



GOV. MSG. NO. 1350

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 14, 2015

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 14, 2015, the following bill was signed into law:

HB321 HD1 SD2 CD1

RELATING TO MEDICAL MARIJUANA.
ACT 241 (15)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii's medical use
3 of marijuana law was enacted on June 14, 2000, as Act 28,
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 Accordingly, the purpose of this Act is to establish a
2 regulated statewide dispensary system for medical marijuana to
3 ensure safe and legal access to medical marijuana for qualifying
4 patients.

5 PART II

6 SECTION 2. The Hawaii Revised Statutes is amended by
7 adding a new chapter to be appropriately designated and to read
8 as follows:

9 "CHAPTER

10 MEDICAL MARIJUANA DISPENSARY SYSTEM

11 § -1 Definitions. As used in this chapter:

12 "Department" means the department of health.

13 "Dispense" or "dispensing" means the act of a licensed
14 dispensary providing marijuana or manufactured marijuana
15 products to a qualifying patient or a primary caregiver for a
16 fee.

17 "Manufacture" means the preparation, propagation,
18 compounding, conversion, or processing of a substance containing
19 marijuana or its principal psychoactive constituent
20 tetrahydrocannabinol, either directly or indirectly, by a person
21 other than a qualifying patient or primary caregiver for the



1 qualifying patient's use, by extraction from substances of
2 natural origin, or independently by means of chemical synthesis,
3 or by a combination of extraction and chemical synthesis, and
4 includes any packaging or repackaging of the substance or
5 labeling or relabeling of its container.

6 "Manufactured marijuana product" means any capsule,
7 lozenge, oil or oil extract, tincture, ointment or skin lotion,
8 or pill that has been manufactured using marijuana.

9 "Marijuana" shall have the same meaning as in section 329-
10 121.

11 "Medical marijuana dispensary" or "dispensary" means a
12 person licensed by the State pursuant to this chapter to own,
13 operate, or subcontract up to two production centers and up to
14 two retail dispensing locations.

15 "Medical marijuana production center" or "production
16 center" means a farm or facility wholly owned, operated, or
17 subcontracted by a person licensed by the State pursuant to this
18 chapter as a medical marijuana dispensary that produces
19 marijuana and manufactured marijuana products solely to supply
20 marijuana and manufactured marijuana products to one or more of



1 the retail dispensing locations of the licensed medical
2 marijuana dispensary.

3 "Person" means an individual, firm, corporation,
4 partnership, association, or any form of business or legal
5 entity.

6 "Primary caregiver" shall have the same meaning as in
7 section 329-121.

8 "Production" or "produce" means the planting, cultivating,
9 growing, or harvesting of marijuana. "Production" includes the
10 manufacture of medical marijuana products pursuant to this
11 chapter.

12 "Qualifying patient" shall have the same meaning as in
13 section 329-121.

14 "Retail dispensing location" means an establishment owned,
15 operated, or subcontracted by a medical marijuana dispensary
16 where marijuana and manufactured marijuana are made available
17 for retail sale to qualifying patients or primary caregivers.

18 § -2 Medical marijuana dispensaries; authorized;
19 licensure. (a) No person shall operate a medical marijuana
20 dispensary unless the person has a license issued by the
21 department pursuant to this chapter.



1 (b) The director of health shall grant medical marijuana
2 dispensary licenses to allow dispensaries to produce,
3 manufacture, and dispense marijuana and manufactured marijuana
4 products pursuant to this chapter.

5 (c) Each medical marijuana dispensary license shall allow
6 production, manufacture, and dispensing of marijuana and
7 manufactured marijuana products only in the county for which the
8 license is granted.

9 (d) The department shall issue eight dispensary licenses
10 statewide; provided that three dispensary licenses shall be
11 issued for the city and county of Honolulu, two dispensary
12 licenses each shall be issued for the county of Hawaii and the
13 county of Maui, and one dispensary license shall be issued for
14 the county of Kauai; provided further that no dispensary license
15 shall be issued for the county of Kalawao.

16 (e) No person may be granted a dispensary license in more
17 than one county.

18 (f) Up to two production centers shall be allowed under
19 each dispensary license, provided that each production center
20 shall be limited to no more than three thousand marijuana
21 plants.



1 (g) A dispensary licensee may establish up to two retail
2 dispensing locations under the licensee's dispensary license:

3 (h) Each dispensary licensee may commence dispensing
4 medical marijuana and manufactured marijuana products to
5 qualifying patients or primary caregivers no sooner than July
6 15, 2016, with approval by the department, in accordance with
7 this chapter.

8 (i) Retail dispensing locations shall not be at the same
9 location as the dispensary licensee's production centers.

10 (j) Notwithstanding subsection (d), the department shall
11 determine whether, based on the qualifying patient need,
12 additional dispensary licenses shall be offered to qualified
13 applicants in the State after October 1, 2017; provided that the
14 department shall make available not more than one license per
15 five hundred qualifying patients residing in any single county.

16 (k) Notwithstanding any other law to the contrary, a
17 dispensary shall not be subject to the prescription requirement
18 of section 329-38 or to the board of pharmacy licensure or
19 regulatory requirements under chapter 461.



1 § -3 Qualifications for licensure. (a) Each
2 application for a dispensary license shall include both an
3 individual applicant and an applying entity.

4 (b) The application shall be submitted to the department
5 and shall include supporting documentation to establish the
6 following:

7 (1) That the individual applicant:

8 (A) Has been a legal resident of the State for not
9 less than five years preceding the date of
10 application;

11 (B) Is not less than twenty-one years of age; and

12 (C) Has had no felony convictions;

13 (2) That the applying entity:

14 (A) Has been organized under the laws of the State;

15 (B) Has a Hawaii tax identification number;

16 (C) Has a department of commerce and consumer affairs
17 business registration division number and suffix;

18 (D) Has a federal employer identification number;

19 (E) Is not less than fifty-one per cent held by
20 Hawaii legal residents or entities wholly

21 controlled by Hawaii legal residents who have



1 been Hawaii legal residents for not less than
2 five years immediately preceding the date the
3 application was submitted;

4 (F) Has financial resources under its control of not
5 less than \$1,000,000 for each license applied
6 for, plus not less than \$100,000 for each retail
7 dispensing location allowed under the license
8 applied for, in the form of bank statements or
9 escrow accounts, and that the financial resources
10 have been under the control of the applying
11 entity for not less than ninety days immediately
12 preceding the date the application was submitted;
13 and

14 (G) Is composed of principals or members, each of
15 whom has no felony convictions.

16 (c) A dispensary license shall not be sold or otherwise
17 transferred from one person to another person.

18 § -4 Medical marijuana dispensaries; license application
19 procedure and verification; fees. (a) The department shall
20 make a medical marijuana dispensary license application form



1 available to the public on January 11, 2016, commencing at 8:00
2 a.m., Hawaii-Aleutian Standard Time.

3 (b) The department shall establish an open application
4 period for each available license, the first of which shall be
5 no later than 8:00 a.m., Hawaii-Aleutian Standard Time, on
6 January 12, 2016, during which an application may be submitted.
7 This submittal period shall be closed on January 29, 2016, at
8 4:30 p.m. The department shall publish notice of the open
9 application period no less than thirty days prior to the start
10 of the open application period.

11 (c) A non-refundable application fee of \$5,000 for each
12 license application shall be submitted to the department by
13 certified or cashier's check. Within seven days of approval, a
14 dispensary license fee of \$75,000 for each license approved
15 shall be submitted to the department by certified or cashier's
16 check or the department shall issue a license to the next
17 qualified applicant.

18 (d) All fees collected pursuant to this section shall be
19 deposited in the medical marijuana registry and regulation
20 special fund pursuant to section 321-30.1.



1 (e) Immediately upon receipt of each completed application
2 form, the department shall issue a receipt to each applicant
3 that includes the date and time of receipt.

4 (f) If an applicant submits an application form in which
5 all required information is not complete and valid, the
6 application shall not be accepted by the department and the non-
7 refundable application fee shall be deposited in the medical
8 marijuana registry and regulation special fund established
9 pursuant to section 321-30.1.

10 (g) The medical marijuana dispensary application form
11 shall request information necessary to verify that applicants
12 meet the required qualifications pursuant to section -3.
13 Applicants shall provide a minimum of the following information:

- 14 (1) Legal name and date of birth of individual applicant;
- 15 (2) Last four digits of individual applicant's social
16 security number;
- 17 (3) Validation code from an eCrim report for the
18 individual applicant generated by the Hawaii criminal
19 justice data center no earlier than December 12, 2015,
20 at 8:00 a.m., Hawaii-Aleutian Standard Time;



- 1 (4) Street address, telephone number, fax number, and
- 2 email address of the individual applicant;
- 3 (5) A tax clearance certificate issued by the department
- 4 of taxation dated not more than thirty days prior to
- 5 the date of the application;
- 6 (6) Name of the applying entity and any other name under
- 7 which the applying entity does business, if
- 8 applicable;
- 9 (7) Street address, telephone number, fax number, and
- 10 email address of the applying entity;
- 11 (8) Date the applying entity was organized under the laws
- 12 of Hawaii;
- 13 (9) A certified copy of the organizing documents of the
- 14 applying entity;
- 15 (10) A copy of the applying entity's bylaws;
- 16 (11) Federal employer identification number of the applying
- 17 entity;
- 18 (12) Hawaii tax identification number of applying entity;
- 19 (13) Department of commerce and consumer affairs business
- 20 registration number and suffix of the applying entity;



- 1 (14) Name(s) of all owners of the applying entity, in whole
- 2 or in part, and their percentage of ownership;
- 3 (15) Date when continuous legal residence in Hawaii began
- 4 for each Hawaii legal resident that owns a percentage
- 5 of the applying entity;
- 6 (16) Total percentage of the applying entity that is owned
- 7 by Hawaii legal residents;
- 8 (17) Designation of the county for which the dispensary
- 9 license applied for and proof that the required
- 10 minimum financial resources of \$1,200,000 are met;
- 11 (18) Total dollar amount of financial resources under
- 12 control of the applying entity in the form of bank
- 13 statements or escrow accounts;
- 14 (19) Date from when financial resources have been
- 15 continuously controlled by the applying entity; and
- 16 (20) Copies of the entity's bank statements for the twelve
- 17 months prior to the date of the application.
- 18 (h) The department shall maintain a record of the time and
- 19 date that all completed application forms were submitted.



1 (i) The department shall process and deposit the
2 application fee within four business days of receipt of the
3 completed application form.

4 (j) If, for any reason, the application fee is not
5 available for deposit, the application shall be deemed void and
6 the department shall inform the applicant in writing that its
7 application has been rejected.

8 (k) The department shall review and verify the information
9 and documentation materials only of applicants whose non-
10 refundable application fee has been processed and deposited.

11 (l) The department shall verify that the information
12 submitted in the application is true and valid and meets the
13 requirements established in section -3(b).

14 (m) Upon verification of the minimum requirements, the
15 department shall place the verified application into the pool of
16 applicants for further review and selection based on merit by
17 the department.

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



1 entity licensee continue to meet all licensing requirements from
2 the date the initial licenses were issued.

3 § -5 Medical marijuana dispensaries; selection. (a) By
4 January 4, 2016, the department shall provide for a selection
5 process and criteria based on merit for verified applicants for
6 medical marijuana dispensary licenses; provided that the
7 selection process, at minimum, includes the criteria of section
8 -7(3).

9 (b) This selection process shall be utilized by the
10 department to grant medical marijuana dispensary licenses.
11 Licensees selected will be announced by April 15, 2016. A
12 dispensary licensed pursuant to this chapter may begin
13 dispensing not sooner than July 15, 2016, with the approval of
14 the department.

15 § -6 Dispensary operations. (a) No person shall
16 operate a dispensary, nor engage in the production, manufacture,
17 or sale of marijuana or manufactured marijuana products, unless
18 the person has obtained a license from the department pursuant
19 to this chapter.

20 (b) No dispensary licensee, its officers, employees, or
21 agents shall provide written certification for the use of



1 medical marijuana or manufactured marijuana products for any
2 person.

3 (c) No person under the age of twenty-one shall be
4 employed by a dispensary licensee.

5 (d) Notwithstanding any other law to the contrary,
6 including but not limited to sections 378-2 and 378-2.5, no
7 dispensary shall employ a person convicted of a felony.
8 Employment under this chapter shall be exempt from section 378-
9 2(a)(1), as it relates to arrest and court record
10 discrimination, and section 378-2.5.

11 (e) Retail dispensing locations shall not be open for
12 retail sales before 8:00 a.m. or after 8:00 p.m., Hawaii-
13 Aleutian Standard Time, Monday through Saturday. Retail
14 dispensing locations shall be closed on Sundays and official
15 state and federal holidays.

16 (f) All dispensary facilities, including but not limited
17 to production centers and retail dispensing locations, shall be
18 enclosed indoor facilities and shall maintain twenty-four hour
19 security measures, including but not limited to an alarm system,
20 video monitoring and recording on the premises, and exterior
21 lighting. Production centers shall remain locked at all times.



1 Retail dispensing locations shall remain locked at all times,
2 other than business hours as authorized by subsection (e), and
3 shall only be opened for authorized persons.

4 (g) In all dispensary facilities, only the licensee, if an
5 individual, the registered employees of the dispensary licensee,
6 and the registered employees of the subcontracted production
7 center or retail dispensing locations shall be permitted to
8 touch or handle any marijuana or manufactured marijuana
9 products, except that a qualifying patient or the primary
10 caregiver of a qualifying patient may receive manufactured
11 marijuana products at a retail dispensing location following
12 completion of a sale.

13 (h) A dispensary shall provide the department with the
14 address, tax map key number, and a copy of the premises lease,
15 if applicable, of the proposed location of a production center
16 allowed under a license for a county not later than thirty days
17 prior to any medical marijuana or manufactured marijuana
18 products being produced or manufactured at that production
19 center.

20 (i) A dispensary shall provide the department with the
21 address, tax map key number, and a copy of the premises lease,



1 if applicable, of the proposed location of each retail
2 dispensing location allowed under a license not less than sixty
3 days prior to opening for business.

4 (j) The department shall establish, maintain, and control
5 a computer software tracking system that shall have real time,
6 twenty-four hour access to the data of all dispensaries relating
7 to:

8 (1) The total amount of marijuana in possession of all
9 dispensaries from either seed or immature plant state,
10 including all plants that are derived from cuttings or
11 cloning, until the marijuana, marijuana plants, or
12 manufactured marijuana product is sold or destroyed
13 pursuant to section -7;

14 (2) The total amount of manufactured marijuana product
15 inventory, including the equivalent physical weight of
16 marijuana that is used to manufacture manufactured
17 marijuana products, purchased by a qualifying patient
18 and primary caregiver from all retail dispensing
19 locations in the State in any fifteen day period;

20 (3) The amount of waste produced by each plant at harvest;
21 and



1 (4) The transport of marijuana and manufactured marijuana
2 products between production centers and retail
3 dispensing locations, including tracking
4 identification issued by the tracking system, the
5 identity of the person transporting the marijuana or
6 manufactured marijuana products, and the make, model,
7 and license number of the vehicle being used for the
8 transport.

9 The procurement of the computer software tracking system
10 established pursuant to this subsection shall be exempt from
11 chapter 103D; provided that: the department shall publicly
12 solicit at least three proposals for the computer software
13 tracking system; and the selection of the computer software
14 tracking system shall be approved by the director of the
15 department and the chief information officer.

16 (k) A dispensary licensed pursuant to this chapter shall
17 purchase, operate, and maintain a computer software tracking
18 system that shall:

19 (1) Interface with the department's computer software
20 tracking system established pursuant to subsection

21 (j);



- 1 (2) Allow each licensed dispensary's production center to
2 submit to the department in real time, by automatic
3 identification and data capture, all marijuana,
4 marijuana plants, and manufactured marijuana product
5 inventory in possession of that dispensary from either
6 seed or immature plant state, including all plants
7 that are derived from cuttings or cloning, until the
8 marijuana or manufactured marijuana product is sold or
9 destroyed pursuant to section -7; and
- 10 (3) Allow the licensed dispensary's retail dispensing
11 location to submit to the department in real time for
12 the total amount of marijuana and manufactured
13 marijuana product purchased by a qualifying patient
14 and primary caregiver from the dispensary's retail
15 dispensing locations in the State in any fifteen day
16 period; provided that the software tracking system
17 shall impose an automatic stopper in real time, which
18 cannot be overridden, on any further purchases of
19 marijuana or manufactured marijuana products, if the
20 maximum allowable amount of marijuana has already been
21 purchased for the applicable fifteen day period;



1 provided further that additional purchases shall not
2 be permitted until the next applicable period.

3 (l) No free samples of marijuana or manufactured marijuana
4 products shall be provided at any time, and no consumption of
5 marijuana or manufactured marijuana products shall be permitted
6 on any dispensary premises.

7 (m) A dispensary shall not transport marijuana or
8 manufactured marijuana products to another county or another
9 island.

10 (n) A dispensary shall be prohibited from off-premises
11 delivery of marijuana or manufactured marijuana products to
12 qualifying patients or to primary caregivers of qualifying
13 patients.

14 (o) A dispensary shall not:

15 (1) Display marijuana or manufactured marijuana products
16 in windows or in public view; or

17 (2) Post any signage other than a single sign no greater
18 than one thousand six hundred square inches bearing
19 only the business or trade name in text without any
20 pictures or illustrations; provided that if any
21 applicable law or ordinance restricting outdoor



1 signage is more restrictive, that law or ordinance
2 shall govern.

3 (p) No marijuana or manufactured marijuana products shall
4 be transported to, from, or within any federal fort or arsenal,
5 national park or forest, any other federal enclave, or any other
6 property possessed or occupied by the federal government.

7 (q) A dispensary licensed pursuant to this chapter shall
8 be prohibited from providing written certification pursuant to
9 section 329-122 for the use of medical marijuana for any person.

10 § -7 Medical marijuana dispensary rules. The department
11 shall establish standards with respect to:

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

14 (2) A fee structure for the submission of applications and
15 renewals of licenses to dispensaries; provided that
16 the department shall consider the market conditions in
17 each county in determining the license renewal fee
18 amounts;

19 (3) Criteria and procedures for the consideration and
20 selection, based on merit, of applications for



1 licensure of dispensaries; provided that the criteria
2 shall include but not be limited to an applicant's:
3 (A) Ability to operate a business;
4 (B) Financial stability and access to financial
5 resources; provided that applicants for medical
6 marijuana dispensary licenses shall provide
7 documentation that demonstrates control of not
8 less than \$1,000,000 in the form of escrow
9 accounts, letters of credit, surety bonds, bank
10 statements, lines of credit or the equivalent to
11 begin operating the dispensary;
12 (C) Ability to comply with the security requirements
13 developed pursuant to paragraph (6);
14 (D) Capacity to meet the needs of qualifying
15 patients;
16 (E) Ability to comply with criminal background check
17 requirements developed pursuant to paragraph (8);
18 and
19 (F) Ability to comply with inventory controls
20 developed pursuant to paragraph (13);



- 1 (4) Specific requirements regarding annual audits and
- 2 reports required from each production center and
- 3 dispensary licensed pursuant to this chapter;
- 4 (5) Procedures for announced and unannounced inspections
- 5 by the department or its agents of production centers
- 6 and dispensaries licensed pursuant to this chapter;
- 7 (6) Security requirements for the operation of production
- 8 centers and retail dispensing locations; provided
- 9 that, at a minimum, the following shall be required:
- 10 (A) For production centers:
- 11 (i) Video monitoring and recording of the
- 12 premises;
- 13 (ii) Fencing that surrounds the premises and that
- 14 is sufficient to reasonably deter intruders
- 15 and prevent anyone outside the premises from
- 16 viewing any marijuana in any form;
- 17 (iii) An alarm system; and
- 18 (iv) Other reasonable security measures to deter
- 19 or prevent intruders, as deemed necessary by
- 20 the department;
- 21 (B) For retail dispensing locations:



- 1 (i) Presentation of a valid government-issued
- 2 photo identification and a valid
- 3 identification as issued by the department
- 4 pursuant to section 329-123, by a qualifying
- 5 patient or caregiver, upon entering the
- 6 premises;
- 7 (ii) Video monitoring and recording of the
- 8 premises;
- 9 (iii) An alarm system;
- 10 (iv) Exterior lighting; and
- 11 (v) Other reasonable security measures as deemed
- 12 necessary by the department;
- 13 (7) Security requirements for the transportation of
- 14 marijuana and manufactured marijuana products between
- 15 production centers and retail dispensing locations;
- 16 (8) Standards and criminal background checks to ensure the
- 17 reputable and responsible character and fitness of all
- 18 license applicants, licensees, employees,
- 19 subcontractors and their employees, and prospective
- 20 employees of medical marijuana dispensaries to operate
- 21 a dispensary; provided that the standards, at a



1 minimum, shall exclude from licensure or employment
2 any person convicted of any felony;

3 (9) The training and certification of operators and
4 employees of production centers and dispensaries;

5 (10) The types of manufactured marijuana products that
6 dispensaries shall be authorized to manufacture and
7 sell pursuant to sections -9 and -10;

8 (11) Laboratory standards related to testing marijuana and
9 manufactured marijuana products for content,
10 contamination, and consistency;

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

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



1 (B) During a period of thirty consecutive days,
2 exceeds the equivalent of eight ounces of
3 marijuana;

4 (13) Dispensary and production center inventory controls to
5 prevent the unauthorized diversion of marijuana or
6 manufactured marijuana products or the distribution of
7 marijuana or manufactured marijuana products to
8 qualifying patients or primary caregivers in
9 quantities that exceed limits established by this
10 chapter; provided that the controls, at a minimum,
11 shall include:

12 (A) A computer software tracking system as specified
13 in section -6(j) and (k); and

14 (B) Product packaging standards sufficient to allow
15 law enforcement personnel to reasonably determine
16 the contents of an unopened package;

17 (14) Limitation to the size or format of signs placed
18 outside a retail dispensing location or production
19 center; provided that the signage limitations, at a
20 minimum, shall comply with section -6(o)(2) and



- 1 shall not include the image of a cartoon character or
2 other design intended to appeal to children;
- 3 (15) The disposal or destruction of unwanted or unused
4 marijuana and manufactured marijuana products;
- 5 (16) The enforcement of the following prohibitions against:
- 6 (A) The sale or provision of marijuana or
7 manufactured marijuana products to unauthorized
8 persons;
- 9 (B) The sale or provision of marijuana or
10 manufactured marijuana products to qualifying
11 patients or primary caregivers in quantities that
12 exceed limits established by this chapter;
- 13 (C) Any use or consumption of marijuana or
14 manufactured marijuana products on the premises
15 of a retail dispensing location or production
16 center; and
- 17 (D) The distribution of marijuana or manufactured
18 marijuana products, for free, on the premises of
19 a retail dispensing location or production
20 center;



1 (17) The establishment of a range of penalties for
2 violations of this chapter or rule adopted thereto;
3 and

4 (18) A process to recognize and register patients who are
5 authorized to purchase, possess, and use medical
6 marijuana in another state, United States territory,
7 or the District of Columbia as qualifying patients in
8 this State; provided that this registration process
9 may commence no sooner than January 1, 2018.

10 § -8 Laboratory standards and testing; laboratory
11 certification. (a) The department shall establish and enforce
12 standards for laboratory-based testing of marijuana and
13 manufactured marijuana products for content, contamination, and
14 consistency.

15 (b) The department may certify laboratories that can test
16 marijuana and manufactured marijuana products prior to the sale
17 of marijuana and manufactured marijuana products.

18 § -9 Manufacturing of medical marijuana products. (a)
19 Any medical marijuana dispensary licensed by the department
20 pursuant to this chapter shall be permitted to manufacture
21 marijuana products; provided that the dispensary shall also



1 obtain any other state or county permits or licenses that may be
2 necessary for a particular manufacturing activity.

3 (b) The department shall establish health, safety, and
4 sanitation standards regarding the manufacture of manufactured
5 marijuana products.

6 (c) A manufacturer of a manufactured marijuana product
7 shall calculate the equivalent physical weight of the marijuana
8 that is used to manufacture the product and shall make the
9 equivalency calculations available to the department and to a
10 consumer of the manufactured marijuana product.

11 § -10 Types of manufactured marijuana products. (a)
12 The types of medical marijuana products that may be manufactured
13 and distributed pursuant to this chapter shall be limited to:

- 14 (1) Capsules;
- 15 (2) Lozenges;
- 16 (3) Pills;
- 17 (4) Oils and oil extracts;
- 18 (5) Tinctures;
- 19 (6) Ointments and skin lotions; and
- 20 (7) Other products as specified by the department.



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

4 § -11 Advertising and packaging. (a) The department
5 shall establish standards regarding the advertising and
6 packaging of marijuana and manufactured marijuana products;
7 provided that the standards, at a minimum, shall require the use
8 of packaging that:

- 9 (1) Is child-resistant and opaque so that the product
10 cannot be seen from outside the packaging;
- 11 (2) Uses only black lettering on a white background with
12 no pictures or graphics;
- 13 (3) Is clearly labeled with the phrase "For medical use
14 only";
- 15 (4) Is clearly labeled with the phrase "Not for resale or
16 transfer to another person";
- 17 (5) Includes instructions for use and "use by date";
- 18 (6) Contains information about the contents and potency of
19 the product;



1 (7) Includes the name of the production center where
2 marijuana in the product was produced, including the
3 batch number and date of packaging;
4 (8) Includes a barcode generated by tracking software; and
5 (9) In the case of a manufactured marijuana product, a
6 listing of the equivalent physical weight of the
7 marijuana used to manufacture the amount of the
8 product that is within the packaging, pursuant to
9 section -9(c).

10 (b) Any capsule, lozenge, or pill containing marijuana or
11 its principal psychoactive constituent tetrahydrocannabinol
12 shall be packaged so that one dose, serving, or single wrapped
13 item contains no more than ten milligrams of
14 tetrahydrocannabinol; provided that no manufactured marijuana
15 product that is sold in a pack of multiple doses, servings, or
16 single wrapped items, nor any containers of oils, shall contain
17 more than a total of one hundred milligrams of
18 tetrahydrocannabinol per pack or container.

19 § -12 Background checks. Each applicant and licensee
20 for a medical marijuana dispensary license, including the
21 individual applicant and all officers, directors, shareholders



1 with at least twenty-five per cent ownership interest or more,
2 members, and managers of an entity applicant; each employee of a
3 medical marijuana dispensary; each subcontracted production
4 center and retail dispensing location employee; all officers,
5 directors, shareholders with at least twenty-five per cent
6 ownership interest or more in a subcontracted production center
7 or retail dispensing location; and any person permitted to enter
8 and remain in dispensary facilities pursuant to
9 section -15(a)(4) or -16(a)(3), shall be subject to
10 background checks conducted by the department or its designee,
11 including but not limited to criminal history record checks in
12 accordance with section 846-2.7. The person undergoing the
13 background check shall provide written consent and all
14 applicable processing fees to the department or its designee to
15 conduct the background checks.

16 **§ -13 Qualifying patients and primary caregivers;**
17 **dispensing limits; other states.** (a) A qualifying patient or a
18 primary caregiver on behalf of a qualifying patient shall be
19 allowed to purchase no more than four ounces of marijuana within
20 a consecutive period of fifteen days, or no more than eight
21 ounces of marijuana within a consecutive period of thirty days.



1 (b) A qualifying patient or a primary caregiver on behalf
2 of a qualifying patient may purchase marijuana from any
3 dispensary location in the State, subject to the limits set
4 forth in subsection (a).

5 (c) Beginning on January 1, 2018, this section may apply
6 to qualifying patients from other states, territories of the
7 United States, or the District of Columbia; provided that the
8 patient is verified as a patient in their home state and
9 registers with the department through a registration process
10 established by the department.

11 § -14 Prohibited acts related to exceeding limits;
12 fraud; penalties. (a) It shall be unlawful for any person to
13 obtain or attempt to procure any medical marijuana or medical
14 marijuana product by:

- 15 (1) Fraud, deceit, misrepresentation, embezzlement, or
16 theft;
- 17 (2) The forgery or alteration of a medical marijuana
18 permit;
- 19 (3) Furnishing fraudulent medical information or the
20 concealment of a material fact;



1 (4) The use of a false name or patient identification
2 number, or the giving of a false address; or

3 (5) The alteration of a state issued medical use of
4 marijuana permit card.

5 (b) Any person who violates subsection (a) shall be guilty
6 of a class C felony.

7 § -15 Criminal offense; unauthorized access to retail
8 dispensing location. (a) No person shall intentionally or

9 knowingly enter or remain upon the premises of a medical
10 marijuana retail dispensing location unless the individual is:

11 (1) An individual licensee or registered employee of the
12 dispensary;

13 (2) A qualifying patient or primary caregiver of a
14 qualifying patient;

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

17 (4) Previously included on a current department-approved
18 list provided to the department by the licensee of
19 those persons who are allowed into that dispensary's
20 facilities for a specific purpose for that dispensary,
21 including but not limited to construction,



- 1 maintenance, repairs, legal counsel, or investors;
2 provided that:
- 3 (A) The person has been individually approved by the
4 department to be included on the list;
 - 5 (B) The person is at least twenty-one years of age,
6 as verified by a valid government issued
7 identification card;
 - 8 (C) The department has confirmed that the person has
9 no felony convictions;
 - 10 (D) The person is escorted by an individual licensee
11 or registered employee of the dispensary at all
12 times while in the dispensary facility;
 - 13 (E) The person is only permitted within those
14 portions of the dispensary facility as necessary
15 to fulfill the person's purpose for entering;
 - 16 (F) The person is only permitted within the
17 dispensary facility during the times and for the
18 duration necessary to fulfill the person's
19 purpose for entering;
 - 20 (G) The dispensary shall keep an accurate record of
21 each person's first and last name, date and times



1 upon entering and exiting the dispensary
2 facility, purpose for entering, and the identity
3 of the escort; and

4 (H) The approved list shall be effective for one year
5 from the date of the department approval.

6 (b) No individual licensee or registered employee of a
7 medical marijuana dispensary with control over or responsibility
8 for a retail dispensing location shall intentionally or
9 knowingly allow another to enter or remain upon the premises of
10 the retail dispensing location, unless the other is permitted to
11 enter and remain as specified in subsection (a).

12 (c) Unauthorized access to a retail dispensing location is
13 a class C felony.

14 § -16 Criminal offense; unauthorized access to
15 production centers. (a) No person shall intentionally or
16 knowingly enter or remain upon the premises of a medical
17 marijuana production center unless the person is:

18 (1) An individual licensee or registered employee of the
19 production center;

20 (2) A government employee or official acting in the
21 person's official capacity; or



- 1 (3) Previously included on a current department-approved
2 list provided to the department by the licensee of
3 those persons who are allowed into that dispensary's
4 facilities for a specific purpose for that dispensary,
5 including but not limited to construction,
6 maintenance, repairs, legal counsel, or investors;
7 provided that:
- 8 (A) The person has been individually approved by the
9 department to be included on the list;
- 10 (B) The person is at least twenty-one years of age,
11 as verified by a valid government issued
12 identification card;
- 13 (C) The department has confirmed that the person has
14 no felony convictions;
- 15 (D) The person is escorted by an individual licensee
16 or registered employee of the dispensary at all
17 times while in the dispensary facility;
- 18 (E) The person is only permitted within those
19 portions of the dispensary facility as necessary
20 to fulfill the person's purpose for entering;



1 (F) The person is only permitted within the
2 dispensary facility during the times and for the
3 duration necessary to fulfill the person's
4 purpose for entering;

5 (G) The dispensary shall keep an accurate record of
6 each person's identity, date and times upon
7 entering and exiting the dispensary facility,
8 purpose for entering, and the identity of the
9 escort; and

10 (H) The approved list shall be effective for one year
11 from the date of department approval.

12 (b) No individual licensee or registered employee of a
13 medical marijuana dispensary with control over or responsibility
14 for a production center shall intentionally or knowingly allow
15 another to enter or remain upon the premises of the production
16 center, unless the other is permitted to enter and remain as
17 specified in subsection (a).

18 (c) Unauthorized access to a production center is a class
19 C felony.

20 § -17 Prohibition of distribution of medical marijuana
21 and medical marijuana products to minors; penalties. (a) A



1 person commits the offense of promoting medical marijuana or
2 medical marijuana products to a minor if the person
3 intentionally or knowingly distributes any amount of marijuana
4 or manufactured marijuana products that came from a dispensary
5 or production center to a minor who is not a registered
6 qualifying patient.

7 (b) Any person who violates this section shall be guilty
8 of a class B felony.

9 § -18 Diversion from dispensary or production center;
10 penalties. (a) A person commits diversion from a dispensary or
11 production center if the person is a licensee, operator, or
12 employee of a dispensary or production center and intentionally
13 or knowingly diverts to the person's own use or other
14 unauthorized or illegal use, or takes, makes away with, or
15 secretes, with intent to divert to the person's own use or other
16 unauthorized or illegal use, any medical marijuana, manufactured
17 marijuana product, or marijuana concentrate under the person's
18 possession, care, or custody as a licensee, operator, or
19 employee of a medical marijuana dispensary or production center
20 licensed by the department.



1 (b) Any person who violates this section shall be guilty
2 of a class C felony.

3 § -19 Criminal offense; alteration or falsification of
4 medical marijuana dispensary records. (a) A person commits the
5 offense of alteration or falsification of medical marijuana
6 dispensary records if the person intentionally or knowingly:

7 (1) Makes or causes a false entry in medical marijuana
8 dispensary records;

9 (2) Alters, erases, obliterates, deletes, removes, or
10 destroys a true entry in medical marijuana dispensary
11 records;

12 (3) Omits to make a true entry in medical marijuana
13 dispensary records in violation of a duty that the
14 person knows to be imposed upon the person by law or
15 by the nature of the person's position; or

16 (4) Prevents the making of a true entry or causes the
17 omission thereof in medical marijuana dispensary
18 records.

19 (b) Alteration or falsification of medical marijuana
20 dispensary records is a class C felony.

21 (c) For the purposes of this section:



1 "Electronic" means relating to technology having
2 electrical, digital, magnetic, wireless, optical,
3 electromagnetic, or other similar capabilities.

4 "Information" includes data, text, images, sounds, codes,
5 computer programs, software, or databases.

6 "Medical marijuana dispensary records" means any inventory
7 tracking records and other records maintained by a licensed
8 medical marijuana dispensary, including the records of its
9 retail dispensing locations and production centers, that are
10 required by law to be created and retained or provided to the
11 department.

12 "Record" means information that is written or printed or
13 that is stored in an electronic or other medium and is
14 retrievable in a perceivable form.

15 § -20 Law enforcement access to dispensary and
16 production center records. Notwithstanding any other law, the
17 department shall disclose information, documents, and other
18 records regarding medical marijuana dispensaries and production
19 centers, upon request, to any state, federal, or county agency
20 engaged in the criminal investigation or prosecution of
21 violations of applicable state, county, or federal laws or



1 regulations related to the operations or activities of a medical
2 marijuana dispensary.

3 § -21 Revocation and suspension of licenses. (a) In
4 addition to any other actions authorized by law, the department
5 may deny, revoke, or suspend any license applied for or issued
6 by the department, in accordance with this chapter, and to fine
7 or otherwise discipline a licensee for any cause authorized by
8 law, including but not limited to the following:

- 9 (1) Procuring a license through fraud, misrepresentation,
10 or deceit;
- 11 (2) Professional misconduct, gross carelessness, or
12 manifest incapacity;
- 13 (3) Violation of any of the provisions of this chapter or
14 the rules adopted thereto;
- 15 (4) False, fraudulent, or deceptive advertising;
- 16 (5) Any other conduct constituting fraudulent or dishonest
17 dealings;
- 18 (6) Failure to comply with a department order; and
- 19 (7) Making a false statement on any document submitted or
20 required to be filed by this chapter, including



1 furnishing false or fraudulent material information in
2 any application.

3 (b) Any person who violates any of the provisions of this
4 chapter or the rules adopted pursuant thereto shall be fined not
5 less than \$100 nor more than \$1,000 for each violation.

6 (c) If the department revokes or suspends a license under
7 this section, the licensee shall not:

- 8 (1) Dispense, sell, transfer, or otherwise dispose of any
9 marijuana or manufactured marijuana products owned by
10 or in the possession of the licensee; or
11 (2) Manufacture marijuana products.

12 Upon a revocation order becoming final, all marijuana and
13 manufactured marijuana products may be forfeited to the State.

14 (d) All proceedings for denial, suspension, fine, or
15 revocation of a license on any ground specified in subsection
16 (a) shall be conducted pursuant to chapter 91, including the
17 right to judicial review.

18 § -22 Medical marijuana zoning. (a) Medical marijuana
19 production centers and dispensaries shall comply with all county
20 zoning ordinances, rules, or regulations; provided that:



1 (1) A medical marijuana production center shall be
2 permitted in any area in which agricultural production
3 is permitted except as provided within this chapter;
4 and

5 (2) No medical marijuana production center or dispensary
6 shall be permitted within seven hundred fifty feet of
7 the real property comprising a playground, public
8 housing project or complex, or school.

9 (b) As used in this section:

10 "Playground" means any public outdoor facility, including
11 any parking lot appurtenant thereto, that is intended for
12 recreation, with any portion thereof containing three or more
13 separate apparatus intended for the recreation of children,
14 including but not limited to sliding boards, swing sets, and
15 teeterboards.

16 "Public housing project or complex" means a housing project
17 directly controlled, owned, developed, or managed by the Hawaii
18 public housing authority pursuant to the federal or state low-
19 rent public housing program.



1 "School" means any public or private preschool,
2 kindergarten, elementary, intermediate, middle, secondary, or
3 high school.

4 § -23 Annual inspections, audits, and reports. (a)

5 Each medical marijuana production center and dispensary licensed
6 pursuant to this part shall:

- 7 (1) Be subject to an annual announced inspection and
8 unlimited unannounced inspections of its operations by
9 the department;
- 10 (2) Submit reports on at least a quarterly basis, or as
11 otherwise required, and in the format specified by the
12 department; and
- 13 (3) Annually cause an independent financial audit, at the
14 dispensary licensee's own expense, to be conducted of
15 the dispensary, its production center, and retail
16 dispensing locations and shall submit the audit's
17 findings to the department.

18 (b) The department shall report annually to the governor
19 and the legislature on the establishment and regulation of
20 medical marijuana production centers and dispensaries including
21 but not limited to the number and location of production centers



1 and dispensaries licensed, the total licensing fees collected,
2 the total amount of taxes collected from production centers and
3 dispensaries, and any licensing violations determined by the
4 department.

5 § -24 Cultivation of medical marijuana by qualifying
6 patients and primary caregivers. Nothing in this chapter shall
7 be construed as prohibiting a qualifying patient or primary
8 caregiver from cultivating or possessing an adequate supply of
9 medical marijuana pursuant to part IX of chapter 329.

10 § -25 Coordination among state and federal agencies.
11 The department shall initiate ongoing dialogue among relevant
12 state and federal agencies to identify processes and policies
13 that ensure the privacy of qualifying patients and the
14 compliance of qualifying patients, primary caregivers, and
15 medical marijuana dispensaries with state laws and regulations
16 related to medical marijuana.

17 § -26 Public education. (a) The department shall
18 conduct a continuing education and training program to explain
19 and clarify the purposes and requirements of this chapter or to
20 provide substance abuse prevention and education. The program
21 shall target community partner agencies, physicians and other



1 health care providers, patients and caregivers, law enforcement
2 agencies, law and 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 § -27 Administrative rules. (a) The department shall
7 adopt rules pursuant to chapter 91 to effectuate the purposes of
8 this chapter.

9 (b) No later than January 4, 2016, the department shall
10 adopt interim rules, which shall be exempt from chapter 91 and
11 chapter 201M, to effectuate the purposes of this chapter;
12 provided that the interim rules shall remain in effect until
13 July 1, 2018, or until rules are adopted pursuant subsection
14 (a), whichever occurs sooner."

15 PART III

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

18 "§46-4 County zoning. (a) This section and any
19 ordinance, rule, or regulation adopted in accordance with this
20 section shall apply to lands not contained within the forest



1 reserve boundaries as established on January 31, 1957, or as
2 subsequently amended.

3 Zoning in all counties shall be accomplished within the
4 framework of a long-range, comprehensive general plan prepared
5 or being prepared to guide the overall future development of the
6 county. Zoning shall be one of the tools available to the
7 county to put the general plan into effect in an orderly manner.
8 Zoning in the counties of Hawaii, Maui, and Kauai means the
9 establishment of districts of such number, shape, and area, and
10 the adoption of regulations for each district to carry out the
11 purposes of this section. In establishing or regulating the
12 districts, full consideration shall be given to all available
13 data as to soil classification and physical use capabilities of
14 the land to allow and encourage the most beneficial use of the
15 land consonant with good zoning practices. The zoning power
16 granted herein shall be exercised by ordinance which may relate
17 to:

- 18 (1) The areas within which agriculture, forestry,
19 industry, trade, and business may be conducted;
20 (2) The areas in which residential uses may be regulated
21 or prohibited;



- 1 (3) The areas bordering natural watercourses, channels,
2 and streams, in which trades or industries, filling or
3 dumping, erection of structures, and the location of
4 buildings may be prohibited or restricted;
- 5 (4) The areas in which particular uses may be subjected to
6 special restrictions;
- 7 (5) The location of buildings and structures designed for
8 specific uses and designation of uses for which
9 buildings and structures may not be used or altered;
- 10 (6) The location, height, bulk, number of stories, and
11 size of buildings and other structures;
- 12 (7) The location of roads, schools, and recreation areas;
- 13 (8) Building setback lines and future street lines;
- 14 (9) The density and distribution of population;
- 15 (10) The percentage of a lot that may be occupied, size of
16 yards, courts, and other open spaces;
- 17 (11) Minimum and maximum lot sizes; and
- 18 (12) Other regulations the boards or city council find
19 necessary and proper to permit and encourage the
20 orderly development of land resources within their
21 jurisdictions.



1 The council of any county shall prescribe rules,
2 regulations, and administrative procedures and provide personnel
3 it finds necessary to enforce this section and any ordinance
4 enacted in accordance with this section. The ordinances may be
5 enforced by appropriate fines and penalties, civil or criminal,
6 or by court order at the suit of the county or the owner or
7 owners of real estate directly affected by the ordinances.

8 Any civil fine or penalty provided by ordinance under this
9 section may be imposed by the district court, or by the zoning
10 agency after an opportunity for a hearing pursuant to chapter
11 91. The proceeding shall not be a prerequisite for any
12 injunctive relief ordered by the circuit court.

13 Nothing in this section shall invalidate any zoning
14 ordinance or regulation adopted by any county or other agency of
15 government pursuant to the statutes in effect prior to July 1,
16 1957.

17 The powers granted herein shall be liberally construed in
18 favor of the county exercising them, and in such a manner as to
19 promote the orderly development of each county or city and
20 county in accordance with a long-range, comprehensive general
21 plan to ensure the greatest benefit for the State as a whole.



1 This section shall not be construed to limit or repeal any
2 powers of any county to achieve these ends through zoning and
3 building regulations, except insofar as forest and water reserve
4 zones are concerned and as provided in subsections (c) and (d).

5 Neither this section nor any ordinance enacted pursuant to
6 this section shall prohibit the continued lawful use of any
7 building or premises for any trade, industrial, residential,
8 agricultural, or other purpose for which the building or
9 premises is used at the time this section or the ordinance takes
10 effect; provided that a zoning ordinance may provide for
11 elimination of nonconforming uses as the uses are discontinued,
12 or for the amortization or phasing out of nonconforming uses or
13 signs over a reasonable period of time in commercial,
14 industrial, resort, and apartment zoned areas only. In no event
15 shall such amortization or phasing out of nonconforming uses
16 apply to any existing building or premises used for residential
17 (single-family or duplex) or agricultural uses. Nothing in this
18 section shall affect or impair the powers and duties of the
19 director of transportation as set forth in chapter 262.

20 (b) Any final order of a zoning agency established under
21 this section may be appealed to the circuit court of the circuit



1 in which the land in question is found. The appeal shall be in
2 accordance with the Hawaii rules of civil procedure.

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

6 (d) Neither this section nor any other law, county
7 ordinance, or rule shall prohibit group living in facilities
8 with eight or fewer residents for purposes or functions that are
9 licensed, certified, registered, or monitored by the State;
10 provided that a resident manager or a resident supervisor and
11 the resident manager's or resident supervisor's family shall not
12 be included in this resident count. These group living
13 facilities shall meet all applicable county requirements not
14 inconsistent with the intent of this subsection, including but
15 not limited to building height, setback, maximum lot coverage,
16 parking, and floor area requirements.

17 (e) Neither this section nor any other law, county
18 ordinance, or rule shall prohibit the use of land for employee
19 housing and community buildings in plantation community
20 subdivisions as defined in section 205-4.5(a)(12); in addition,
21 no zoning ordinance shall provide for the elimination,



1 amortization, or phasing out of plantation community
2 subdivisions as a nonconforming use.

3 (f) Neither this section nor any other law, county
4 ordinance, or rule shall prohibit the use of land for medical
5 marijuana production centers or medical marijuana dispensaries
6 established and licensed pursuant to chapter ; provided that
7 the land is otherwise zoned for agriculture, manufacturing, or
8 retail purposes."

9 PART IV

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

12 "[+]§321-30.1[+] Medical marijuana registry and regulation
13 special fund; established. (a) There is established within the
14 state treasury the medical marijuana registry and regulation
15 special fund. The fund shall be expended at the discretion of
16 the director of health:

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

19 ~~[-(1)-]~~ (2) To offset the cost of the processing and issuance
20 of patient registry identification certificates and
21 primary caregiver registration certificates;



1 ~~[(2)]~~ (3) To fund positions and operating costs authorized
2 by the legislature;

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

5 (5) To fund public education as required by
6 section -26;

7 (6) To fund substance abuse prevention and education
8 programs; and

9 ~~[(4)]~~ (7) For any other expenditure necessary, ~~[as~~
10 ~~authorized by the legislature,]~~ consistent with this
11 chapter and chapter , to implement [a] medical
12 marijuana registry and regulation [program.] programs.

13 (b) The fund shall consist of all moneys derived from fees
14 collected pursuant to subsection (c) ~~[-]~~ and section -4.

15 There is established within the medical marijuana registry and
16 regulation special fund:

17 (1) A medical marijuana registry program sub-account, into
18 which shall be deposited [All] all fees collected
19 pursuant to subsection (c) [shall be deposited into
20 the medical marijuana registry special fund.]; and



1 (2) A medical marijuana dispensary program sub-account,
2 into which shall be deposited all fees collected
3 pursuant to section -4.

4 (c) The department, upon completion of the transfer of the
5 medical use of marijuana program, shall charge a medical
6 marijuana registration fee to qualifying patients of no more
7 than \$35."

8 PART V

9 SECTION 5. Chapter 329, Hawaii Revised Statutes, is
10 amended by adding four new sections to part IX to be
11 appropriately designated and to read as follows:

12 "§329- Protections afforded to an owner or qualified
13 employee of a licensed medical marijuana dispensary. (a) An
14 owner or employee of a medical marijuana dispensary that is
15 licensed under chapter may assert the production or
16 distribution of medical marijuana as an affirmative defense to
17 any prosecution involving marijuana under this part,
18 chapter , or chapter 712; provided that the owner or
19 employee strictly complied with the requirements of chapter
20 and any administrative rules adopted thereunder.



1 (b) An owner or employee of a licensed medical marijuana
2 dispensary not strictly complying with the requirements of
3 chapter , and any administrative rules adopted thereunder,
4 shall not be afforded the protections provided by subsection
5 (a).

6 §329- Prohibited acts; flammable solvents. (a) No
7 qualifying patient or primary caregiver shall use butane to
8 extract tetrahydrocannabinol from marijuana plants.

9 (b) Any person who violates this section shall be guilty
10 of a class C felony.

11 §329- Authorized sources of medical marijuana. (a)
12 After December 31, 2018, a qualifying patient shall obtain
13 medical marijuana or manufactured marijuana products only:

14 (1) From a dispensary licensed pursuant to chapter ;
15 provided that the marijuana shall be purchased and
16 paid for at the time of purchase; or

17 (2) By cultivating marijuana in an amount that does not
18 exceed an adequate supply for the qualifying patient,
19 pursuant to section 329-122.

20 After December 31, 2018, no primary caregiver shall be
21 authorized to cultivate marijuana for any qualifying patient.



1 (b) This section shall not apply to:

2 (1) A qualifying patient who is a minor or an adult
3 lacking legal capacity and the primary caregiver is
4 the parent, guardian, or person having legal custody
5 of a qualifying patient described in this paragraph;

6 or

7 (2) A qualifying patient on any island on which there is
8 no medical marijuana dispensary licensed pursuant to
9 chapter _____.

10 §329- Prescription and pharmacy requirements not
11 applicable. Notwithstanding any other law to the contrary, the
12 prescription requirements of section 329-38 and the board of
13 pharmacy licensure or regulatory requirements under chapter 461
14 shall not apply to the medical use of marijuana under this
15 part."

16 SECTION 6. Section 329-121, Hawaii Revised Statutes, is
17 amended by amending the definitions of "adequate supply" and
18 "debilitating medical condition" to read as follows:

19 "Adequate supply" means an amount of marijuana jointly
20 possessed between the qualifying patient and the primary
21 caregiver that is not more than is reasonably necessary to



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

12 "Debilitating medical condition" means:

- 13 (1) Cancer, glaucoma, positive status for human
- 14 immunodeficiency virus, acquired immune deficiency
- 15 syndrome, or the treatment of these conditions;
- 16 (2) A chronic or debilitating disease or medical condition
- 17 or its treatment that produces one or more of the
- 18 following:
- 19 (A) Cachexia or wasting syndrome;
- 20 (B) Severe pain;
- 21 (C) Severe nausea;



- 1 (D) Seizures, including those characteristic of
- 2 epilepsy; [eɪ]
- 3 (E) Severe and persistent muscle spasms, including
- 4 those characteristic of multiple sclerosis or
- 5 Crohn's disease; or
- 6 (F) Post-traumatic stress disorder; or
- 7 (3) Any other medical condition approved by the department
- 8 of health pursuant to administrative rules in response
- 9 to a request from a physician or potentially
- 10 qualifying patient."

11 SECTION 7. Section 329-122, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "§329-122 Medical use of marijuana; conditions of use.

14 (a) Notwithstanding any law to the contrary, the medical use of
 15 marijuana by a qualifying patient shall be permitted only if:

- 16 (1) The qualifying patient has been diagnosed by a
- 17 physician as having a debilitating medical condition;
- 18 (2) The qualifying patient's physician has certified in
- 19 writing that, in the physician's professional opinion,
- 20 the potential benefits of the medical use of marijuana



1 would likely outweigh the health risks for the
2 particular qualifying patient; and

3 (3) The amount of marijuana possessed by the qualifying
4 patient does not exceed an adequate supply.

5 (b) Subsection (a) shall not apply to a qualifying patient
6 under the age of eighteen years, unless:

7 (1) The qualifying patient's physician has explained the
8 potential risks and benefits of the medical use of
9 marijuana to the qualifying patient and to a parent,
10 guardian, or person having legal custody of the
11 qualifying patient; and

12 (2) A parent, guardian, or person having legal custody
13 consents in writing to:

14 (A) Allow the qualifying patient's medical use of
15 marijuana;

16 (B) Serve as the qualifying patient's primary
17 caregiver; and

18 (C) Control the acquisition of the marijuana, the
19 dosage, and the frequency of the medical use of
20 marijuana by the qualifying patient.



1 (c) The authorization for the medical use of marijuana in
2 this section shall not apply to:

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

5 (2) The medical use of marijuana:

6 (A) In a school bus, public bus, or any moving
7 vehicle;

8 (B) In the workplace of one's employment;

9 (C) On any school grounds;

10 (D) At any public park, public beach, public
11 recreation center, recreation or youth center; or

12 (E) ~~[Other]~~ At any other place open to the public;
13 ~~[and]~~ provided that a qualifying patient, primary
14 caregiver, or an owner or employee of a medical
15 marijuana dispensary licensed under chapter
16 shall not be prohibited from transporting
17 marijuana or any manufactured marijuana product,
18 as that term is defined in section -1, in any
19 public place; provided further that the marijuana
20 or manufactured marijuana product shall be
21 transported in a sealed container, not be visible



1 to the public, and shall not be removed from its
2 sealed container or consumed or used in any way
3 while it is in the public place; and

4 (3) The use of marijuana by a qualifying patient, parent,
5 or primary caregiver for purposes other than medical
6 use permitted by this part.

7 (d) For the purposes of this section, "transport" means
8 the transportation of marijuana, usable marijuana, or any
9 manufactured marijuana product between:

10 (1) A qualifying patient and the qualifying patient's
11 primary caregiver; or

12 (2) The production centers and the retail dispensing
13 locations under a dispensary licensee's license;
14 provided that "transport" does not include the interisland
15 transportation of marijuana, usable marijuana, or any
16 manufactured marijuana product."

17 PART VI

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

20 "(a) Physicians who issue written certifications shall
21 provide, in each written certification, the name, address,

1 patient identification number, and other identifying information
2 of the qualifying patient. The department of health shall
3 require, in rules adopted pursuant to chapter 91, that all
4 written certifications comply with a designated form completed
5 by or on behalf of a qualifying patient. The form shall require
6 information from the applicant, primary caregiver, and [~~primary~~
7 ~~care~~] physician as specifically required or permitted by this
8 chapter. The form shall require the address of the location
9 where the marijuana is grown and shall appear on the registry
10 card issued by the department of health. The certifying
11 physician shall be required to [~~be the qualifying patient's~~
12 ~~primary care physician.~~] have a bona fide physician-patient
13 relationship with the qualifying patient. All current active
14 medical marijuana permits shall be honored through their
15 expiration date."

PART VII

17 SECTION 9. Section 846-2.7, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Criminal history record checks may be conducted by:

20 (1) The department of health or the department's designee
21 on operators of adult foster homes or developmental



1 disabilities domiciliary homes and their employees, as
2 provided by section 333F-22;

3 (2) The department of health or the department's designee
4 on prospective employees, persons seeking to serve as
5 providers, or subcontractors in positions that place
6 them in direct contact with clients when providing
7 non-witnessed direct mental health services as
8 provided by section 321-171.5;

9 (3) The department of health or the department's designee
10 on all applicants for licensure for, operators for,
11 prospective employees, and volunteers at one or more
12 of the following: skilled nursing facility,
13 intermediate care facility, adult residential care
14 home, expanded adult residential care home, assisted
15 living facility, home health agency, hospice, adult
16 day health center, special treatment facility,
17 therapeutic living program, intermediate care facility
18 for individuals with intellectual disabilities,
19 hospital, rural health center and rehabilitation
20 agency, and, in the case of any of the above
21 facilities operating in a private residence, on any



- 1 adult living in the facility other than the client as
2 provided by section 321-15.2;
- 3 (4) The department of education on employees, prospective
4 employees, and teacher trainees in any public school
5 in positions that necessitate close proximity to
6 children as provided by section 302A-601.5;
- 7 (5) The counties on employees and prospective employees
8 who may be in positions that place them in close
9 proximity to children in recreation or child care
10 programs and services;
- 11 (6) The county liquor commissions on applicants for liquor
12 licenses as provided by section 281-53.5;
- 13 (7) The county liquor commissions on employees and
14 prospective employees involved in liquor
15 administration, law enforcement, and liquor control
16 investigations;
- 17 (8) The department of human services on operators and
18 employees of child caring institutions, child placing
19 organizations, and foster boarding homes as provided
20 by section 346-17;



- 1 (9) The department of human services on prospective
2 adoptive parents as established under section
3 346-19.7;
- 4 (10) The department of human services on applicants to
5 operate child care facilities, prospective employees
6 of the applicant, and new employees of the provider
7 after registration or licensure as provided by section
8 346-154;
- 9 (11) The department of human services on persons exempt
10 pursuant to section 346-152 to be eligible to provide
11 child care and receive child care subsidies as
12 provided by section 346-152.5;
- 13 (12) The department of health on operators and employees of
14 home and community-based case management agencies and
15 operators and other adults, except for adults in care,
16 residing in foster family homes as provided by section
17 321-484;
- 18 (13) The department of human services on staff members of
19 the Hawaii youth correctional facility as provided by
20 section 352-5.5;



- 1 (14) The department of human services on employees,
2 prospective employees, and volunteers of contracted
3 providers and subcontractors in positions that place
4 them in close proximity to youth when providing
5 services on behalf of the office or the Hawaii youth
6 correctional facility as provided by section 352D-4.3;
- 7 (15) The judiciary on employees and applicants at detention
8 and shelter facilities as provided by section 571-34;
- 9 (16) The department of public safety on employees and
10 prospective employees who are directly involved with
11 the treatment and care of persons committed to a
12 correctional facility or who possess police powers
13 including the power of arrest as provided by section
14 353C-5;
- 15 (17) The board of private detectives and guards on
16 applicants for private detective or private guard
17 licensure as provided by section 463-9;
- 18 (18) Private schools and designated organizations on
19 employees and prospective employees who may be in
20 positions that necessitate close proximity to
21 children; provided that private schools and designated



- 1 organizations receive only indications of the states
2 from which the national criminal history record
3 information was provided pursuant to section 302C-1;
- 4 (19) The public library system on employees and prospective
5 employees whose positions place them in close
6 proximity to children as provided by section
7 302A-601.5;
- 8 (20) The State or any of its branches, political
9 subdivisions, or agencies on applicants and employees
10 holding a position that has the same type of contact
11 with children, vulnerable adults, or persons committed
12 to a correctional facility as other public employees
13 who hold positions that are authorized by law to
14 require criminal history record checks as a condition
15 of employment as provided by section 78-2.7;
- 16 (21) The department of health on licensed adult day care
17 center operators, employees, new employees,
18 subcontracted service providers and their employees,
19 and adult volunteers as provided by section 321-496;
- 20 (22) The department of human services on purchase of
21 service contracted and subcontracted service providers



1 and their employees serving clients of the [±]adult
2 protective and community services branch[±], as
3 provided by section 346-97;

4 (23) The department of human services on foster grandparent
5 program, senior companion program, and respite
6 companion program participants as provided by section
7 346-97;

8 (24) The department of human services on contracted and
9 subcontracted service providers and their current and
10 prospective employees that provide home and community-
11 based services under section 1915(c) of the Social
12 Security Act, title 42 United States Code section
13 1396n(c), or under any other applicable section or
14 sections of the Social Security Act for the purposes
15 of providing home and community-based services, as
16 provided by section 346-97;

17 (25) The department of commerce and consumer affairs on
18 proposed directors and executive officers of a bank,
19 savings bank, savings and loan association, trust
20 company, and depository financial services loan
21 company as provided by section 412:3-201;



- 1 (26) The department of commerce and consumer affairs on
2 proposed directors and executive officers of a
3 nondepository financial services loan company as
4 provided by section 412:3-301;
- 5 (27) The department of commerce and consumer affairs on the
6 original chartering applicants and proposed executive
7 officers of a credit union as provided by section
8 412:10-103;
- 9 (28) The department of commerce and consumer affairs on:
- 10 (A) Each principal of every non-corporate applicant
11 for a money transmitter license; and
- 12 (B) The executive officers, key shareholders, and
13 managers in charge of a money transmitter's
14 activities of every corporate applicant for a
15 money transmitter license,
16 as provided by sections 489D-9 and 489D-15;
- 17 (29) The department of commerce and consumer affairs on
18 applicants for licensure and persons licensed under
19 title 24;
- 20 (30) The Hawaii health systems corporation on:
- 21 (A) Employees;



- 1 (B) Applicants seeking employment;
- 2 (C) Current or prospective members of the corporation
- 3 board or regional system board; or
- 4 (D) Current or prospective volunteers, providers, or
- 5 contractors,
- 6 in any of the corporation's health facilities as
- 7 provided by section 323F-5.5;
- 8 (31) The department of commerce and consumer affairs on:
- 9 (A) An applicant for a mortgage loan originator
- 10 license; and
- 11 (B) Each control person, executive officer, director,
- 12 general partner, and manager of an applicant for
- 13 a mortgage loan originator company license,
- 14 as provided by chapter 454F;
- 15 (32) The state public charter school commission or public
- 16 charter schools on employees, teacher trainees,
- 17 prospective employees, and prospective teacher
- 18 trainees in any public charter school for any position
- 19 that places them in close proximity to children, as
- 20 provided in section 302D-33;



- 1 (33) The counties on prospective employees who work with
2 children, vulnerable adults, or senior citizens in
3 community-based programs;
- 4 (34) The counties on prospective employees for fire
5 department positions which involve contact with
6 children or vulnerable adults;
- 7 (35) The counties on prospective employees for emergency
8 medical services positions which involve contact with
9 children or vulnerable adults;
- 10 (36) The counties on prospective employees for emergency
11 management positions and community volunteers whose
12 responsibilities involve planning and executing
13 homeland security measures including viewing,
14 handling, and engaging in law enforcement or
15 classified meetings and assisting vulnerable citizens
16 during emergencies or crises;
- 17 (37) The State and counties on employees, prospective
18 employees, volunteers, and contractors whose position
19 responsibilities require unescorted access to secured
20 areas and equipment related to a traffic management
21 center;



- 1 (38) The State and counties on employees and prospective
2 employees whose positions involve the handling or use
3 of firearms for other than law enforcement purposes;
- 4 (39) The State and counties on current and prospective
5 systems analysts and others involved in an agency's
6 information technology operation whose position
7 responsibilities provide them with access to
8 proprietary, confidential, or sensitive information;
- 9 ~~[(40)]~~ The department of commerce and consumer affairs on
10 applicants for real estate appraiser licensure or
11 certification as provided by chapter 466K; ~~[and]~~
- 12 (41) The department of health or its designee on all
13 license applicants, licensees, employees, contractors,
14 and prospective employees of medical marijuana
15 dispensaries, and individuals permitted to enter and
16 remain in medical marijuana dispensary facilities as
17 provided under sections -15(a)(4) and
18 -16(a)(3); and
- 19 ~~[(41)]~~ (42) Any other organization, entity, or the State,
20 its branches, political subdivisions, or agencies as
21 may be authorized by state law."



1 PART VIII

2 SECTION 10. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$750,000 or so much
4 thereof as may be necessary for fiscal year 2015-2016, and the
5 same sum or so much thereof as may be necessary for fiscal year
6 2016-2017, to be deposited into the medical marijuana registry
7 and regulation special fund established pursuant to section 321-
8 30.1, Hawaii Revised Statutes.

9 SECTION 11. There is appropriated out of the medical
10 marijuana registry and regulation special fund the sum of
11 \$750,000 or so much thereof as may be necessary for fiscal year
12 2015-2016 and the same sum or so much thereof as may be
13 necessary for fiscal year 2016-2017 to carry out the purposes of
14 this Act, including the establishment, hiring, and filling of
15 five permanent full-time equivalent (5.0 FTE) positions to carry
16 out the purposes of the medical marijuana dispensary program
17 established pursuant to this Act.

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

20 SECTION 12. Not later than July 1, 2017, the department of
21 health shall establish a repayment plan and schedule to repay to



1 the general fund, the sums deposited into the medical marijuana
2 registry and regulation special fund established pursuant to
3 section 321-30.1, Hawaii Revised Statutes. The department of
4 health shall only use moneys from the medical marijuana registry
5 and regulation special fund to repay the general fund.

6 PART IX

7 SECTION 13. Not later than March 15, 2016, the director of
8 health, or the director's designee, shall submit a report and
9 provide an informational briefing to the legislature concerning
10 the progress of implementing the provisions of part II of this
11 Act, including the status of rulemaking by the department of
12 health pertaining to the licensure of medical marijuana
13 dispensaries and production centers.

14 PART X

15 SECTION 14. For the purposes of effectuating this Act, the
16 personnel hired and the contracts entered into by the department
17 of health, pursuant to this Act, shall be exempt from chapter
18 76, Hawaii Revised Statutes, for a period beginning on July 1,
19 2015, and ending on June 30, 2017; provided that:

- 20 (1) All personnel actions taken pursuant to this Act by
21 the department of health after June 30, 2017, shall be



1 subject to chapter 76, Hawaii Revised Statutes, as
2 appropriate; and
3 (2) Any employee hired by the department of health to
4 effectuate this Act, who occupies a position exempt
5 from civil service on July 1, 2017, shall:
6 (A) Be appointed to a civil service position; and
7 (B) Not suffer any loss of prior service credit,
8 vacation or sick leave credits previously earned,
9 or other employee benefits or privileges;
10 provided that the employee possesses the minimum
11 qualifications and public employment requirements for
12 the class or position to which appointed; provided
13 further that subsequent changes in status shall be
14 made pursuant to applicable civil service and
15 compensation laws.

PART XI

17 SECTION 15. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 16. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 17. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 18. This Act shall take effect on July 1, 2015.

APPROVED this 14 day of JUL , 2015



GOVERNOR OF THE STATE OF HAWAII

