



GOV. MSG. NO. 1286

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 1, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 1, 2016, the following bill was signed into law:

SB2384 SD1 HD1 CD1

RELATING TO LICENSING INSPECTIONS
ACT 184 (16)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

JUL 1 2016

on _____

THE SENATE

TWENTY-EIGHTH LEGISLATURE, 2016

STATE OF HAWAII

ACT 184
S.B. NO.

2384
S.D. 1
H.D. 1
C.D. 1

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 production centers and dispensaries, to ensure
5 a standard of quality. To ensure that these facilities are
6 providing a high standard of quality on a day-to-day basis,
7 inspections and visits of these facilities should be unannounced
8 to prevent a prepared appearance that does not truly portray the
9 regular quality of operations that the facility provides on an
10 ongoing basis.

11 The purpose of this Act is to require the department of
12 health to:

13 (1) Conduct visits and relicensing or recertification
14 inspections without notice for state-licensed or
15 state-certified care facilities and unannounced
16 inspections for license renewals for medical marijuana
17 production centers and dispensaries; and



1 (2) Submit reports to the legislature prior to the regular
2 sessions of 2017, 2018, and 2019 on the number of
3 unannounced visits and inspections on state-licensed
4 or state-certified care homes specified in this Act.

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

8 "§321- Inspections; visits; state-licensed or state-
9 certified care facilities. (a) The department of health shall
10 conduct unannounced visits and inspections, including
11 inspections for relicensing or recertification, for the
12 following state-licensed or state-certified care facilities on
13 an annual basis and at such intervals as determined by the
14 department to ensure the health, safety, and welfare of each
15 resident:

- 16 (1) Adult day health centers;
- 17 (2) Adult day care centers;
- 18 (3) Community care foster family homes;
- 19 (4) Developmental disabilities domiciliary homes;
- 20 (5) Adult foster homes;



- 1 (6) Long-term care facilities, including but not limited
- 2 to:
- 3 (A) Adult residential care homes;
- 4 (B) Expanded adult residential care homes;
- 5 (C) Assisted living facilities;
- 6 (D) Intermediate care facilities;
- 7 (E) Nursing facilities; and
- 8 (F) Skilled nursing facilities; and
- 9 (7) Special treatment facilities.

10 (b) Unannounced visits may be conducted during or outside
11 regular business hours. All inspections relating to follow-up
12 visits, visits to confirm correction of deficiencies, or visits
13 to investigate complaints or suspicion of abuse or neglect shall
14 be conducted unannounced during or outside regular business
15 hours. Annual inspections for relicensing or recertification
16 may be conducted during regular business hours or at intervals
17 determined by the department. Annual inspections for
18 relicensing or recertification shall be conducted without
19 notice.

20 (c) The department shall adopt rules pursuant to chapter
21 91 to effectuate the purposes of this section."



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

3 "(a) All adult residential care homes shall be licensed to
4 ensure the health, safety, and welfare of the individuals placed
5 therein. The department shall conduct ~~[unannounced visits,~~
6 ~~other than the inspection for relicensing, to every licensed~~
7 ~~adult residential care home and expanded adult residential care~~
8 ~~home on an annual basis and at such intervals as determined by~~
9 ~~the department to ensure the health, safety, and welfare of each~~
10 ~~resident. Unannounced visits may be conducted during or outside~~
11 ~~regular business hours. All inspections relating to follow-up~~
12 ~~visits, visits to confirm correction of deficiencies, or visits~~
13 ~~to investigate complaints or suspicion of abuse or neglect shall~~
14 ~~be conducted unannounced during or outside regular business~~
15 ~~hours. Annual inspections for relicensing may be conducted~~
16 ~~during regular business hours or at intervals determined by the~~
17 ~~department. Annual inspections for relicensing shall be~~
18 ~~conducted with notice, unless otherwise determined by the~~
19 ~~department.] visits and inspections pursuant to section 321- ."~~

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



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

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

7 "(n) A dispensary license may be renewed annually by
8 payment of an annual renewal fee of \$50,000 and subject to
9 verification by the department through an unannounced inspection
10 that the individual licensee and entity licensee continue to
11 meet all licensing requirements from the date the initial
12 licenses were issued."

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

15 "[-]§329D-7[+] Medical marijuana dispensary rules. The
16 department shall establish standards with respect to:

- 17 (1) The number of medical marijuana dispensaries that
18 shall be permitted to operate in the State;
- 19 (2) A fee structure for the submission of applications and
20 renewals of licenses to dispensaries; provided that
21 the department shall consider the market conditions in



1 each county in determining the license renewal fee
2 amounts;

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

7 (A) Ability to operate a business;

8 (B) Financial stability and access to financial
9 resources; provided that applicants for medical
10 marijuana dispensary licenses shall provide
11 documentation that demonstrates control of not
12 less than \$1,000,000 in the form of escrow
13 accounts, letters of credit, surety bonds, bank
14 statements, lines of credit or the equivalent to
15 begin operating the dispensary;

16 (C) Ability to comply with the security requirements
17 developed pursuant to paragraph (6);

18 (D) Capacity to meet the needs of qualifying
19 patients;



- 1 (E) Ability to comply with criminal background check
2 requirements developed pursuant to paragraph (8);
3 and
4 (F) Ability to comply with inventory controls
5 developed pursuant to paragraph (13);
- 6 (4) Specific requirements regarding annual audits and
7 reports required from each production center and
8 dispensary licensed pursuant to this chapter;
- 9 (5) Procedures for announced and unannounced inspections
10 by the department or its agents of production centers
11 and dispensaries licensed pursuant to this chapter;
12 provided that inspections for license renewals shall
13 be unannounced;
- 14 (6) Security requirements for the operation of production
15 centers and retail dispensing locations; provided
16 that, at a minimum, the following shall be required:
- 17 (A) For production centers:
- 18 (i) Video monitoring and recording of the
19 premises;
- 20 (ii) Fencing that surrounds the premises and that
21 is sufficient to reasonably deter intruders



1 and prevent anyone outside the premises from
2 viewing any marijuana in any form;

3 (iii) An alarm system; and

4 (iv) Other reasonable security measures to deter
5 or prevent intruders, as deemed necessary by
6 the department;

7 (B) For retail dispensing locations:

8 (i) Presentation of a valid government-issued
9 photo identification and a valid
10 identification as issued by the department
11 pursuant to section 329-123, by a qualifying
12 patient or caregiver, upon entering the
13 premises;

14 (ii) Video monitoring and recording of the
15 premises;

16 (iii) An alarm system;

17 (iv) Exterior lighting; and

18 (v) Other reasonable security measures as deemed
19 necessary by the department;



- 1 (7) Security requirements for the transportation of
- 2 marijuana and manufactured marijuana products between
- 3 production centers and retail dispensing locations;
- 4 (8) Standards and criminal background checks to ensure the
- 5 reputable and responsible character and fitness of all
- 6 license applicants, licensees, employees,
- 7 subcontractors and their employees, and prospective
- 8 employees of medical marijuana dispensaries to operate
- 9 a dispensary; provided that the standards, at a
- 10 minimum, shall exclude from licensure or employment
- 11 any person convicted of any felony;
- 12 (9) The training and certification of operators and
- 13 employees of production centers and dispensaries;
- 14 (10) The types of manufactured marijuana products that
- 15 dispensaries shall be authorized to manufacture and
- 16 sell pursuant to sections 329D-9 and 329D-10;
- 17 (11) Laboratory standards related to testing marijuana and
- 18 manufactured marijuana products for content,
- 19 contamination, and consistency;
- 20 (12) The quantities of marijuana and manufactured marijuana
- 21 products that a dispensary may sell or provide to a



1 qualifying patient or primary caregiver; provided that
2 no dispensary shall sell or provide to a qualifying
3 patient or primary caregiver any combination of
4 marijuana and manufactured products that:

5 (A) During a period of fifteen consecutive days,
6 exceeds the equivalent of four ounces of
7 marijuana; or

8 (B) During a period of thirty consecutive days,
9 exceeds the equivalent of eight ounces of
10 marijuana;

11 (13) Dispensary and production center inventory controls to
12 prevent the unauthorized diversion of marijuana or
13 manufactured marijuana products or the distribution of
14 marijuana or manufactured marijuana products to
15 qualifying patients or primary caregivers in
16 quantities that exceed limits established by this
17 chapter; provided that the controls, at a minimum,
18 shall include:

19 (A) A computer software tracking system as specified
20 in section 329D-6(j) and (k); and



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



1 of a retail dispensing location or production
2 center; and

3 (D) The distribution of marijuana or manufactured
4 marijuana products, for free, on the premises of
5 a retail dispensing location or production
6 center;

7 (17) The establishment of a range of penalties for
8 violations of this chapter or rule adopted thereto;
9 and

10 (18) A process to recognize and register patients who are
11 authorized to purchase, possess, and use medical
12 marijuana in another state, United States territory,
13 or the District of Columbia as qualifying patients in
14 this State; provided that this registration process
15 may commence no sooner than January 1, 2018."

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

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

20 (1) Be subject to an annual announced inspection and
21 unlimited unannounced inspections of its operations by



1 the department; provided that inspections for license
2 renewals shall be unannounced;

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

6 (3) Annually cause an independent financial audit, at the
7 dispensary licensee's own expense, to be conducted of
8 the dispensary, its production center, and retail
9 dispensing locations and shall submit the audit's
10 findings to the department."

11 SECTION 8. The department of health shall submit reports
12 to the legislature no later than twenty days prior to the
13 convening of the regular sessions of 2017, 2018, and 2019 on:

14 (1) The annual aggregate numbers of announced and
15 unannounced visits conducted by the department of
16 health on the state-licensed or state-certified care
17 facilities;

18 (2) The annual aggregate numbers of unannounced
19 inspections conducted by the department of health on
20 the state-licensed or state-certified facilities as
21 follow-up visits, visits to confirm corrections or



1 deficiencies, or visits to investigate complaints or
2 suspicions of abuse or neglect; and

3 (3) The general outcomes and corrective actions taken
4 because of the visits and investigations conducted by
5 the department of health on the state-licensed or
6 state-certified care facilities,

7 as specified in sections 2, 3, and 4 of this Act.

8 SECTION 9. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect on July 1, 2016;
11 provided that sections 2, 3, and 4 shall take effect on July 1,
12 2019.

APPROVED this 1 day of JUL , 2016



GOVERNOR OF THE STATE OF HAWAII