

JAN 20 2023

A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1 SECTION 1. Chapter 329D, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§329D- Cultivation facilities; authorization;
5 licensure. (a) No person shall operate a cultivation facility
6 unless the person has a license issued by the department
7 pursuant to this chapter.

8 (b) The director of health shall grant cultivation
9 facility licenses to allow facilities to plant, cultivate, grow,
10 and harvest cannabis pursuant to this chapter; provided that any
11 cultivation facility shall sell its product only to medical
12 cannabis dispensaries licensed under this chapter.

13 (c) Each cultivation facility license shall allow
14 planting, cultivating, growing, and harvesting of cannabis only
15 in the county for which the license is granted.

16 (d) The department shall determine whether, based on the
17 qualifying patient need, cultivation facility licenses shall be



1 offered to qualified applicants in the State after December 31,
2 2024; provided that the department shall make available not more
3 than one license per five hundred registered qualifying patients
4 residing in any single county; provided further that in
5 considering whether to award a new license, the department shall
6 consider an applicant's capability to serve and supply medical
7 cannabis to registered qualifying patients in a rural or
8 underserved geographical area of a county; provided further that
9 a "rural or underserved geographical area" shall be determined
10 by considering the number of registered qualifying patients that
11 reside within a certain zip code compared to the quantity of
12 medical cannabis that the closest production center and retail
13 dispensing location have the capability to provide.

14 (e) No person may be granted a cultivation facility
15 license in more than one county.

16 (f) Each cultivation facility shall be limited to no more
17 than one thousand cannabis plants. Each cultivation facility
18 shall track the cannabis it cultivates from seed or immature
19 plant to wholesale purchase. For purposes of this subsection,
20 "plant" means a cannabis plant that is greater than twelve
21 vertical inches in height from where the base of the stalk



1 emerges from the growth medium to the tallest point of the
2 plant, or greater than twelve horizontal inches in width from
3 the end of one branch to the end of another branch; provided
4 that multiple stalks emanating from the same root ball or root
5 system shall be considered part of the same single plant. The
6 department may determine whether cultivation licensees shall be
7 allowed an additional one thousand cannabis plants. In no case
8 shall a licensee be allowed more than two thousand plants at a
9 single production center.

10 (g) Not more than one cultivation facility license shall
11 be issued for each tax map key.

12 (h) Notwithstanding any other law to the contrary, a
13 cultivation facility shall not be subject to any of the
14 regulatory requirements under chapter 141.

15 §329D- Cultivation facilities; license application
16 procedure and verification; fees. (a) The department shall
17 make a cultivation facility license application form available
18 to the public on December 30, 2024, commencing at 8:00 a.m.,
19 Hawaii-Aleutian Standard Time.

20 (b) The department shall establish an open application
21 period for each available license, the first of which shall be



1 no later than 8:00 a.m., Hawaii-Aleutian Standard Time, on
2 December 31, 2024, during which an application may be submitted.
3 This submittal period shall be closed on January 15, 2025, at
4 4:30 p.m. The department shall publish notice of the open
5 application period no less than thirty days prior to the start
6 of the open application period.

7 (c) A nonrefundable application fee of \$1,000 for each
8 license application shall be submitted to the department by
9 certified or cashier's check. Within seven days of approval, a
10 cultivation facility license fee of \$10,000 for each license
11 approved shall be submitted to the department by certified or
12 cashier's check or the department shall issue a license to the
13 next qualified applicant.

14 (d) All fees collected pursuant to this section shall be
15 deposited in the medical cannabis registry and regulation
16 special fund pursuant to section 321-30.1.

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

20 (f) If an applicant submits an application form in which
21 all required information is not complete and valid, the



1 application shall not be accepted by the department and the
2 nonrefundable application fee shall be deposited in the medical
3 cannabis registry and regulation special fund established
4 pursuant to section 321-30.1.

5 (g) The cultivation facility license application form
6 shall request information necessary to verify that applicants
7 meet the required qualifications for a cultivation license
8 pursuant to section 329D-3. Applicants shall provide a minimum
9 of the following information:

- 10 (1) Legal name and date of birth of individual applicant;
- 11 (2) Last four digits of individual applicant's social
12 security number;
- 13 (3) Validation code from an eCrim report for the
14 individual applicant generated by the Hawaii criminal
15 justice data center no earlier than December 1, 2024,
16 at 8:00 a.m., Hawaii-Aleutian Standard Time;
- 17 (4) Street address, telephone number, fax number, and
18 e-mail address of the individual applicant;
- 19 (5) A tax clearance certificate issued by the department
20 of taxation dated not more than thirty days prior to
21 the date of the application;



- 1 (6) Name of the applying entity and any other name under
2 which the applying entity does business, if
3 applicable;
- 4 (7) Street address, telephone number, fax number, and
5 e-mail address of the applying entity;
- 6 (8) Date the applying entity was organized under the laws
7 of the State;
- 8 (9) A certified copy of the organizing documents of the
9 applying entity;
- 10 (10) A copy of the applying entity's bylaws;
- 11 (11) Federal employer identification number of the applying
12 entity;
- 13 (12) Hawaii state tax identification number of applying
14 entity;
- 15 (13) Department of commerce and consumer affairs business
16 registration number and suffix of the applying entity;
- 17 (14) Names of all owners of the applying entity, in whole
18 or in part, and their percentage of ownership;
- 19 (15) Date when continuous legal residence in Hawaii began
20 for each Hawaii legal resident that owns a percentage
21 of the applying entity;



- 1 (16) Total percentage of the applying entity that is owned
- 2 by Hawaii legal residents;
- 3 (17) Designation of the county for which the cultivation
- 4 license applied for and proof that the required
- 5 minimum financial resources of \$250,000 are met;
- 6 (18) Total dollar amount of financial resources under
- 7 control of the applying entity in the form of bank
- 8 statements or escrow accounts;
- 9 (19) Date from when financial resources have been
- 10 continuously controlled by the applying entity;
- 11 (20) Copies of the entity's bank statements for the twelve
- 12 months prior to the date of the application; and
- 13 (21) A copy of the agreement in place with an existing
- 14 dispensary licensed by the State for the sale of the
- 15 applying entity's product.
- 16 (h) The department shall maintain a record of the time and
- 17 date that all completed application forms were submitted.
- 18 (i) The department shall process and deposit the
- 19 application fee within four business days of receipt of the
- 20 completed application form.



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

5 (k) The department shall review and verify the information
6 and documentation materials only of applicants whose
7 nonrefundable application fee has been processed and deposited.

8 (l) The department shall verify that the information
9 submitted in the application is true and valid and meets the
10 requirements established in section 329D-3(b).

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

15 (n) A cultivation facility license may be renewed annually
16 by payment of an annual renewal fee of \$10,000 and subject to
17 verification by the department through an unannounced inspection
18 that the individual licensee and entity licensee continue to
19 meet all licensing requirements from the date the initial
20 licenses were issued."



1 SECTION 2. Section 329D-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Cultivation facility" or "medical cannabis cultivation
5 facility" means an establishment that is not owned, operated, or
6 subcontracted by a medical cannabis dispensary and is licensed
7 by the State pursuant to this chapter to plant, cultivate, grow,
8 or harvest cannabis."

9 SECTION 3. Section 46-4, Hawaii Revised Statutes, is
10 amended by amending subsection (f) to read as follows:

11 "(f) Neither this section nor any other law, county
12 ordinance, or rule shall prohibit the use of land for medical
13 cannabis production centers, medical cannabis cultivation
14 facilities, or medical cannabis dispensaries established and
15 licensed pursuant to chapter 329D; provided that the land is
16 otherwise zoned for agriculture, manufacturing, or retail
17 purposes."

18 SECTION 4. Section 329D-2.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§329D-2.5[+] Office of medical cannabis control and
21 regulation; established; duties. (a) There is established



1 within the department the office of medical cannabis control and
2 regulation, which shall report to the deputy director of health
3 resources administration.

4 (b) The office of medical cannabis control and regulation
5 shall administer the licensure and regulation of medical
6 cannabis [~~dispensary licensure and regulation,~~] dispensaries and
7 cultivation facilities, pursuant to this chapter, and the
8 registration of qualifying patients and primary caregivers,
9 pursuant to part IX of chapter 329."

10 SECTION 5. Section 329D-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~329D-3[~~]~~] **Qualifications for licensure.** (a) Each
13 application for a dispensary license or a cultivation facility
14 license shall include both an individual applicant and an
15 applying entity.

16 (b) The application shall be submitted to the department
17 and shall include supporting documentation to establish the
18 following:

19 (1) That the individual applicant:



- 1 (A) Has been a legal resident of the State for not
- 2 less than five years preceding the date of
- 3 application;
- 4 (B) Is not less than twenty-one years of age; and
- 5 (C) Has had no felony convictions;
- 6 (2) That the applying entity:
 - 7 (A) Has been organized under the laws of the State;
 - 8 (B) Has a Hawaii tax identification number;
 - 9 (C) Has a department of commerce and consumer affairs
 - 10 business registration division number and suffix;
 - 11 (D) Has a federal employer identification number;
 - 12 (E) Is not less than fifty-one per cent held by
 - 13 Hawaii legal residents or entities wholly
 - 14 controlled by Hawaii legal residents who have
 - 15 been Hawaii legal residents for not less than
 - 16 five years immediately preceding the date the
 - 17 application was submitted;
 - 18 (F) [~~Has~~] If applying for a dispensary license, has
 - 19 financial resources under its control of not less
 - 20 than \$1,000,000 for each license applied for,
 - 21 plus not less than \$100,000 for each retail



1 dispensing location allowed under the license
2 applied for, in the form of bank statements or
3 escrow accounts, and that the financial resources
4 have been under the control of the applying
5 entity for not less than ninety days immediately
6 preceding the date the application was submitted;
7 [and]

8 (G) If applying for a cultivation facility license,
9 has financial resources under its control of not
10 less than \$250,000 for each license applied for,
11 in the form of bank statements or escrow
12 accounts, and that the financial resources have
13 been under the control of the applying entity for
14 not less than ninety days immediately preceding
15 the date the application was submitted;

16 (H) If applying for a cultivation facility license,
17 has an agreement with an existing dispensary,
18 licensed by the State, to which sales of the
19 cultivator's medical cannabis will be made and
20 such agreement can be amended annually; and



1 (d) Notwithstanding any other law to the contrary,
2 including sections 378-2 and 378-2.5, dispensaries[+] and
3 cultivation facilities:

4 (1) Shall deny employment to any individual who has been:

5 (A) Convicted of murder in any degree;

6 (B) Convicted of a class A or class B felony; or

7 (C) Convicted of a class C felony involving

8 trafficking, distributing, or promoting a

9 schedule I or II controlled substance other than

10 cannabis within the last ten years; and

11 (2) May deny employment to any individual who has been
12 convicted of a class C felony involving:

13 (A) Fraud, deceit, misrepresentation, embezzlement,
14 or theft; or

15 (B) Endangering the welfare of a minor.

16 Employment under this chapter shall be exempt from section
17 378-2(a)(1), as it relates to arrest and court record
18 discrimination, and section 378-2.5.

19 (e) Retail dispensing locations shall not be open for
20 retail sales before 8:00 a.m. or after 8:00 p.m., Hawaii-
21 Aleutian Standard Time, Monday through Sunday.



1 (f) All dispensary facilities, including production
2 centers and retail dispensing locations, shall be enclosed
3 indoor facilities and shall maintain twenty-four hour security
4 measures, including an alarm system, video monitoring and
5 recording on the premises, and exterior lighting. A dispensary
6 licensee that intends to utilize, as a production center, an
7 enclosed indoor facility that includes a roof that is partially
8 or completely transparent or translucent, as provided under
9 section 329D-1, shall notify the department of that intention
10 before altering or constructing the facility. Production
11 centers shall remain locked at all times. Retail dispensing
12 locations shall remain locked at all times, other than business
13 hours as authorized by subsection (e), and shall only be opened
14 for authorized persons.

15 (g) In all dispensary facilities, only the licensee, if an
16 individual, registered employees of the dispensary licensee,
17 registered employees of a subcontracted production center or
18 retail dispensing location, employees of a certified laboratory
19 for testing purposes, state employees authorized by the director
20 of health, and law enforcement and other government officials
21 acting in their official capacity shall be permitted to touch or



1 handle any cannabis or manufactured cannabis products, except
2 that a qualifying patient, primary caregiver, qualifying out-of-
3 state patient, or caregiver of a qualifying out-of-state patient
4 may receive manufactured cannabis products at a retail
5 dispensing location following completion of a sale.

6 (h) A dispensary or cultivation facility shall provide the
7 department with the address, tax map key number, and a copy of
8 the premises lease, if applicable, of the proposed location of a
9 production center or cultivation facility allowed under a
10 license for a county not later than thirty days before any
11 medical cannabis or manufactured cannabis products being
12 produced or manufactured at that production center[-] or
13 cultivation facility.

14 (i) A dispensary shall provide the department with the
15 address, tax map key number, and a copy of the premises lease,
16 if applicable, of the proposed location of each retail
17 dispensing location allowed under a license no less than sixty
18 days before opening for business.

19 (j) The department shall establish, maintain, and control
20 a computer software tracking system that shall have real time,



1 twenty-four-hour access to the data of all dispensaries[-] and
2 cultivation facilities.

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

5 (A) The total amount of cannabis in possession of all
6 dispensaries and cultivation facilities from
7 either seed or immature plant state, including
8 all plants that are derived from cuttings or
9 cloning, until the cannabis, cannabis plants, or
10 manufactured cannabis product is sold or
11 destroyed pursuant to section 329D-7;

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



- 1 (C) The amount of waste produced by each plant at
2 harvest; and
- 3 (D) The transport of cannabis and manufactured
4 cannabis products between production centers or
5 cultivation facilities and retail dispensing
6 locations and as authorized by subsection (r),
7 including tracking identification issued by the
8 tracking system, the identity of the person
9 transporting the cannabis or manufactured
10 cannabis products, and the make, model, and
11 license number of the vehicle being used for the
12 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:
- 16 (A) The department shall publicly solicit at least
17 three proposals for the computer software
18 tracking system; and
- 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; and



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 cannabis or
4 manufactured cannabis products, if the department's
5 computer software tracking system is inoperable or is
6 not functioning properly, as an alternative to
7 requiring dispensaries to temporarily cease
8 operations, the department may implement an alternate
9 tracking system that will enable a qualifying patient,
10 primary caregiver, qualifying out-of-state patient,
11 and caregiver of a qualifying out-of-state patient to
12 purchase cannabis or manufactured cannabis products
13 from a licensed dispensary on a temporary basis. The
14 department shall seek input regarding the alternate
15 tracking system from medical cannabis licensees. The
16 alternate tracking system may operate as follows:
17 (A) The department may immediately notify all
18 licensed dispensaries that the computer software
19 tracking system is inoperable; and
20 (B) Once the computer software tracking system is
21 operational and functioning to meet the



1 requirements of this subsection, the department
2 may notify all licensed dispensaries, and the
3 alternate tracking system in this subsection
4 shall be discontinued.

5 (k) A dispensary or cultivation facility licensed pursuant
6 to this chapter shall purchase, operate, and maintain a computer
7 software tracking system that shall:

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

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



1 (3) Allow the licensed dispensary's retail dispensing
2 location to submit to the department in real time for
3 the total amount of cannabis and manufactured cannabis
4 product purchased by a qualifying patient, primary
5 caregiver, qualifying out-of-state patient, and
6 caregiver of a qualifying out-of-state patient from
7 the dispensary's retail dispensing locations in the
8 State in any fifteen day period; provided that the
9 software tracking system shall impose an automatic
10 stopper in real time, which cannot be overridden, on
11 any further purchases of cannabis or manufactured
12 cannabis products, if the maximum allowable amount of
13 cannabis has already been purchased for the applicable
14 fifteen day period; provided further that additional
15 purchases shall not be permitted until the next
16 applicable period; [~~and~~]

17 (4) Allow the cultivation facility to submit to the
18 department in real time for the total amount of
19 cannabis purchased by a licensed dispensary; and

20 ~~[(4)]~~ (5) Allow the licensed dispensary or cultivation
21 facility to submit all data required by this



1 subsection to the department and permit the department
2 to access the data if the department's computer
3 software tracking system is not functioning properly
4 and sales are made pursuant to the alternate tracking
5 system under subsection (j).

6 (l) No free samples of cannabis or manufactured cannabis
7 products shall be provided at any time, and no consumption of
8 cannabis or manufactured cannabis products shall be permitted on
9 any dispensary or cultivation facility premises.

10 (m) Except as authorized by subsection (r), a dispensary
11 or cultivation facility shall not transport cannabis or
12 manufactured cannabis products to another county or another
13 island; provided that this subsection shall not apply to the
14 transportation of cannabis or any manufactured cannabis product
15 solely for the purposes of laboratory testing pursuant to
16 section 329D-8, and subject to subsection (j), if no certified
17 laboratory is located in the county or on the island where the
18 dispensary is located; provided further that a dispensary shall
19 only transport samples of cannabis and manufactured cannabis
20 products for laboratory testing for purposes of this subsection
21 in an amount and manner prescribed by the department, in rules



1 adopted pursuant to this chapter, and with the understanding
2 that state law and its protections do not apply outside of the
3 jurisdictional limits of the State.

4 (n) A dispensary shall or cultivation facility be
5 prohibited from off-premises delivery of cannabis or
6 manufactured cannabis products to a qualifying patient, primary
7 caregiver, qualifying out-of-state patient, or caregiver of a
8 qualifying out-of-state patient.

9 (o) A dispensary or cultivation facility shall not:

10 (1) Display cannabis or manufactured cannabis products in
11 windows or in public view; or

12 (2) Post any signage other than a single sign no greater
13 than one thousand six hundred square inches bearing
14 only the business or trade name in text without any
15 pictures or illustrations; provided that if any
16 applicable law or ordinance restricting outdoor
17 signage is more restrictive, that law or ordinance
18 shall govern.

19 (p) No cannabis or manufactured cannabis products shall be
20 transported to, from, or within any federal fort or arsenal,



1 national park or forest, any other federal enclave, or any other
2 property possessed or occupied by the federal government.

3 (q) A dispensary or cultivation facility licensed pursuant
4 to this chapter shall be prohibited from providing written
5 certification pursuant to section 329-122 for the use of medical
6 cannabis for any person.

7 (r) The department may authorize a dispensary or
8 cultivation facility to purchase cannabis and manufactured
9 cannabis products from another dispensary or cultivation
10 facility in a manner prescribed by the department by rules
11 adopted pursuant to this chapter and chapter 91; provided that:

12 (1) The purchasing dispensary or cultivation facility
13 establishes to the department's satisfaction that:

14 (A) The purchase is necessary to ensure that
15 qualifying patients have continuous access to
16 cannabis for medical use; or

17 (B) The cannabis and manufactured cannabis products
18 are for medical, scientific, or other legitimate
19 purposes approved by the State;

20 (2) The selling dispensary or cultivation facility may
21 transport no more than eight hundred ounces of



1 cannabis or manufactured cannabis products to the
2 purchasing dispensary or cultivation facility within a
3 thirty-day period;

4 (3) The cannabis and manufactured cannabis products are
5 transported between the dispensaries or cultivation
6 facilities for medical, scientific, or other
7 legitimate purposes approved by the State; and

8 (4) Nothing in this subsection shall relieve any
9 dispensary or cultivation facility of its
10 responsibilities and obligations under this chapter
11 and chapter 329."

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

14 "**§329D-7 Medical cannabis dispensary rules, production**
15 **center, and cultivation facility rules.** The department shall
16 establish standards with respect to:

17 (1) The number of medical cannabis dispensaries that shall
18 be permitted to operate in the State;

19 (2) A fee structure for:

20 (A) The submission of applications and renewals of
21 licenses to dispensaries[+] and cultivation



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1 facilities; provided that the department shall
2 consider the market conditions in each county in
3 determining the license renewal fee amounts;
4 (B) The submission of application for each additional
5 production center; and
6 (C) Dispensary-to-dispensary sales authorized by
7 section 329D-6(r);
8 (3) Criteria and procedures for the consideration and
9 selection, based on merit, of applications for
10 licensure of dispensaries[+] and cultivation
11 facilities; provided that the criteria shall include
12 but not be limited to an applicant's:
13 (A) Ability to operate a business;
14 (B) Financial stability and access to financial
15 resources; provided that applicants for medical
16 cannabis dispensary licenses shall provide
17 documentation that demonstrates control of not
18 less than \$1,000,000 in the form of escrow
19 accounts, letters of credit, surety bonds, bank
20 statements, lines of credit or the equivalent to
21 begin operating the dispensary; provided further



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1 that applicants for cultivation facility licenses
2 shall provide documentation that demonstrates
3 control of not less than \$250,000 in the form of
4 escrow accounts, letters of credit, surety bonds,
5 bank statements, lines of credit or the
6 equivalent to begin operating the cultivation
7 facility;

8 (C) Ability to comply with the security requirements
9 developed pursuant to paragraph (6);

10 (D) Capacity to meet the needs of qualifying patients
11 and qualifying out-of-state patients;

12 (E) Ability to comply with criminal background check
13 requirements developed pursuant to paragraph (8);
14 and

15 (F) Ability to comply with inventory controls
16 developed pursuant to paragraph (13);

17 (4) Specific requirements regarding annual audits and
18 reports required from each production center [~~and~~],
19 dispensary, and cultivation facility licensed pursuant
20 to this chapter;



1 (5) Procedures for announced and unannounced inspections
2 by the department or its agents of production centers
3 ~~[and]~~, dispensaries, and cultivation facilities
4 licensed pursuant to this chapter; provided that
5 inspections for license renewals shall be unannounced;

6 (6) Security requirements for the operation of production
7 centers ~~[and]~~, retail dispensing locations^[+], and
8 cultivation facilities; provided that, at a minimum,
9 the following shall be required:

10 (A) For production centers^[+] and cultivation
11 facilities:

12 (i) Video monitoring and recording of the
13 premises; provided that recordings shall be
14 retained for fifty days;

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

19 (iii) An alarm system; and



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- 1 (iv) Other reasonable security measures to deter
- 2 or prevent intruders, as deemed necessary by
- 3 the department;
- 4 (B) For retail dispensing locations:
- 5 (i) Presentation of a valid government-issued
- 6 photo identification and a valid
- 7 identification as issued by the department
- 8 pursuant to section 329-123 by a qualifying
- 9 patient or caregiver, or section 329-123.5
- 10 by a qualifying out-of-state patient or
- 11 caregiver of a qualifying out-of-state
- 12 patient, upon entering the premises;
- 13 (ii) Video monitoring and recording of the
- 14 premises; provided that recordings shall be
- 15 retained for fifty days;
- 16 (iii) An alarm system;
- 17 (iv) Exterior lighting; and
- 18 (v) Other reasonable security measures as deemed
- 19 necessary by the department;
- 20 (7) Security requirements for the transportation of
- 21 cannabis and manufactured cannabis products between



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1 production centers [~~and~~], retail dispensing locations,
2 and cultivation facilities and retail dispensing
3 locations and between a production center, retail
4 dispensing location, cultivation facility, qualifying
5 patient, primary caregiver, qualifying out-of-state
6 patient, or caregiver of a qualifying out-of-state
7 patient and a certified laboratory, pursuant to
8 section 329-122(f);

9 (8) Standards and criminal background checks to ensure the
10 reputable and responsible character and fitness of all
11 license applicants, licensees, employees,
12 subcontractors and their employees, and prospective
13 employees of medical cannabis dispensaries to operate
14 a dispensary; provided that the standards, at a
15 minimum, shall exclude from licensure or employment
16 any person convicted of any felony;

17 (9) The training and certification of operators and
18 employees of production centers [~~and~~],
19 dispensaries[+], and cultivation facilities;



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- 1 (10) The types of manufactured cannabis products that
- 2 dispensaries shall be authorized to manufacture and
- 3 sell pursuant to sections 329D-9 and 329D-10;
- 4 (11) Laboratory standards related to testing cannabis and
- 5 manufactured cannabis products for content,
- 6 contamination, and consistency;
- 7 (12) The quantities of cannabis and manufactured cannabis
- 8 products that a dispensary may sell or provide to a
- 9 qualifying patient, primary caregiver, qualifying out-
- 10 of-state patient, or caregiver of a qualifying out-of-
- 11 state patient; provided that no dispensary shall sell
- 12 or provide to a qualifying patient, primary caregiver,
- 13 qualifying out-of-state patient, or caregiver of a
- 14 qualifying out-of-state patient any combination of
- 15 cannabis and manufactured products that:
- 16 (A) During a period of fifteen consecutive days,
- 17 exceeds the equivalent of four ounces of
- 18 cannabis; or
- 19 (B) During a period of thirty consecutive days,
- 20 exceeds the equivalent of eight ounces of
- 21 cannabis;



1 (13) Dispensary [~~and~~], production center, and cultivation
2 facility inventory controls to prevent the
3 unauthorized diversion of cannabis or manufactured
4 cannabis products or the distribution of cannabis or
5 manufactured cannabis products to a qualifying
6 patient, primary caregiver, qualifying out-of-state
7 patient, or caregiver of a qualifying out-of-state
8 patient in quantities that exceed limits established
9 by this chapter; provided that the controls, at a
10 minimum, shall include:

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

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

16 (14) Limitation to the size or format of signs placed
17 outside a retail dispensing location [~~or~~], production
18 center[~~;~~], or cultivation facility; provided that the
19 signage limitations, at a minimum, shall comply with
20 section 329D-6(o)(2) and shall not include the image



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- 1 of a cartoon character or other design intended to
2 appeal to children;
- 3 (15) The disposal or destruction of unwanted or unused
4 cannabis and manufactured cannabis products;
- 5 (16) The enforcement of the following prohibitions against:
- 6 (A) The sale or provision of cannabis or manufactured
7 cannabis products to unauthorized persons;
- 8 (B) The sale or provision of cannabis or manufactured
9 cannabis products to a qualifying patient,
10 primary caregiver, qualifying out-of-state
11 patient, or caregiver of a qualifying out-of-
12 state patient in quantities that exceed limits
13 established by this chapter;
- 14 (C) Any use or consumption of cannabis or
15 manufactured cannabis products on the premises of
16 a retail dispensing location [~~or~~], production
17 center[~~;~~], or cultivation facility; and
- 18 (D) The distribution of cannabis or manufactured
19 cannabis products, for free, on the premises of a
20 retail dispensing location [~~or~~], production
21 center[~~;~~], or cultivation facility;



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 cannabis in another state, a United States territory,
7 or the District of Columbia as qualifying out-of-state
8 patients; provided that this registration process may
9 commence no sooner than January 1, 2018."

10 SECTION 8. Section 329D-8, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) If a dispensary or cultivation facility licensee
13 obtains a laboratory result indicating that a sample of a batch
14 of its cannabis or manufactured cannabis products does not meet
15 the department's standards for patient safety, the dispensary or
16 cultivation facility licensee, at its own expense, may have the
17 same sample or a different sample from the same batch retested
18 by the same laboratory or a different laboratory. If a retest
19 at a different laboratory yields a different result, the
20 department shall determine which result controls whether the



1 batch may be approved for sale or whether further testing shall
2 be required."

3 SECTION 9. Section 329D-11, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall establish standards regarding
6 the advertising and packaging of cannabis and manufactured
7 cannabis products; provided that the standards, at a minimum,
8 shall require the use 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;
- 20 (7) Includes the name of the production center or
21 cultivation facility where cannabis in the product was



- 1 produced, including the batch number and date of
2 packaging;
- 3 (8) Includes a barcode generated by tracking software; and
4 (9) In the case of a manufactured cannabis product,
5 includes a:
- 6 (A) Listing of the equivalent physical weight of the
7 cannabis used to manufacture the amount of the
8 product that is within the packaging, pursuant to
9 section 329D-9(c);
- 10 (B) Clearly labeled warning stating that the product:
11 (i) Is a medication that contains cannabis, and
12 is not a food; and
13 (ii) Should be kept away from children; and
14 (C) Date of manufacture."

15 SECTION 10. Section 329D-12, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§329D-12 Background checks.** (a) The following shall be
18 subject to background checks conducted by the department or its
19 designee, including but not limited to criminal history record
20 checks in accordance with section 846-2.7:



- 1 (1) Each applicant and licensee for a medical cannabis
2 dispensary or cultivation facility license, including
3 the individual applicant and all officers, directors,
4 members of a limited liability corporation;
5 shareholders with at least twenty-five per cent or
6 more ownership interest in a corporation; and managers
7 of an entity applicant;
- 8 (2) Each employee of a medical cannabis dispensary;
- 9 (3) Each employee of a subcontracted production center
10 ~~[e]~~, retail dispensing location~~[+]~~, or cultivation
11 facility;
- 12 (4) All officers, directors, members of a limited
13 liability corporation; and shareholders with at least
14 twenty-five per cent or more ownership interest in a
15 corporate owner of a subcontracted production center
16 ~~[e]~~, retail dispensing location~~[+]~~, or cultivation
17 facility; and
- 18 (5) Any person permitted to enter and remain in a
19 dispensary facility pursuant to section 329D-15(a)(4)
20 or 329D-16(a)(3).



1 The person undergoing the background check shall provide written
2 consent and all applicable processing fees to the department or
3 its designee to conduct the background checks.

4 (b) This section shall not apply to:

- 5 (1) A qualifying patient, primary caregiver, qualifying
6 out-of-state patient, or caregiver of a qualifying
7 out-of-state patient who enters or remains on the
8 premises of a retail dispensing location for the
9 purpose of a transaction conducted pursuant to
10 sections 329D-6 and 329D-13; or
- 11 (2) Government officials and employees acting in an
12 official capacity and employees of a certified
13 laboratory who enter or remain on the premises of a
14 retail dispensing location ~~[or]~~, production center, or
15 cultivation facility for any purpose authorized by
16 this chapter."

17 SECTION 11. Section 329D-16, Hawaii Revised Statutes, is
18 amended to read as follows:

19 " ~~[§]~~329D-16 ~~[§]~~ Criminal offense; unauthorized access to
20 production centers ~~[and]~~ and cultivation facilities. (a) No
21 person shall intentionally or knowingly enter or remain upon the



1 premises of a medical cannabis production center or cultivation
2 facility unless the person is:

3 (1) An individual licensee or registered employee of the
4 production center[+] or cultivation facility;

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

7 (3) Previously included on a current department-approved
8 list provided to the department by the licensee of
9 those persons who are allowed into that [~~dispensary's~~
10 ~~facilities~~] dispensary or cultivation facility's
11 premises for a specific purpose for that dispensary,
12 including but not limited to construction,
13 maintenance, repairs, legal counsel, or investors;
14 provided that:

15 (A) The person has been individually approved by the
16 department to be included on the list;

17 (B) The person is at least twenty-one years of age,
18 as verified by a valid government issued
19 identification card;

20 (C) The department has confirmed that the person has
21 no felony convictions;



- 1 (D) The person is escorted by an individual licensee
2 or registered employee of the dispensary or
3 facility at all times while [~~in the dispensary~~
4 ~~facility,~~] on the premises;
- 5 (E) The person is only permitted within those
6 portions of the dispensary or cultivation
7 facility as necessary to fulfill the person's
8 purpose for entering;
- 9 (F) The person is only permitted within the
10 dispensary or cultivation facility during the
11 times and for the duration necessary to fulfill
12 the person's purpose for entering;
- 13 (G) The dispensary or cultivation facility shall keep
14 an accurate record of each person's identity,
15 date and times upon entering and exiting the
16 dispensary or cultivation facility, purpose for
17 entering, and the identity of the escort; and
- 18 (H) The approved list shall be effective for one year
19 from the date of department approval.
- 20 (b) No individual licensee or registered employee of a
21 medical cannabis dispensary with control over or responsibility



1 for a production center shall intentionally or knowingly allow
2 another to enter or remain upon the premises of the production
3 center, unless the other is permitted to enter and remain as
4 specified in subsection (a).

5 (c) No individual licensee or registered employee of a
6 cultivation facility with control over or responsibility for the
7 facility shall intentionally or knowingly allow another to enter
8 or remain upon the premises of the facility, unless the other is
9 permitted to enter and remain as specified in subsection (a).

10 [~~e~~] (d) Unauthorized access to a production center or
11 cultivation facility is a class C felony."

12 SECTION 12. Section 329D-17, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) A person commits the offense of promoting medical
15 cannabis or medical cannabis products to a minor if the person
16 intentionally or knowingly distributes any amount of cannabis or
17 manufactured cannabis products that came from a dispensary [~~or~~],
18 production center, or cultivation facility to a minor who is not
19 a registered qualifying patient or a registered qualifying out-
20 of-state patient under eighteen years of age."



1 SECTION 13. Section 329D-18, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]~~ §329D-18 ~~[+]~~ Diversion from dispensary ~~[e]~~, production
4 center~~[+]~~, or cultivation facility; penalties. (a) A person
5 commits diversion from a dispensary ~~[e]~~, production center, or
6 cultivation facility if the person is a licensee, operator, or
7 employee of a dispensary ~~[e]~~, production center, or cultivation
8 facility and intentionally or knowingly diverts to the person's
9 own use or other unauthorized or illegal use, or takes, makes
10 away with, or secretes, with intent to divert to the person's
11 own use or other unauthorized or illegal use, any medical
12 cannabis, manufactured cannabis product, or cannabis concentrate
13 under the person's possession, care, or custody as a licensee,
14 operator, or employee of a medical cannabis dispensary ~~[e]~~,
15 production center, or cultivation facility licensed by the
16 department.

17 (b) Any person who violates this section shall be guilty
18 of a class C felony."

19 SECTION 14. Section 329D-20, Hawaii Revised Statutes, is
20 amended to read as follows:



1 " [f] §329D-20 [f] Law enforcement access to dispensary,
2 [and] production center, and cultivation facility records.
3 Notwithstanding any other law, the department shall disclose
4 information, documents, and other records regarding medical
5 cannabis dispensaries [and], production centers, and cultivation
6 facilities, upon request, to any state, federal, or county
7 agency engaged in the criminal investigation or prosecution of
8 violations of applicable state, county, or federal laws or
9 regulations related to the operations or activities of a medical
10 cannabis dispensary[-], production center, or cultivation
11 facility."

12 SECTION 15. Section 329D-22, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Medical cannabis production centers [and],
15 dispensaries, and cultivation facilities shall comply with all
16 county zoning ordinances, rules, or regulations; provided that:

17 (1) A medical cannabis production center or cultivation
18 facility shall be permitted in any area in which
19 agricultural production is permitted except as
20 provided within this chapter; and



1 (2) No medical cannabis production center [~~and~~],
2 dispensary, or cultivation facility shall be permitted
3 within seven hundred fifty feet of the real property
4 comprising a playground or school."

5 SECTION 16. Section 329D-23, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§329D-23 Annual inspections, audits, and reports.** (a)
8 Each medical cannabis production center [~~and~~], dispensary, and
9 cultivation facility licensed pursuant to this part shall:

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



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1 (b) The department shall report annually to the governor
2 and the legislature on the establishment and regulation of
3 medical cannabis production centers [~~and~~], dispensaries, and
4 cultivation facilities, including but not limited to the number
5 and location of production centers and dispensaries and
6 cultivation facilities licensed, the total licensing fees
7 collected, the total amount of taxes collected from production
8 centers [~~and~~], dispensaries, and cultivation facilities and any
9 licensing violations determined by the department."

10 SECTION 17. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 18. This Act shall take effect upon its approval.

13

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'JBL', is written over a horizontal line.

S.B. NO. 451

Report Title:

Medical Cannabis; Cultivation; Cultivation Facility Licenses; Regulation

Description:

Establishes a cultivation facility license that allows cultivators to grow cannabis for sale only to licensed medical cannabis dispensaries. Establishes requirements for license applications and qualifications for applicants and licensees. Limits the number of cannabis plants grown at each cultivation facility to one thousand. Authorizes the Department of Health to determine the number of cultivation licenses to be issued. Allows one cultivation license to be issued per tax map key number. Allows cultivation facilities to be established on lands zoned for certain uses. Requires the Office of Medical and Cannabis Control and Regulation to administer the licensure and regulation of cultivation facilities. Establishes requirements for cultivation facility operations, including plant tracking and testing. Establishes penalties for violations related to the unauthorized access of cultivation facilities and diversion of product. Requires the Department of Health to disclose certain information regarding cultivation facilities upon request of law enforcement. Subjects cultivation facilities to certain inspections, audits, and reporting requirements.

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

