S.B. NO. ²³⁸⁴ S.D. 1 H.D. 1 C.D. 1

A BILL FOR AN ACT

RELATING TO LICENSING INSPECTIONS.

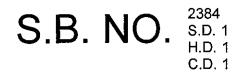
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the department of 2 health is responsible for licensing, certifying, and monitoring 3 several types of facilities, including care facilities and 4 medical marijuana production centers and dispensaries, to ensure 5 a standard of quality. To ensure that these facilities are providing a high standard of quality on a day-to-day basis, 6 7 inspections and visits of these facilities should be unannounced 8 to prevent a prepared appearance that does not truly portray the 9 regular quality of operations that the facility provides on an 10 ongoing basis.

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

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





1	(2) Submit reports to the legislature prior to the regular
2	sessions of 2017, 2018, and 2019 on the number of
3	unannounced visits and inspections on state-licensed
4	or state-certified care homes specified in this Act.
5	SECTION 2. Chapter 321, Hawaii Revised Statutes, is
6	amended by adding a new section to be appropriately designated
7	and to read as follows:
8	"§321- Inspections; visits; state-licensed or state-
9	certified care facilities. (a) The department of health shall
10	conduct unannounced visits and inspections, including
11	inspections for relicensing or recertification, for the
12	following state-licensed or state-certified care facilities on
13	an annual basis and at such intervals as determined by the
14	department to ensure the health, safety, and welfare of each
15	resident:
16	(1) Adult day health centers;
17	(2) Adult day care centers;
18	(3) Community care foster family homes;
19	(4) Developmental disabilities domiciliary homes;

20 (5) Adult foster homes;

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1	(6)	Long-term care facilities, including but not limited
2		<u>to:</u>
3		(A) Adult residential care homes;
4		(B) Expanded adult residential care homes;
5		(C) Assisted living facilities;
6		(D) Intermediate care facilities;
7		(E) Nursing facilities; and
8		(F) Skilled nursing facilities; and
9	<u>(7)</u>	Special treatment facilities.
10	<u>(b)</u>	Unannounced visits may be conducted during or outside
11	regular b	usiness hours. All inspections relating to follow-up
12	<u>visits, v</u>	isits to confirm correction of deficiencies, or visits
13	to invest	igate complaints or suspicion of abuse or neglect shall
14	be conduc	ted unannounced during or outside regular business
15	hours. A	nnual inspections for relicensing or recertification
16	<u>may be co</u>	nducted during regular business hours or at intervals
17	determine	d by the department. Annual inspections for
18	relicensi	ng or recertification shall be conducted without
19	notice.	
20	<u>(c)</u>	The department shall adopt rules pursuant to chapter
21	<u>91 to eff</u>	ectuate the purposes of this section."

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1	SECTION 3. Section 321-15.6, Hawaii Revised Statutes, is
2	amended by amending subsection (a) to read as follows:
3	"(a) All adult residential care homes shall be licensed to
4	ensure the health, safety, and welfare of the individuals placed
5	therein. The department shall conduct [unannounced visits,
6	other than the inspection for relicensing, to every licensed
7	adult residential care home and expanded adult residential care
8	home on an annual-basis and at such-intervals as determined by
9	the department to ensure the health, safety, and welfare of each
10	residentUnannounced visits-may be conducted during or outside
11	regular business hours. All inspections relating to follow-up
12	visits, visits to confirm correction of deficiencies, or visits
13	to-investigate complaints or suspicion of abuse-or-neglect shall
14	be conducted unannounced during or outside regular business
15	hours. Annual inspections for-relicensing may be conducted
16	during regular business hours or at-intervals-determined-by the
17	department. Annual inspections for relicensing shall be
18	conducted with notice, unless otherwise determined by-the
19	department.] visits and inspections pursuant to section 321"
20	SECTION 4. Section 321-15.62, Hawaii Revised Statutes, is
21	amended by amending subsection (a) to read as follows:

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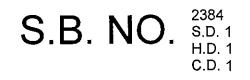


1	"(a) All expanded adult residential care homes shall be
2	licensed to ensure the health, safety, and welfare of the
3	individuals placed therein. The department shall conduct visits
4	and inspections pursuant to section 321"
5	SECTION 5. Section 329D-4, Hawaii Revised Statutes, is
6	amended by amending subsection (n) to read as follows:
7	"(n) A dispensary license may be renewed annually by
8	payment of an annual renewal fee of \$50,000 and subject to
9	verification by the department through an unannounced inspection
10	that the individual licensee and entity licensee continue to
11	meet all licensing requirements from the date the initial
12	licenses were issued."
13	SECTION 6. Section 329D-7, Hawaii Revised Statutes, is
14	amended to read as follows:
15	"[[]§329D-7[]] Medical marijuana dispensary rules. The
16	department shall establish standards with respect to:
17	(1) The number of medical marijuana dispensaries that
18	shall be permitted to operate in the State;
19	(2) A fee structure for the submission of applications and
20	renewals of licenses to dispensaries; provided that
21	the department shall consider the market conditions in



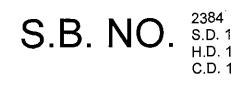
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1		each	county in determining the license renewal fee
2		amou	nts;
3	(3)	Crit	eria and procedures for the consideration and
4		sele	ction, based on merit, of applications for
5		lice	nsure of dispensaries; provided that the criteria
6		shal	l include but not be limited to an applicant's:
7		(A)	Ability to operate a business;
8		(B)	Financial stability and access to financial
9			resources; provided that applicants for medical
10			marijuana dispensary licenses shall provide
11			documentation that demonstrates control of not
12			less than \$1,000,000 in the form of escrow
13			accounts, letters of credit, surety bonds, bank
14			statements, lines of credit or the equivalent to
15			begin operating the dispensary;
16		(C)	Ability to comply with the security requirements
17			developed pursuant to paragraph (6);
18		(D)	Capacity to meet the needs of qualifying
19			patients;



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





1		and prevent anyone outside the premises from
2		viewing any marijuana in any form;
3	(iii)	An alarm system; and
4	(iv)	Other reasonable security measures to deter
5		or prevent intruders, as deemed necessary by
6		the department;
7	(B) For	retail dispensing locations:
8	(i)	Presentation of a valid government-issued
9		photo identification and a valid
10		identification as issued by the department
11		pursuant to section 329-123, by a qualifying
12		patient or caregiver, upon entering the
13		premises;
14	(ii)	Video monitoring and recording of the
15		premises;
16	(iii)	An alarm system;
17	(iv)	Exterior lighting; and
18	(v)	Other reasonable security measures as deemed
19		necessary by the department;

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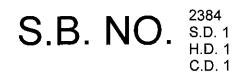
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1	(7)	Security requirements for the transportation of
2		marijuana and manufactured marijuana products between
3		production centers and retail dispensing locations;
4	(8)	Standards and criminal background checks to ensure the
5		reputable and responsible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

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1		qualifying patient or primary caregiver; provided that
2		no dispensary shall sell or provide to a qualifying
3		patient or primary caregiver any combination of
4		marijuana and manufactured products that:
5		(A) During a period of fifteen consecutive days,
6		exceeds the equivalent of four ounces of
7		marijuana; or
8		(B) During a period of thirty consecutive days,
9		exceeds the equivalent of eight ounces of
10		marijuana;
11	(13)	Dispensary and production center inventory controls to
11 12	(13)	Dispensary and production center inventory controls to prevent the unauthorized diversion of marijuana or
	(13)	
12	(13)	prevent the unauthorized diversion of marijuana or
12 13	(13)	prevent the unauthorized diversion of marijuana or manufactured marijuana products or the distribution of
12 13 14	(13)	prevent the unauthorized diversion of marijuana or manufactured marijuana products or the distribution of marijuana or manufactured marijuana products to
12 13 14 15	(13)	prevent the unauthorized diversion of marijuana or manufactured marijuana products or the distribution of marijuana or manufactured marijuana products to qualifying patients or primary caregivers in
12 13 14 15 16	(13)	prevent the unauthorized diversion of marijuana or manufactured marijuana products or the distribution of marijuana or manufactured marijuana products to qualifying patients or primary caregivers in quantities that exceed limits established by this
12 13 14 15 16 17	(13)	prevent the unauthorized diversion of marijuana or manufactured marijuana products or the distribution of marijuana or manufactured marijuana products to qualifying patients or primary caregivers in quantities that exceed limits established by this chapter; provided that the controls, at a minimum,

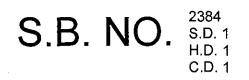
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1		(B) Product packaging standards sufficient to allow
2		law enforcement personnel to reasonably determine
3		the contents of an unopened package;
4	(14)	Limitation to the size or format of signs placed
5		outside a retail dispensing location or production
6		center; provided that the signage limitations, at a
7		minimum, shall comply with section 329D-6(0)(2) and
8		shall not include the image of a cartoon character or
9		other design intended to appeal to children;
10	(15)	The disposal or destruction of unwanted or unused
11		marijuana and manufactured marijuana products;
12	(16)	The enforcement of the following prohibitions against:
13		(A) The sale or provision of marijuana or
14		manufactured marijuana products to unauthorized
15		persons;
16		(B) The sale or provision of marijuana or
17		manufactured marijuana products to qualifying
18	x	patients or primary caregivers in quantities that
19		exceed limits established by this chapter;
20		(C) Any use or consumption of marijuana or
21		manufactured marijuana products on the premises

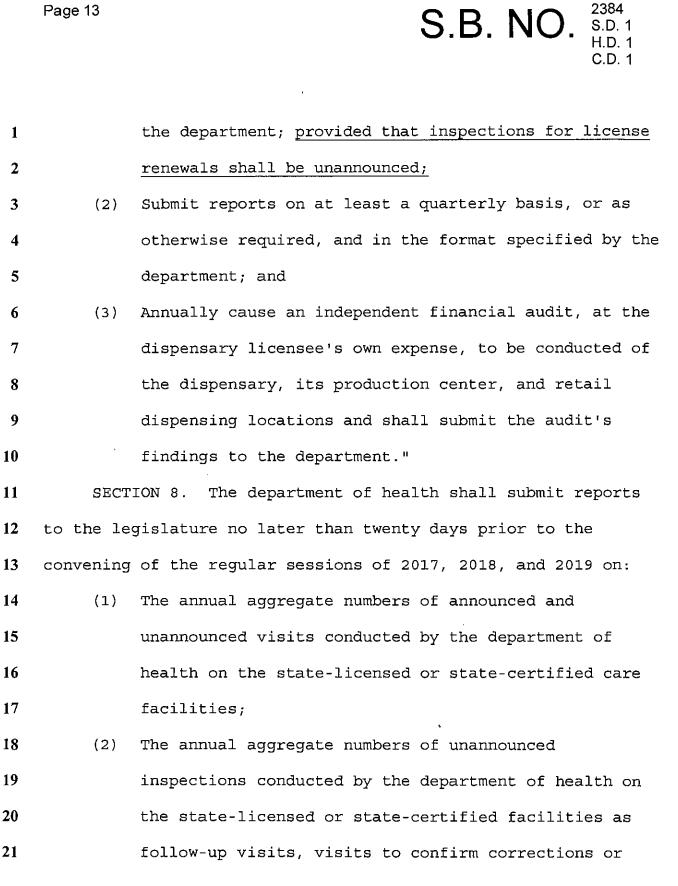
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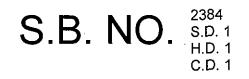
1			of a retail dispensing location or production
2			center; and
3		(D)	The distribution of marijuana or manufactured
4			marijuana products, for free, on the premises of
5			a retail dispensing location or production
6			center;
7	(17)	The	establishment of a range of penalties for
8		viol	ations of this chapter or rule adopted thereto;
9		and	
10	(18)	A pr	ocess to recognize and register patients who are
11		auth	orized to purchase, possess, and use medical
12		mari	juana in another state, United States territory,
13		or t	he District of Columbia as qualifying patients in
14		this	State; provided that this registration process
15		may	commence no sooner than January 1, 2018."
16	SECT	ION 7	. Section 329D-23, Hawaii Revised Statutes, is
17	amended by	y ame	nding subsection (a) to read as follows:
18	"(a)	Eac	h medical marijuana production center and
19	dispensar	y lic	ensed pursuant to this part shall:
20	(1)	Be s	ubject to an annual announced inspection and
21		unli	mited unannounced inspections of its operations by





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1	deficiencies, or visits to investigate complaints or
2	suspicions of abuse or neglect; and
3	(3) The general outcomes and corrective actions taken
4	because of the visits and investigations conducted by
5	the department of health on the state-licensed or
6	state-certified care facilities,
7	as specified in sections 2, 3, and 4 of this Act.
8	SECTION 9. Statutory material to be repealed is bracketed
9	and stricken. New statutory material is underscored.
10	SECTION 10. This Act shall take effect on July 1, 2016;
11	provided that sections 2, 3, and 4 shall take effect on July 1,
12	2019.



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Report Title:

Licensing; State-licensed Care Facilities; State-certified Care Facilities; Marijuana Dispensaries; Unannounced Visits; Unannounced Inspections; Report

Description:

Requires the department of health to: (1) conduct unannounced visits and inspections, including inspections for relicensing and recertification, for certain state-licensed or statecertified care facilities beginning on July 1, 2019, and unannounced inspections for license renewals for medical marijuana production centers and dispensaries beginning on July 1, 2016; and (2) submit reports to the legislature prior to the regular sessions of 2017, 2018, and 2019 on the number of visits and inspections by the department of health on the specified state-licensed or state-certified care facilities and general outcomes and corrective actions taken. (CD1)

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

