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# A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1       SECTION 1. The legislature finds that Act 241, Session Laws  
2 of Hawaii 2015, codified as chapter 329D, Hawaii Revised  
3 Statutes, established a licensing scheme for a statewide system  
4 of medical marijuana dispensaries to ensure access to medical  
5 marijuana for qualifying patients. Act 230, Session Laws of  
6 Hawaii 2016, amended chapter 329D, Hawaii Revised Statutes, and  
7 other sections of the Hawaii Revised Statutes to clarify the  
8 system's implementation. Generally, Act 241 required the  
9 department of health to announce the selection of medical  
10 marijuana dispensary licensees by April 15, 2016, and to allow  
11 retail dispensing of medical marijuana from July 15, 2016.  
12 However, the department of health only recently authorized a few  
13 medical marijuana dispensary licensees to proceed with the  
14 planting or cultivation of medical marijuana, and has been  
15 unable to provide assurances that the dispensary program  
16 envisioned by Acts 241 and 230 will be fully implemented in the  
17 near future.



1       The legislature also finds that the delay in implementing  
2   the medical marijuana dispensing system is affecting patient  
3   access to medical marijuana. One cause of the delay is the  
4   department of health's struggle to implement the computer  
5   tracking system required pursuant to Acts 241 and 230. The  
6   legislature notes that although the computer tracking system is  
7   intended to serve an important role in ensuring the safety of  
8   the product, patient, and public, the need for the system must  
9   be balanced against the patients' need to receive their  
10   medicine. Recently, some medical marijuana dispensary programs  
11   on the mainland United States experienced failures of their  
12   computer tracking systems, but the affected jurisdictions  
13   fortunately had pre-determined alternative systems to track  
14   marijuana product sales during any tracking system shutdown.  
15   The legislature believes that the department of health should  
16   also have a pre-determined alternative system to track marijuana  
17   product sales so that qualified patients will have uninterrupted  
18   access to medical marijuana during any shutdown of the initial  
19   tracking system in this State.

20       The legislature further finds that, although laboratory  
21   testing of medical marijuana is necessary to ensure product and



1 patient safety, testing should be performed within reasonable  
2 scope and tolerance levels. The State of Oregon has implemented  
3 testing standards that are appropriate, practical, and evidence-  
4 based. Unreasonably strict and expansive testing standards will  
5 lead to unnecessarily high production costs that will result in  
6 medical marijuana that is unaffordable for patient use and may  
7 push patients to use the black market instead of legal  
8 dispensaries.

9 The legislature believes that establishing the office of  
10 medical marijuana administration, to be responsible for  
11 implementing the medical marijuana dispensary system and  
12 administering the medical marijuana patient registry, will  
13 facilitate the efficient and fair implementation of the system.

14 Accordingly, the purpose of this Act is to:

- 15 (1) Establish the office of medical marijuana  
16 administration, which shall be responsible for  
17 implementing the medical marijuana dispensary system  
18 and administering the medical marijuana patient  
19 registry;
- 20 (2) Amend certain dates and deadlines in existing law to  
21 address the delays in implementation;



(3) Establish new deadlines for the department of health to implement the dispensary system, including deadlines for implementation of the department's computer software tracking system and laboratory testing program;

(4) Authorize an alternative means to track marijuana sales during any shutdown of the department of health's computer tracking system and require input from licensees; and

(5) Amend requirements for laboratory standards and testing to ensure product and patient safety at reasonable tolerance levels with reasonable cost implications.

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

"§321- Office of medical marijuana administration; established; duties. (a) There is established within the department the office of medical marijuana administration, which shall report directly to the deputy director for health resources.



1        (b) The office of medical marijuana administration shall  
2        administer medical marijuana dispensary licensure and regulation  
3        pursuant to chapter 329D and the registration of qualifying  
4        patients pursuant to section 329-123."

5        SECTION 3. Section 329-130, Hawaii Revised Statutes, is  
6        amended by amending subsection (a) to read as follows:

7        "(a) After December 31, [~~2018~~,] 2019, a qualifying patient  
8        shall obtain medical marijuana or manufactured marijuana  
9        products only:

10       (1) From a dispensary licensed pursuant to chapter 329D;  
11       provided that the marijuana shall be purchased and  
12       paid for at the time of purchase; or

13       (2) By cultivating marijuana in an amount that does not  
14       exceed an adequate supply for the qualifying patient,  
15       pursuant to section 329-122[~~-~~]; provided that each  
16       location used to cultivate marijuana shall be used by  
17       no more than five qualifying patients.

18       After December 31, [~~2018~~,] 2020, no primary caregiver shall be  
19       authorized to cultivate marijuana for any qualifying patient."

20       SECTION 4. Section 329D-2, Hawaii Revised Statutes, is  
21       amended to read as follows:



1       "§329D-2   **Medical marijuana dispensaries; authorized;**

2   **licensure.**   (a)   No person shall operate a medical marijuana  
3   dispensary unless the person has a license issued by the  
4   department pursuant to this chapter.

5       (b)   The director of health shall grant medical marijuana  
6   dispensary licenses to allow dispensaries to produce,  
7   manufacture, and dispense marijuana and manufactured marijuana  
8   products pursuant to this chapter.

9       (c)   Each medical marijuana dispensary license shall allow  
10   production, manufacture, and dispensing of marijuana and  
11   manufactured marijuana products only in the county for which the  
12   license is granted.

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

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



1 (f) Up to two production centers shall be allowed under  
2 each dispensary license, provided that each production center  
3 shall be limited to no more than three thousand marijuana  
4 plants. For purposes of this subsection, "plant" means a  
5 marijuana plant that is greater than twelve vertical inches in  
6 height from where the base of the stalk emerges from the growth  
7 medium to the tallest point of the plant, or greater than twelve  
8 horizontal inches in width from the end of one branch to the end  
9 of another branch; provided that multiple stalks emanating from  
10 the same root ball or root system shall be considered part of  
11 the same single plant.

12 (g) A dispensary licensee may establish up to two retail  
13 dispensing locations under the licensee's dispensary license.

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

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



1           (j) Notwithstanding subsection (d), the department shall  
2 determine whether, based on the qualifying patient need,  
3 additional dispensary licenses shall be offered to qualified  
4 applicants in the State after October 1, ~~[2017]~~ 2018; provided  
5 that the department shall make available not more than one  
6 license per five hundred qualifying patients residing in any  
7 single county~~[-]~~; provided further that in considering whether  
8 to award a new license, the department shall consider an  
9 applicant's capability to serve and supply medical marijuana to  
10 qualified patients in an underserved geographical area of a  
11 county.

12           (k) Notwithstanding subsections (f) and (g) to the  
13 contrary, the department shall determine whether existing  
14 dispensary licensees shall be allowed to increase plant count,  
15 the number of production centers, or the number of retail  
16 dispensing locations per license.

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





SECTION 5. Section 329D-6, Hawaii Revised Statutes, is amended by amending subsections (j) and (k) to read as follows:

"(j) The department shall establish, maintain, and control a computer software tracking system that shall have real time, ~~[twenty-four-hour]~~ twenty-four-hour access to the data of all dispensaries.

(1) The computer software tracking system shall collect data relating to:

~~[(1)]~~ (A) The total amount of marijuana in possession of all dispensaries from either seed or immature plant state, including all plants that are derived from cuttings or cloning, until the marijuana, marijuana plants, or manufactured marijuana product is sold or destroyed pursuant to section 329D-7;

~~[(2)]~~ (B) The total amount of manufactured marijuana product inventory, including the equivalent physical weight of marijuana that is used to manufacture manufactured marijuana products, purchased by a qualifying patient and primary



1 caregiver from all retail dispensing locations in  
2 the State in any fifteen day period;

3 ~~[-3-]~~ (C) The amount of waste produced by each plant at  
4 harvest; and

5 ~~[-4-]~~ (D) The transport of marijuana and manufactured  
6 marijuana products between production centers and  
7 retail dispensing locations, including tracking  
8 identification issued by the tracking system, the  
9 identity of the person transporting the marijuana  
10 or manufactured marijuana products, and the make,  
11 model, and license number of the vehicle being  
12 used for the transport~~[-]~~;

13 (2) The procurement of the computer software tracking  
14 system established pursuant to this subsection shall  
15 be exempt from chapter 103D; provided that: ~~[the]~~

16 (A) The department shall publicly solicit at least  
17 three proposals for the computer software  
18 tracking system; and ~~[the]~~

19 (B) The selection of the computer software tracking  
20 system shall be approved by the director of the  
21 department and the chief information officer~~[-]~~;



1       (3) Notwithstanding any other provision of this subsection  
2       to the contrary, once the department has authorized a  
3       licensed dispensary to commence sales of marijuana or  
4       manufactured marijuana products, if the department's  
5       computer software tracking system is inoperable or is  
6       not functioning properly, the department may  
7       immediately implement an alternate tracking system  
8       that will enable qualified patients to purchase  
9       marijuana or manufactured marijuana products from a  
10       licensed dispensary on a temporary basis. The  
11       department shall seek input regarding the alternate  
12       tracking system from medical marijuana licensees. The  
13       alternate tracking system may operate as follows:  
14       (A) The department may immediately notify all  
15       licensed dispensaries that the computer software  
16       tracking system is inoperable; and  
17       (B) Once the computer software tracking system is  
18       operational and functioning to meet the  
19       requirements of this subsection, the department  
20       may notify all licensed dispensaries, and the



1                   alternate tracking system in this subsection  
2                   shall be discontinued.

3           (k)   A dispensary licensed pursuant to this chapter shall  
4 purchase, operate, and maintain a computer software tracking  
5 system that shall:

6           (1)   Interface with the department's computer software  
7 tracking system established pursuant to subsection  
8           (j);

9           (2)   Allow each licensed dispensary's production center to  
10 submit to the department in real time, by automatic  
11 identification and data capture, all marijuana,  
12 marijuana plants, and manufactured marijuana product  
13 inventory in possession of that dispensary from either  
14 seed or immature plant state, including all plants  
15 that are derived from cuttings or cloning, until the  
16 marijuana or manufactured marijuana product is sold or  
17 destroyed pursuant to section 329D-7; [and]

18           (3)   Allow the licensed dispensary's retail dispensing  
19 location to submit to the department in real time for  
20 the total amount of marijuana and manufactured  
21 marijuana product purchased by a qualifying patient



1 and primary caregiver from the dispensary's retail  
2 dispensing locations in the State in any fifteen day  
3 period; provided that the software tracking system  
4 shall impose an automatic stopper in real time, which  
5 cannot be overridden, on any further purchases of  
6 marijuana or manufactured marijuana products, if the  
7 maximum allowable amount of marijuana has already been  
8 purchased for the applicable fifteen day period;  
9 provided further that additional purchases shall not  
10 be permitted until the next applicable period[-]; and

11 (4) Allow the licensed dispensary to submit all data  
12 required by this subsection to the department and  
13 permit the department to access the data if the  
14 department's computer software tracking system is not  
15 functioning properly and sales are made pursuant to  
16 the alternate tracking system under subsection (j)."

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

19 "**§329D-7 Medical marijuana dispensary rules.** The  
20 department shall establish standards with respect to:



- 1       (1) The number of medical marijuana dispensaries that  
2       shall be permitted to operate in the State;
- 3       (2) A fee structure for the submission of applications and  
4       renewals of licenses to dispensaries; provided that  
5       the department shall consider the market conditions in  
6       each county in determining the license renewal fee  
7       amounts;
- 8       (3) Criteria and procedures for the consideration and  
9       selection, based on merit, of applications for  
10      licensure of dispensaries; provided that the criteria  
11      shall include but not be limited to an applicant's:  
12      (A) Ability to operate a business;  
13      (B) Financial stability and access to financial  
14      resources; provided that applicants for medical  
15      marijuana dispensary licenses shall provide  
16      documentation that demonstrates control of not  
17      less than \$1,000,000 in the form of escrow  
18      accounts, letters of credit, surety bonds, bank  
19      statements, lines of credit or the equivalent to  
20      begin operating the dispensary;



1 (C) Ability to comply with the security requirements  
2 developed pursuant to paragraph (6);

3 (D) Capacity to meet the needs of qualifying  
4 patients;

5 (E) Ability to comply with criminal background check  
6 requirements developed pursuant to paragraph (8);  
7 and

8 (F) Ability to comply with inventory controls  
9 developed pursuant to paragraph (13);

10 (4) Specific requirements regarding annual audits and  
11 reports required from each production center and  
12 dispensary licensed pursuant to this chapter;

13 (5) Procedures for announced and unannounced inspections  
14 by the department or its agents of production centers  
15 and dispensaries licensed pursuant to this chapter;  
16 provided that inspections for license renewals shall  
17 be unannounced;

18 (6) Security requirements for the operation of production  
19 centers and retail dispensing locations; provided  
20 that, at a minimum, the following shall be required:

21 (A) For production centers:



(i) Video monitoring and recording of the premises; provided that recordings shall be retained for not less than forty-five days;

(ii) Fencing that surrounds the premises and that is sufficient to reasonably deter intruders and prevent anyone outside the premises from viewing any marijuana in any form;

(iii) An alarm system; and

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

(B) For retail dispensing locations:

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

(ii) Video monitoring and recording of the premises; provided that recordings shall be retained for not less than forty-five days;





- 1 (iii) An alarm system;
- 2 (iv) Exterior lighting; and
- 3 (v) Other reasonable security measures as deemed
- 4 necessary by the department;
- 5 (7) Security requirements for the transportation of
- 6 marijuana and manufactured marijuana products between
- 7 production centers and retail dispensing locations;
- 8 (8) Standards and criminal background checks to ensure the
- 9 reputable and responsible character and fitness of all
- 10 license applicants, licensees, employees,
- 11 subcontractors and their employees, and prospective
- 12 employees of medical marijuana dispensaries to operate
- 13 a dispensary; provided that the standards, at a
- 14 minimum, shall exclude from licensure or employment
- 15 any person convicted of any felony;
- 16 (9) The training and certification of operators and
- 17 employees of production centers and dispensaries;
- 18 (10) The types of manufactured marijuana products that
- 19 dispensaries shall be authorized to manufacture and
- 20 sell pursuant to sections 329D-9 and 329D-10;



1 (11) Laboratory standards related to testing marijuana and  
2 manufactured marijuana products for content,  
3 contamination, and consistency;

4 (12) The quantities of marijuana and manufactured marijuana  
5 products that a dispensary may sell or provide to a  
6 qualifying patient or primary caregiver; provided that  
7 no dispensary shall sell or provide to a qualifying  
8 patient or primary caregiver any combination of  
9 marijuana and manufactured products that:

10 (A) During a period of fifteen consecutive days,  
11 exceeds the equivalent of four ounces of  
12 marijuana; or

13 (B) During a period of thirty consecutive days,  
14 exceeds the equivalent of eight ounces of  
15 marijuana;

16 (13) Dispensary and production center inventory controls to  
17 prevent the unauthorized diversion of marijuana or  
18 manufactured marijuana products or the distribution of  
19 marijuana or manufactured marijuana products to  
20 qualifying patients or primary caregivers in  
21 quantities that exceed limits established by this



chapter; provided that the controls, at a minimum,  
shall include:

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

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

(14) Limitation to the size or format of signs placed  
outside a retail dispensing location or production  
center; provided that the signage limitations, at a  
minimum, shall comply with section 329D-6(o)(2) and  
shall not include the image of a cartoon character or  
other design intended to appeal to children;

(15) The disposal or destruction of unwanted or unused  
marijuana and manufactured marijuana products;

(16) The enforcement of the following prohibitions against:

(A) The sale or provision of marijuana or  
manufactured marijuana products to unauthorized  
persons;

(B) The sale or provision of marijuana or  
manufactured marijuana products to qualifying



1 patients or primary caregivers in quantities that  
2 exceed limits established by this chapter;

3 (C) Any use or consumption of marijuana or  
4 manufactured marijuana products on the premises  
5 of a retail dispensing location or production  
6 center; and

7 (D) The distribution of marijuana or manufactured  
8 marijuana products, for free, on the premises of  
9 a retail dispensing location or production  
10 center;

11 (17) The establishment of a range of penalties for  
12 violations of this chapter or rule adopted thereto;  
13 and

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

20 SECTION 7. Section 329D-8, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1       "(a) The department shall establish and enforce standards  
2 for laboratory-based testing of marijuana and manufactured  
3 marijuana products for content, contamination, and  
4 consistency[-]; provided that in establishing these standards,  
5 the department shall:

6       (1) Review and take guidance from the testing programs and  
7       standards utilized in other jurisdictions;

8       (2) Consider the impact of the standards on the retail  
9       cost of the product to the qualifying patient;

10       (3) Review and take guidance from the testing programs and  
11       standards for pesticides under the regulations of the  
12       United States Environmental Protection Agency;

13       (4) For the testing for microbiological impurities,  
14       consider the benefits of organically grown marijuana  
15       that features the use of bacteria in lieu of  
16       pesticides; and

17       (5) Include permission for qualifying patients and primary  
18       caregivers to obtain testing services directly from  
19       certified laboratories on the island where the  
20       qualifying patient and primary caregiver reside."



1       SECTION 8. Section 329D-27, Hawaii Revised Statutes, is  
2 amended by amending subsections (b) and (c) to read as follows:

3       "(b) No later than January 4, 2016, the department shall  
4 adopt interim rules, which shall be exempt from chapter 91 and  
5 chapter 201M, to effectuate the purposes of this chapter;  
6 provided that the interim rules shall remain in effect until  
7 July 1, [~~2018,~~] 2019, or until rules are adopted pursuant to  
8 subsection (a), whichever occurs sooner.

9       (c) The department may amend the interim rules, and the  
10 amendments shall be exempt from chapters 91 and 201M, to  
11 effectuate the purposes of this chapter; provided that any  
12 amended interim rules shall remain in effect until July 1,  
13 [~~2018,~~] 2019, or until rules are adopted pursuant to subsection  
14 (a), whichever occurs sooner."

15       SECTION 9. Act 241, Session Laws of Hawaii 2015, is  
16 amended by amending section 14 to read as follows:

17       "SECTION 14. For the purposes of effectuating this Act,  
18 the personnel hired and the contracts entered into by the  
19 department of health, pursuant to this Act, shall be exempt from  
20 chapter 76, Hawaii Revised Statutes, for a period beginning on



1 July 1, 2015, and ending on June 30, [~~2017,~~] 2020; provided  
2 that:

- 3 (1) All personnel actions taken pursuant to this Act by  
4 the department of health after June 30, [~~2017,~~] 2020,  
5 shall be subject to chapter 76, Hawaii Revised  
6 Statutes, as appropriate; and
- 7 (2) Any employee hired by the department of health to  
8 effectuate this Act, who occupies a position exempt  
9 from civil service on July 1, [~~2017,~~] 2020, shall:
- 10 (A) Be appointed to a civil service position; and  
11 (B) Not suffer any loss of prior service credit,  
12 vacation or sick leave credits previously earned,  
13 or other employee benefits or privileges;  
14 provided that the employee possesses the minimum  
15 qualifications and public employment requirements for  
16 the class or position to which appointed; provided  
17 further that subsequent changes in status shall be  
18 made pursuant to applicable civil service and  
19 compensation laws."

20 SECTION 10. All appropriations records, equipment,  
21 machines, files, supplies, contracts, books, papers, documents,



1 maps, and other personal property heretofore made, used,  
2 acquired, or held by the office of health care assurance  
3 relating to the functions transferred to the office of medical  
4 marijuana administration shall be transferred with the functions  
5 to which they relate.

6 SECTION 11. Employees performing duties related to medical  
7 marijuana dispensary licensure and regulation pursuant to  
8 chapter 329D, Hawaii Revised Statutes, and relating to the  
9 registration of qualifying patients pursuant to section 329-123,  
10 Hawaii Revised Statutes, shall be transferred to the office of  
11 medical marijuana administration without loss of salary,  
12 seniority (except as prescribed by applicable collective  
13 bargaining agreements), retention points, prior service credit,  
14 any vacation and sick leave credits previously earned, and other  
15 rights, benefits, and privileges, in accordance with state  
16 personnel laws and this Act; provided that the employees possess  
17 the minimum qualifications and public employment requirements  
18 for the class or position to which transferred or appointed, as  
19 applicable; provided further that subsequent changes in status  
20 may be made pursuant to applicable civil service and  
21 compensation laws.





1 Any employee who, prior to this Act, is exempt from civil  
2 service and is transferred as a consequence of this Act may  
3 retain the employee's exempt status, but shall not be appointed  
4 to a civil service position as a consequence of this Act. An  
5 exempt employee who is transferred by this Act shall not suffer  
6 any loss of prior service credit, vacation or sick leave credits  
7 previously earned, or other employee benefits or privileges as a  
8 consequence of this Act; provided that the employees possess  
9 legal and public employment requirements for the position to  
10 which transferred or appointed, as applicable; provided further  
11 that subsequent changes in status may be made pursuant to  
12 applicable employment and compensation laws.

13 SECTION 12. The department of health shall submit a report  
14 to the legislative oversight working group established by Act  
15 230, Session Laws of Hawaii 2016, no later than twenty days  
16 prior to the convening of the regular session of 2018 with  
17 information and recommendations about the alternative tracking  
18 system, including input obtained from medical marijuana  
19 licensees.



1       SECTION 13. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4       SECTION 14. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6       SECTION 15. This Act shall take effect on July 1, 2050.

7



**Report Title:**

DOH; Office of Medical Marijuana Administration; Established;  
Medical Marijuana Dispensaries; Computer Tracking System;  
Alternate Tracking System; Testing Standards; Qualifying  
Patients

**Description:**

Establishes the Office of Medical Marijuana Administration in DOH to administer marijuana dispensary licensing and regulation, and patient registration. Limits each location used to cultivate marijuana to use by five qualifying patients. Authorizes primary caregivers to cultivate marijuana for qualifying patients until December 31, 2020. Extends civil service exemptions. Extends interim rulemaking authority. Authorizes an alternate medical marijuana dispensary tracking system for use when the DOH computer tracking system is nonfunctional and requires DOH to report to the legislative oversight working group. Adds considerations for establishing marijuana testing standards and selecting additional dispensary licensees. Allows DOH to consider whether existing dispensary licensees shall be allowed to increase plant count, increase the number of production centers, or increase the number of retail dispensing locations. Requires retention of video security recordings of production centers and dispensaries for not less than 45 days. Effective 7/1/2050. (SD1)

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

