Department of Health to establish standards regarding the advertising and packaging of medical marijuana products;
- (8) Requires the Department of Health to adopt interim rules regarding:
  - (a) Annual audits and reports pertaining to each licensed dispensary;
  - (b) Security requirements for the operation of dispensaries;
  - (c) Standards and criminal background checks for operators and employees of dispensaries;
  - (d) Training and certification of operators and employees of dispensaries;
  - (e) Types of medical marijuana products that dispensaries shall be authorized to grow, manufacture, sell, or provide;



- (f) Standards and methodologies related to testing medical marijuana products for content, contamination, and consistency;
  - (g) Quantities of manufactured marijuana products that a dispensary may dispense to a qualifying patient or primary caregiver;
  - (h) Inventory controls to prevent the unauthorized diversion of marijuana or the dispensing of quantities that exceed established limits;
  - (i) Destruction or disposal of any marijuana products; and
  - (j) Limitations to the size or format of any signs placed outside a dispensary;
- (9) Requires the Department of Health to adopt rules to implement dispensary licensure and establish standards;
- (10) Prohibits a qualifying patient or primary caregiver from:
- (a) Withholding information regarding prior dispensary visits for the purpose of obtaining quantities of medical marijuana or manufactured marijuana products that exceed established limits; or
  - (b) Obtaining or attempting to procure any medical marijuana or marijuana product from a dispensary by fraud, deceit, embezzlement, forgery, furnishing false information, or altering or unlawfully distributing, possessing, or selling a state-issued medical use of marijuana card;
- (11) Prohibits the use of flammable solvents to extract tetrahydrocannabinol by a dispensary, qualifying patient, or primary caregiver;
- (12) Provides for the revocation and suspension of dispensary licenses for violations;
- (13) Requires dispensaries to comply with all county zoning ordinances, rules, or regulations; specifies that dispensaries shall be permitted in areas where agricultural production is permitted and shall not be



permitted within seven hundred fifty feet of a playground, public housing project, or school;

- (14) Requires dispensaries to allow inspections and have annual financial audits conducted;
- (15) Requires the Department of Health to annually report to the Governor and the Legislature on the establishment and regulation of dispensaries;
- (16) Specifies that qualifying patients and primary caregivers shall retain the authority to grow and manufacture an adequate supply of medical marijuana;
- (17) 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;
- (18) Prohibits:
  - (a) An unauthorized person to enter or remain at a dispensary;
  - (b) Distribution of marijuana and marijuana products to an unauthorized minor;
  - (c) Failure to securely store marijuana, marijuana products, or marijuana concentrate;
  - (d) Unauthorized diversion of marijuana from a dispensary; and
  - (e) Alteration or falsification of dispensary records;
- (19) Provides law enforcement agencies with access to dispensary records;
- (20) Prohibits any law, county ordinance, or rule from prohibiting the use of land for dispensaries; provided that the land is otherwise zoned for agriculture, manufacturing, or retail purposes;
- (21) 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;

- (22) Establishes affirmative defense protections for an owner or employee of a licensed dispensary to a prosecution involving marijuana;
- (23) Provides that an adequate supply of marijuana may include manufactured marijuana products containing the equivalent of four ounces of usable marijuana;
- (24) Clarifies that qualifying medical marijuana patients and primary caregivers may transport medical marijuana in any public place;
- (25) Allows any licensed physician with a bona fide physician-patient relationship with a qualifying patient, rather than only the qualifying patient's primary care physician, to issue a written certification for the use of medical marijuana;
- (26) Establishes a fifteen percent special general excise tax on marijuana sales by a dispensary;
- (27) Establishes a ten percent retail marijuana special sales tax on the gross proceeds of sales by a dispensary;
- (28) Appropriates \$750,000 of general revenues into the medical marijuana registry and regulation special fund;
- (29) Appropriates an unspecified amount from the medical marijuana registry and regulation special fund to implement this measure, including the hiring of full time personnel;
- (30) Provides that by no later than July 1, 2016, the Department of Health is required to establish and commence a repayment plan for the general funds deposited into the medical marijuana registry and regulation special fund; and
- (31) Requires the Director of Health to report and provide an informational briefing no later than March 15, 2016, to the Legislature regarding the implementation of medical marijuana dispensaries.



Your Committee on Conference finds that Hawaii's medical use of marijuana law was enacted on June 14, 2000, as Act 228, Session Laws of Hawaii 2000, to provide medical relief for seriously ill individuals in the State but did not provide a legal way for those individuals to obtain medical marijuana. Many patients who are qualified to use medical marijuana lack the ability to grow their own supply.

Your Committee on Conference also finds that in April of 2014, the Legislature approved House Concurrent Resolution No. 48, House Draft 1, Senate Draft 1, requesting the convening of a task force to develop recommendations for the establishment of a regulated statewide dispensary system for medical marijuana. A medical marijuana dispensary task force that included health officials, qualifying medical marijuana patients, law enforcement leaders, legislators, and other stakeholders was duly convened and met from June of 2014 to January of 2015 to engage in extensive discussions, examine medical marijuana laws and policies from other states, gather input from experts, and review comprehensive and updated reports by the Legislative Reference Bureau and the State Auditor. The task force voted on and approved thirty-eight recommendations related to the establishment of a regulated statewide dispensary system for medical marijuana.

Your Committee on Conference also finds that the medical marijuana dispensary task force recommendations provided crucial guidance for the formulation of this measure, which also takes into account many suggestions, concerns, and criticisms from other stakeholders.

Your Committee on Conference further finds that licensed medical marijuana dispensaries should be authorized under a vertical integration licensing scheme to cultivate marijuana and manufacture specified medical marijuana products in addition to dispensing medical marijuana and medical marijuana products. Licensing regulations should ensure that licenses are granted to Hawaii residents and to entities that have adequate access to capital, that are organized under the laws of the State, and in which a majority of Hawaii residents exercise control.

Your Committee on Conference has amended this measure by:

- (1) Providing that eight dispensary licenses shall be issued in the State; provided that three shall be issued for the City and County of Honolulu, two shall be issued for the County of Hawaii, two shall be issued for the County of



Maui, one shall be issued for the County of Kauai, and none shall be issued for the County of Kalawao;

- (2) Authorizing dispensary licensees to own, operate, or subcontract up to two production centers and up to two retail dispensing locations;
- (3) Deleting the requirement that a licensee be a health care provider;
- (4) Prohibiting any single person from obtaining a dispensary license in more than one county;
- (5) Authorizing the operation of up to two production centers per dispensary license, with a total of not more than three thousand marijuana plants per production center, under each dispensary license;
- (6) Authorizing each dispensary licensee to operate up to two retail dispensing locations under the licensee's license;
- (7) Authorizing each licensee to commence dispensing medical marijuana and manufactured marijuana products on July 15, 2016;
- (8) Prohibiting a dispensary from being located at the same place as a licensee's production center;
- (9) Authorizing the Department of Health to determine, based on qualifying patient need, whether additional licenses shall be offered after October 1, 2017;
- (10) Requiring that each application for a license include both an individual applicant and an applying entity;
- (11) Establishing criteria for license applications to require that an individual applicant:
  - (a) Be a legal resident of the State for not less than five years preceding the date of applicant;
  - (b) Be not less than twenty-one years of age; and
  - (c) Have no felony convictions;



- (12) Establishing criteria for license applications to require that an entity applicant:
- (a) Be organized under the laws of the State;
  - (b) Have a Hawaii tax identification number;
  - (c) Have a Department of Commerce and Consumer Affairs Business Registration Division number and suffix;
  - (d) Have a federal employer identification number;
  - (e) Be not less than fifty-one percent held by Hawaii legal residents or entities wholly controlled by Hawaii legal residents who have been Hawaii legal residents for at least the five years immediately preceding years;
  - (f) Have at least \$1,000,000 under its control for each license applied for, plus at least \$100,000 available for each retail dispensing location allowed under the license applied for; and
  - (g) Be comprised of principals or members who have no felony convictions;
- (13) Changing the non-refundable application fee from \$25,000 to \$5,000;
- (14) Deleting the \$25,000 fee for each retail dispensing location allowed under each approved license;
- (15) Further specifying license application requirements and verification procedures;
- (16) Providing that an application that has been verified to meet minimal licensing requirements shall be placed in an application pool for further review by the Department of Health and selection based on merit;
- (17) Limiting dispensary operating hours;
- (18) Prohibiting a dispensary from:
- (a) Providing written certification for the use of medical marijuana;





- (b) Employing any person under the age of twenty-one;
  - (c) Providing free samples of marijuana or manufactured marijuana products;
  - (d) Allowing the consumption of marijuana or manufactured marijuana products on dispensary premises;
  - (e) Transporting marijuana or manufactured marijuana products to another county or island;
  - (f) Providing off-premises delivery of marijuana or manufactured marijuana products to caregivers or patients; and
  - (g) Displaying marijuana or manufactured marijuana products in public view;
- (19) Establishing certain minimum standards for rules to be adopted by the Department of Health regarding dispensary licensure;
  - (20) Establishing certain restrictions for the packaging of manufactured marijuana products;
  - (21) Prohibiting the transportation of any medical marijuana or medical marijuana products to, from, or within any federal fort or arsenal, national park or forest, any other federal enclave, or any other property possessed or occupied by the federal government;
  - (22) Establishing limits on the size and contents of any signage posted by a dispensary; provided that any law or ordinance that is more restrictive shall govern;
  - (23) Deleting the fifteen percent special general excise tax on marijuana sales by a dispensary;
  - (24) Deleting the ten percent retail marijuana special sales tax on the gross proceeds of sales by a dispensary;
  - (25) Changing the prohibition on the use of flammable solvents to extract tetrahydrocannabinol to instead prohibit the use of butane for that purpose;



- (26) Prohibiting a qualifying patient from obtaining medical marijuana or manufactured marijuana products after December 31, 2018, from any source other than a licensed dispensary or by personally cultivating the marijuana; provided that a primary caregiver may cultivate marijuana after December 31, 2018, for a qualifying patient:
- (a) Who is a minor or an adult lacking legal capacity and the primary caregiver is the parent, guardian, or person having legal custody over that minor or person; or
  - (b) Who is located on any island on which there is no licensed medical marijuana dispensary;
- (27) Expanding the definition of "debilitating medical condition" for purposes of authorizing medical marijuana use to include post-traumatic stress disorder;
- (28) Deleting the prohibition on the failure to securely store marijuana, marijuana products, or marijuana concentrate;
- (29) Prohibiting unauthorized access to production center premises;
- (30) Expanding the Department of Health's authority to conduct criminal background checks;
- (31) Inserting \$750,000 as the amount appropriated from the medical marijuana registry and regulation special fund to implement this measure, including the hiring of full time personnel; and
- (32) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 321, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 321, H.D. 1, S.D. 2, C.D. 1.

Respectfully submitted on behalf  
of the managers:



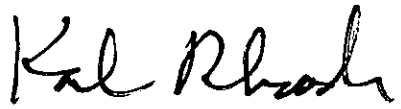
ON THE PART OF THE SENATE

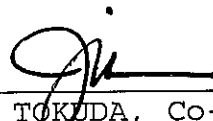
ON THE PART OF THE HOUSE

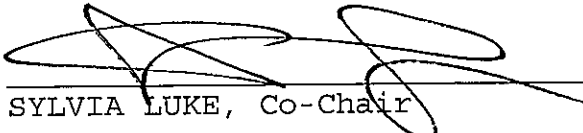
  
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WILL ESPERO, Chair

  
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DELLA AU BELATTI, Co-Chair

  
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GILBERT S.C. KEITH-AGARAN, Co-Chair

  
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KARL RHOADS, Co-Chair

  
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JILL N. TOKUDA, Co-Chair

  
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SYLVIA LUKE, Co-Chair



Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: <b>HB 321, HD 1, SD 2</b>	Date/Time: <b>5/4/2015</b> <b>1:18 pm</b>
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure

The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.

Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
ESPERO, Will, Chr.	✓				BELATTI, Della Au, Co-Chr.	✓			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	✓				RHOADS, Karl, Co-Chr.	✓			
TOKUDA, Jill N., Co-Chr.	✓				LUKE, Sylvia, Co-Chr.	✓			
GABBARD, Mike	✓				SAN BUENAVENTURA, Joy A.	✓			
IHARA, Les, Jr.	✓				TAKAYAMA, Gregg	✓			
					FUKUMOTO CHANG, Beth		✓		
<b>TOTAL</b>	<b>5</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>TOTAL</b>	<b>5</b>	<b>1</b>	<b>-</b>	<b>-</b>

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is:  
 Adopted       Not Adopted

House Recommendation is:  
 Adopted       Not Adopted

Senate Lead Chair's or Designee's Signature:  


House Lead Chair's or Designee's Signature:  


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