
A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1 SECTION 1. The legislature finds that the highest priority
2 of the medical cannabis working group, which examined issues
3 relating to Hawaii's medical marijuana program and conducted a
4 survey of registered patients in Hawaii, is to create an
5 effective distribution system to prevent patients from being
6 forced to resort to the black market to obtain their medication.
7 The medical cannabis working group's February 2010 report to the
8 legislature notes that without a system of medical marijuana
9 dispensaries, qualifying patients in the medical marijuana
10 program in Hawaii do not have access to a safe and legal supply
11 of medicine.

12 The current system has forced many patients to turn to
13 black market sources to obtain medication when they are unable
14 to grow a sufficient supply for their medical needs, thus
15 running the risk of violence, robbery, and procurement of low
16 quality or adulterated marijuana, which is unacceptable as
17 medicine. All of the stakeholders involved in the medical
18 cannabis working group, from patients to caregivers to



1 physicians, agree that it is imperative to address this serious
2 omission in Hawaii's medical marijuana program.

3 Other jurisdictions have found that well-regulated
4 dispensaries can protect the public, while providing patients
5 with high quality medicine in a confidential setting with
6 professional standards of care. In addition to meeting this
7 compelling need, a dispensary system offers revenue potential
8 for the State or counties.

9 The purpose of this Act is to improve Hawaii's medical
10 marijuana program by:

11 (1) Establishing a system of registered dispensaries and
12 dispensary agents within the department of health to
13 dispense medical marijuana to qualified patients and
14 primary caregivers; and

15 (2) Transferring administrative responsibilities for
16 medical marijuana from the department of public safety
17 to the department of health.

18 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
19 amended by adding three new sections to part IX to be
20 appropriately designated and to read as follows:

21 **"§329-A Dispensaries; requirements and registration. (a)**

22 **A dispensary may possess and cultivate medical marijuana for the**



1 purpose of dispensing the medical marijuana to a qualifying
2 patient or primary caregiver and may manufacture, purchase,
3 possess, distribute, and use drug paraphernalia in accordance
4 with this part and rules adopted pursuant to chapter 91.

5 (b) A dispensary may dispense medical marijuana and
6 distribute drug paraphernalia to a qualifying patient or primary
7 caregiver, and a qualifying patient or primary caregiver may
8 obtain medical marijuana and drug paraphernalia from a
9 dispensary; provided that the qualifying patient is registered
10 to receive medical marijuana from that dispensary.

11 (c) A registered dispensary may cultivate marijuana;
12 provided that the dispensary:

13 (1) Pays a cultivation fee of \$ _____ per year to the
14 department of health;

15 (2) Provides the legal name and physical address of the
16 dispensary;

17 (3) Cultivates the marijuana in a secured facility that is
18 a part of the dispensary;

19 (4) Provides the name, address, and date of birth of each
20 dispensary agent;



- 1 (5) Maintains operating procedures consistent with rules
2 for oversight, including the cultivation and storage
3 of marijuana only in adjoined secured facilities; and
- 4 (6) Confirms that none of the dispensary agents has served
5 as a dispensary agent for a dispensary that has had
6 its registration revoked.
- 7 (d) Each dispensary shall be registered with the
8 department of health prior to manufacturing, cultivating,
9 dispensing, possessing, or distributing medical marijuana, or
10 manufacturing, possessing, using, or distributing drug
11 paraphernalia. No more than dispensaries shall be
12 registered to operate in this State; provided that at least one
13 dispensary shall be located in each county, and not more than
14 shall be located in any one county. In the event the
15 department of health determines that the number of dispensaries
16 is insufficient to meet patient needs, the department of health
17 may increase or modify the number of registered dispensaries to
18 as many as by adopting rules pursuant to chapter 91.
- 19 (e) A dispensary shall not dispense more than four ounces
20 or the adequate supply of marijuana in a -day period to a
21 qualifying patient, directly or through a primary caregiver.



1 (f) A dispensary shall not possess more than living
2 marijuana plants at any time.

3 (g) It shall be unlawful for a dispensary to dispense,
4 possess, or cultivate more than the quantity of medical
5 marijuana needed to support the number of qualifying patients or
6 primary caregivers registered to receive medical marijuana at
7 that dispensary.

8 (h) No medical marijuana or drug paraphernalia at a
9 dispensary shall be visible from any public or other property.

10 **§329-B Dispensaries; qualifications, duties, and**
11 **responsibilities.** (a) Each dispensary shall:

12 (1) Be a for-profit or nonprofit corporation incorporated
13 in the State of Hawaii;

14 (2) Implement a security plan to prevent the theft or
15 diversion of medical marijuana, including maintaining
16 all medical marijuana in a secured facility that is
17 accessible only by authorized persons;

18 (3) Ensure that all of its dispensary agents receive
19 training on compliance with the medical marijuana
20 laws, medical marijuana use, security, and theft
21 prevention; and



1 (4) Maintain operating procedures consistent with rules
2 adopted by the department of health pursuant to
3 chapter 91 for the accurate tracking of marijuana
4 plants, including the cultivation and storage of
5 marijuana in secured facilities.

6 (b) Each dispensary shall maintain true, complete, and
7 current records of the following:

8 (1) The name, address, home telephone number, and date of
9 birth of each dispensary agent;

10 (2) A record of each transaction, including:

11 (A) The quantity of medical marijuana distributed or
12 dispensed;

13 (B) The consideration given for the medical
14 marijuana;

15 (C) The recipient of the medical marijuana;

16 (D) The name and address of the qualifying patient
17 authorized to obtain the distribution or
18 dispensing of medical marijuana; and

19 (E) The name and address of the primary caregiver who
20 receives the medical marijuana;

21 (3) The quantity of the medical marijuana at the
22 dispensary;



- 1 (4) The disposal method used for any medical marijuana
2 that was cultivated or acquired but not sold,
3 including evidence of the disposal of the medical
4 marijuana; and
- 5 (5) Any other information required by the department of
6 health.
- 7 (c) Each dispensary has a duty to:
- 8 (1) Develop educational materials about potential harmful
9 drug interactions that could occur from using medical
10 marijuana concurrently with other medical treatments
11 and the importance of informing health care providers
12 and pharmacists of the use of medical marijuana to
13 help avoid harmful drug interactions;
- 14 (2) Revoke or suspend the registration of any person or
15 entity if the director of health determines that the
16 person or entity has violated a provision of this
17 part;
- 18 (3) Establish sliding-scale registration and annual
19 renewal fees for all persons and entities required to
20 register pursuant to this part; provided that the
21 registration and annual renewal fees for dispensaries



1 and dispensary agents shall be sufficient to offset
2 the costs of administering this part; and

3 (4) Establish a system to provide for the safe and
4 affordable dispensing of medical marijuana to
5 qualifying patients who are unable to afford a
6 sufficient supply of medical marijuana based upon the
7 qualifying patient's income and existing financial
8 resources.

9 (d) Each dispensary shall notify the appropriate law
10 enforcement agency immediately and in writing of any loss,
11 theft, or destruction of any medical marijuana.

12 (e) Dispensaries shall be subject to announced and
13 unannounced inspections of its operations by law enforcement
14 officers or the department of health.

15 (f) All dispensaries shall submit an annual report to the
16 department of health that does not disclose any identifying
17 information about qualifying patients, primary caregivers, or
18 physicians, but includes:

19 (1) The number of applications filed for a registration
20 identification card;

21 (2) The number of qualifying patients and primary
22 caregivers registered;



1 (3) The qualifying medical condition or qualifying medical
2 treatment for each qualifying patient;

3 (4) The number of registrations suspended and the number
4 revoked; and

5 (5) The number of physicians providing written
6 recommendations for qualifying patients.

7 **§329-C Registration of dispensary agents.** (a) Dispensary
8 agents shall be registered with the department of health before
9 working at a dispensary. A person who has been convicted of a
10 felony or a misdemeanor drug-related offense shall not be a
11 dispensary agent. The department of health shall conduct
12 criminal record checks on dispensary agents pursuant to this
13 part. All dispensaries shall:

14 (1) Apply to the department of health for a registration
15 card for each affiliated dispensary agent by
16 submitting the name, address, and date of birth of the
17 dispensary agent; and

18 (2) Notify the department of health within one business
19 day if a dispensary agent ceases to be associated with
20 the dispensary, in which event the dispensary agent's
21 registration card shall be immediately revoked.



1 (b) A dispensary agent shall not be subject to arrest,
2 prosecution, or civil penalty under Hawaii law for actions taken
3 under the authority of a dispensary; provided that the
4 dispensary agent:

5 (1) Presents the dispensary agent's registration card to
6 any law enforcement officer who questions the
7 dispensary agent concerning the dispensary agent's
8 marijuana-related activities; and

9 (2) Is acting within all of the requirements of this
10 section.

11 (c) A person found to have violated any provisions in this
12 part shall not be a dispensary agent and the registration
13 identification card of the person shall be immediately revoked
14 and the registration of the dispensary shall be suspended until
15 the person is no longer a dispensary agent of the dispensary."

16 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
17 amended by adding four new definitions to be appropriately
18 inserted and to read as follows:

19 "Department" means the department of health.

20 "Dispensary" means a facility operated by an organization
21 or business registered with the department pursuant to section
22 329-A from or at which medical marijuana is cultivated,



1 possessed, manufactured, distributed, and dispensed, and drug
2 paraphernalia is possessed and distributed, to a dispensary,
3 qualifying patient, or primary caregiver.

4 "Dispensary agent" means a director, officer, member,
5 agent, or employee of a dispensary, who shall be at least
6 twenty-one years of age.

7 "Secured facility" means an area equipped with locks,
8 security cameras, alarms, or other security devices to prevent
9 unauthorized access and theft, accessible only to dispensary
10 agents, patients, or primary caregivers."

11 SECTION 4. Section 329-125, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~329-125] **Protections afforded to [a-qualifying**
14 ~~patient or primary caregiver.] qualifying patients, primary~~
15 ~~caregivers, dispensaries, and dispensary agents.~~ (a) A
16 qualifying patient [or the], primary caregiver, dispensary, or
17 dispensary agent may assert the medical use of marijuana as an
18 affirmative defense to any prosecution involving marijuana under
19 this [~~part~~] or chapter 712; provided that the qualifying
20 patient [or the], primary caregiver, dispensary, or dispensary
21 agent strictly complied with the requirements of this part.



1 (b) Any qualifying patient [~~or~~], primary caregiver,
2 dispensary, or dispensary agent not complying with the permitted
3 scope of the medical use of marijuana shall not be afforded the
4 protections against searches and seizures pertaining to the
5 misapplication of the medical use of marijuana.

6 (c) No person shall be subject to arrest or prosecution
7 for simply being in the presence or vicinity of the medical use
8 of marijuana as permitted under this part."

9 SECTION 5. Act 178, Session Laws of Hawaii 2013, is
10 amended by amending section 4 to read as follows:

11 "SECTION 4. Section 329-123, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§329-123 Registration requirements.** (a) The department
14 shall require the registration of all qualifying patients,
15 primary caregivers, dispensaries, and dispensary agents pursuant
16 to this part.

17 (b) As part of the registration process, the department
18 shall require a qualifying patient to:

19 (1) Designate the dispensary from which the qualifying
20 patient will receive an adequate supply of medical
21 marijuana; provided that the qualifying patient may



1 change the destination within fourteen days written
2 notice to the department; and

3 (2) Provide a copy of the physician's written
4 certification for the qualifying patient's use of
5 medical marijuana.

6 (c) The department shall issue nontransferable
7 registration identification cards to registered persons and
8 entities, which may be presented to and used by law enforcement
9 officers to confirm whether a person or entity is authorized to
10 administer, cultivate, dispense, distribute, or possess medical
11 marijuana, or manufacture, possess, or distribute paraphernalia
12 pursuant to this part.

13 (d) Physicians who issue written certifications shall
14 provide, in each written certification, the name, address,
15 patient identification number, and other identifying information
16 of the qualifying patient. The department of health shall
17 require, in rules adopted pursuant to chapter 91, that all
18 written certifications comply with a designated form completed
19 by or on behalf of a qualifying patient. The form shall require
20 information from the applicant, primary caregiver, and primary
21 care physician as specifically required or permitted by this
22 [~~chapter-~~] part. The form shall require the address of the



1 location where the marijuana is grown and shall appear on the
2 registry card issued by the department of health. The
3 certifying physician shall be [~~required to be~~] the qualifying
4 patient's primary care physician. All current active medical
5 marijuana permits shall be honored through their expiration
6 date.

7 [~~(b) Qualifying patients shall register with the~~
8 ~~department of health.~~] (e) The registration for a qualifying
9 patient shall be effective until the expiration of the
10 certificate issued by the department of health and signed by the
11 physician. Every qualifying patient shall provide sufficient
12 identifying information to establish the personal identities of
13 the qualifying patient and the primary caregiver. Qualifying
14 patients shall report changes in information within ten working
15 days. Every qualifying patient shall have only one primary
16 caregiver at any given time. The department of health shall
17 issue to the qualifying patient a registration certificate[7]
18 and shall charge a registration fee of \$35 per year.

19 [~~(c) Primary caregivers shall register with the department~~
20 ~~of health.~~] (f) Every primary caregiver shall be responsible
21 for the care of only one qualifying patient at any given time.



1 [~~(d)~~] (g) Upon inquiry by a law enforcement agency, which
2 inquiry may be made twenty-four hours a day, seven days a week,
3 the department of health shall immediately verify whether the
4 subject of the inquiry has registered with the department of
5 health and may provide reasonable access to the registry
6 information for official law enforcement purposes." "

7 SECTION 6. The department of public safety shall
8 facilitate the transfer of functions pursuant to this Act by
9 collaborating with, cooperating with, and assisting the
10 department of health with assuming jurisdiction of and
11 responsibility for the medical marijuana program as contained in
12 this Act.

13 To facilitate the transfer of functions pursuant to this
14 Act, until all relevant records are transferred to the
15 department of health, the duties of the department of public
16 safety shall include but not be limited to maintaining a
17 confirmation service of the registration and certification of
18 physicians, qualifying patients, and primary caregivers,
19 pursuant to section 329-123, Hawaii Revised Statutes, that is
20 operating twenty-four hours per day and seven days per week, and
21 is accessible to the department of health.



1 SECTION 7. All rights, powers, functions, and duties of
2 the department of public safety relating to the medical use of
3 marijuana under chapter 329, part IX, Hawaii Revised Statutes,
4 are transferred to the department of health.

5 All employees who occupy civil service positions and whose
6 functions are transferred to the department of health by this
7 Act shall retain their civil service status, whether permanent
8 or temporary. Employees shall be transferred without loss of
9 salary, seniority (except as prescribed by applicable collective
10 bargaining agreements), retention points, prior service credit,
11 any vacation and sick leave credits previously earned, and other
12 rights, benefits, and privileges, in accordance with state
13 personnel laws and this Act; provided that the employees possess
14 the minimum qualifications and public employment requirements
15 for the class or position to which transferred or appointed, as
16 applicable; provided further that subsequent changes in status
17 may be made pursuant to applicable civil service and
18 compensation laws.

19 Any employee who, prior to this Act, is exempt from civil
20 service and is transferred as a consequence of this Act may
21 retain the employee's exempt status, but shall not be appointed
22 to a civil service position as a consequence of this Act. An



1 exempt employee who is transferred by this Act shall not suffer
2 any loss of prior service credit, vacation or sick leave credits
3 previously earned, or other employee benefits or privileges as a
4 consequence of this Act; provided that the employees possess
5 legal and public employment requirements for the position to
6 which transferred or appointed, as applicable; provided further
7 that subsequent changes in status may be made pursuant to
8 applicable employment and compensation laws. The director of
9 health may prescribe the duties and qualifications of these
10 employees and fix their salaries without regard to chapter 76,
11 Hawaii Revised Statutes.

12 SECTION 8. All appropriations, records, equipment,
13 machines, files, supplies, contracts, books, papers, documents,
14 maps, and other personal property heretofore made, used,
15 acquired, or held by the department of public safety relating to
16 the functions transferred to the department of health shall be
17 transferred with the functions to which they relate.

18 SECTION 9. All designated forms for written certifications
19 issued by the department of public safety shall be valid until
20 the date of expiration under the department of health until the
21 department of health issues new designated forms.



1 SECTION 10. All rules, policies, procedures, guidelines,
2 and other material adopted or developed by the department of
3 public safety to implement provisions of the Hawaii Revised
4 Statutes that are reenacted or made applicable to the department
5 health by this Act shall remain in full force and effect until
6 amended or repealed by the department of health pursuant to
7 chapter 91, Hawaii Revised Statutes. In the interim, every
8 reference to the department of public safety or director of
9 public safety in those rules, policies, procedures, guidelines,
10 and other material is amended to refer to the department of
11 health or director of health, as appropriate.

12 SECTION 11. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 12. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 13. This Act shall take effect on January 2, 2015.

19

INTRODUCED BY: _____



By Request

JAN 10 2014



H.B. NO. 1587

Report Title:

Medical Marijuana; Dispensaries.

Description:

Creates a system of registered medical marijuana dispensaries and dispensary agents to dispense medical marijuana. Effective January 2, 2015.

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

