

**ACT 241**

Laws of Hawaii 2008, as amended by Act 11, Session Laws of Hawaii 2009, and Act 110, Session Laws of Hawaii 2014, shall not be repealed.”

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2015.

(Approved July 14, 2015.)

**ACT 241**

H.B. NO. 321

A Bill for an Act Relating to Medical Marijuana.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. The legislature finds that Hawaii’s medical use of marijuana law was enacted on June 14, 2000, as Act 28, Session Laws of Hawaii 2000, to provide medical relief for seriously ill individuals in the State. While the current law recognizes the beneficial use of marijuana in treating or alleviating pain or other symptoms associated with certain debilitating illnesses, it is silent on how patients can obtain medical marijuana if they or their caregivers are unable to grow their own supply of medical marijuana. The legislature further finds that many of the State’s nearly thirteen thousand qualifying patients lack the ability to grow their own supply of medical marijuana due to a number of factors, including disability and limited space to grow medical marijuana. As a result, a regulated statewide dispensary system for medical marijuana is urgently needed by qualifying patients in the State.

Accordingly, the purpose of this Act is to establish a regulated statewide dispensary system for medical marijuana to ensure safe and legal access to medical marijuana for qualifying patients.

**PART II**

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

**“CHAPTER  
MEDICAL MARIJUANA DISPENSARY SYSTEM**

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

“Department” means the department of health.

“Dispense” or “dispensing” means the act of a licensed dispensary providing marijuana or manufactured marijuana products to a qualifying patient or a primary caregiver for a fee.

“Manufacture” means the preparation, propagation, compounding, conversion, or processing of a substance containing marijuana or its principal psychoactive constituent tetrahydrocannabinol, either directly or indirectly, by a person other than a qualifying patient or primary caregiver for the qualifying patient’s use, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical

synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

“Manufactured marijuana product” means any capsule, lozenge, oil or oil extract, tincture, ointment or skin lotion, or pill that has been manufactured using marijuana.

“Marijuana” shall have the same meaning as in section 329-121.

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

“Medical marijuana production center” or “production center” means a farm or facility wholly owned, operated, or subcontracted by a person licensed by the State pursuant to this chapter as a medical marijuana dispensary that produces marijuana and manufactured marijuana products solely to supply marijuana and manufactured marijuana products to one or more of the retail dispensing locations of the licensed medical marijuana dispensary.

“Person” means an individual, firm, corporation, partnership, association, or any form of business or legal entity.

“Primary caregiver” shall have the same meaning as in section 329-121.

“Production” or “produce” means the planting, cultivating, growing, or harvesting of marijuana. “Production” includes the manufacture of medical marijuana products pursuant to this chapter.

“Qualifying patient” shall have the same meaning as in section 329-121.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) That the individual applicant:
  - (A) Has been a legal resident of the State for not less than five years preceding the date of application;
  - (B) Is not less than twenty-one years of age; and
  - (C) Has had no felony convictions;
- (2) That the applying entity:
  - (A) Has been organized under the laws of the State;
  - (B) Has a Hawaii tax identification number;
  - (C) Has a department of commerce and consumer affairs business registration division number and suffix;
  - (D) Has a federal employer identification number;
  - (E) Is not less than fifty-one per cent held by Hawaii legal residents or entities wholly controlled by Hawaii legal residents who have been Hawaii legal residents for not less than five years immediately preceding the date the application was submitted;
  - (F) Has financial resources under its control of not less than \$1,000,000 for each license applied for, plus not less than \$100,000 for each retail dispensing location allowed under the license applied for, in the form of bank statements or escrow accounts, and that the financial resources have been under the control of the applying entity for not less than ninety days immediately preceding the date the application was submitted; and
  - (G) Is composed of principals or members, each of whom has no felony convictions.

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

**§ -4 Medical marijuana dispensaries; license application procedure and verification; fees.** (a) The department shall make a medical marijuana dispensary license application form available to the public on January 11, 2016, commencing at 8:00 a.m., Hawaii-Aleutian Standard Time.

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

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

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

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

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

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

- (1) Legal name and date of birth of individual applicant;
- (2) Last four digits of individual applicant's social security number;
- (3) Validation code from an eCrim report for the individual applicant generated by the Hawaii criminal justice data center no earlier than December 12, 2015, at 8:00 a.m., Hawaii-Aleutian Standard Time;
- (4) Street address, telephone number, fax number, and email address of the individual applicant;
- (5) A tax clearance certificate issued by the department of taxation dated not more than thirty days prior to the date of the application;
- (6) Name of the applying entity and any other name under which the applying entity does business, if applicable;
- (7) Street address, telephone number, fax number, and email address of the applying entity;
- (8) Date the applying entity was organized under the laws of Hawaii;
- (9) A certified copy of the organizing documents of the applying entity;
- (10) A copy of the applying entity's bylaws;
- (11) Federal employer identification number of the applying entity;
- (12) Hawaii tax identification number of applying entity;
- (13) Department of commerce and consumer affairs business registration number and suffix of the applying entity;
- (14) Name(s) of all owners of the applying entity, in whole or in part, and their percentage of ownership;
- (15) Date when continuous legal residence in Hawaii began for each Hawaii legal resident that owns a percentage of the applying entity;
- (16) Total percentage of the applying entity that is owned by Hawaii legal residents;
- (17) Designation of the county for which the dispensary license applied for and proof that the required minimum financial resources of \$1,200,000 are met;
- (18) Total dollar amount of financial resources under control of the applying entity in the form of bank statements or escrow accounts;
- (19) Date from when financial resources have been continuously controlled by the applying entity; and

(20) Copies of the entity's bank statements for the twelve months prior to the date of the application.

(h) The department shall maintain a record of the time and date that all completed application forms were submitted.

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

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

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

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

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

(n) A dispensary license may be renewed annually by payment of an annual renewal fee of \$50,000 and subject to verification by the department that the individual licensee and entity licensee continue to meet all licensing requirements from the date the initial licenses were issued.

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

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

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

(b) No dispensary licensee, its officers, employees, or agents shall provide written certification for the use of medical marijuana or manufactured marijuana products for any person.

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

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

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

(f) All dispensary facilities, including but not limited to production centers and retail dispensing locations, shall be enclosed indoor facilities and shall maintain twenty-four hour security measures, including but not limited to an alarm system, video monitoring and recording on the premises, and exterior

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

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

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

(i) A dispensary shall provide the department with the address, tax map key number, and a copy of the premises lease, if applicable, of the proposed location of each retail dispensing location allowed under a license not less than sixty days prior to opening for business.

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

- (1) 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 3802-7;
- (2) 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 caregiver from all retail dispensing locations in the State in any fifteen day period;
- (3) The amount of waste produced by each plant at harvest; and
- (4) The transport of marijuana and manufactured marijuana products between production centers and retail dispensing locations, including tracking identification issued by the tracking system, the identity of the person transporting the marijuana or manufactured marijuana products, and the make, model, and license number of the vehicle being used for the transport.

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

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

- (1) Interface with the department's computer software tracking system established pursuant to subsection (j);
- (2) Allow each licensed dispensary's production center to submit to the department in real time, by automatic identification and data capture, all marijuana, marijuana plants, and manufactured marijuana product inventory in possession of that dispensary from either seed or immature plant state, including all plants that are derived from

cuttings or cloning, until the marijuana or manufactured marijuana product is sold or destroyed pursuant to section 329-7; and

- (3) Allow the licensed dispensary's retail dispensing location to submit to the department in real time for the total amount of marijuana and manufactured marijuana product purchased by a qualifying patient and primary caregiver from the dispensary's retail dispensing locations in the State in any fifteen day period; provided that the software tracking system shall impose an automatic stopper in real time, which cannot be overridden, on any further purchases of marijuana or manufactured marijuana products, if the maximum allowable amount of marijuana has already been purchased for the applicable fifteen day period; provided further that additional purchases shall not be permitted until the next applicable period.

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

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

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

(o) A dispensary shall not:

- (1) Display marijuana or manufactured marijuana products in windows or in public view; or
- (2) Post any signage other than a single sign no greater than one thousand six hundred square inches bearing only the business or trade name in text without any pictures or illustrations; provided that if any applicable law or ordinance restricting outdoor signage is more restrictive, that law or ordinance shall govern.

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

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

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

- (1) The number of medical marijuana dispensaries that shall be permitted to operate in the State;
- (2) A fee structure for the submission of applications and renewals of licenses to dispensaries; provided that the department shall consider the market conditions in each county in determining the license renewal fee amounts;
- (3) Criteria and procedures for the consideration and selection, based on merit, of applications for licensure of dispensaries; provided that the criteria shall include but not be limited to an applicant's:
  - (A) Ability to operate a business;
  - (B) Financial stability and access to financial resources; provided that applicants for medical marijuana dispensary licenses shall provide documentation that demonstrates control of not less than \$1,000,000 in the form of escrow accounts, letters of cred-

- it, surety bonds, bank statements, lines of credit or the equivalent to begin operating the dispensary;
- (C) Ability to comply with the security requirements developed pursuant to paragraph (6);
  - (D) Capacity to meet the needs of qualifying patients;
  - (E) Ability to comply with criminal background check requirements developed pursuant to paragraph (8); and
  - (F) Ability to comply with inventory controls developed pursuant to paragraph (13);
- (4) Specific requirements regarding annual audits and reports required from each production center and dispensary licensed pursuant to this chapter;
  - (5) Procedures for announced and unannounced inspections by the department or its agents of production centers and dispensaries licensed pursuant to this chapter;
  - (6) Security requirements for the operation of production centers and retail dispensing locations; provided that, at a minimum, the following shall be required:
    - (A) For production centers:
      - (i) Video monitoring and recording of the premises;
      - (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;
      - (iii) An alarm system;
      - (iv) Exterior lighting; and
      - (v) Other reasonable security measures as deemed necessary by the department;
  - (7) Security requirements for the transportation of marijuana and manufactured marijuana products between production centers and retail dispensing locations;
  - (8) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, subcontractors and their employees, and prospective employees of medical marijuana dispensaries to operate a dispensary; provided that the standards, at a minimum, shall exclude from licensure or employment any person convicted of any felony;
  - (9) The training and certification of operators and employees of production centers and dispensaries;
  - (10) The types of manufactured marijuana products that dispensaries shall be authorized to manufacture and sell pursuant to sections -9 and -10;
  - (11) Laboratory standards related to testing marijuana and manufactured marijuana products for content, contamination, and consistency;

- (12) The quantities of marijuana and manufactured marijuana products that a dispensary may sell or provide to a qualifying patient or primary caregiver; provided that no dispensary shall sell or provide to a qualifying patient or primary caregiver any combination of marijuana and manufactured products that:
  - (A) During a period of fifteen consecutive days, exceeds the equivalent of four ounces of marijuana; or
  - (B) During a period of thirty consecutive days, exceeds the equivalent of eight ounces of marijuana;
- (13) Dispensary and production center inventory controls to 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, shall include:
  - (A) A computer software tracking system as specified in section -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 -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 patients or primary caregivers in quantities that exceed limits established by this chapter;
  - (C) Any use or consumption of marijuana or manufactured marijuana products on the premises of a retail dispensing location or production center; and
  - (D) The distribution of marijuana or manufactured marijuana products, for free, on the premises of a retail dispensing location or production center;
- (17) The establishment of a range of penalties for violations of this chapter or rule adopted thereto; and
- (18) A process to recognize and register patients who are authorized to purchase, possess, and use medical marijuana in another state, United States territory, or the District of Columbia as qualifying patients in this State; provided that this registration process may commence no sooner than January 1, 2018.

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

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

**§ -9 Manufacturing of medical marijuana products.** (a) Any medical marijuana dispensary licensed by the department pursuant to this chapter shall be permitted to manufacture marijuana products; provided that the dispensary shall also obtain any other state or county permits or licenses that may be necessary for a particular manufacturing activity.

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

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

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

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

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

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

- (1) Is child-resistant and opaque so that the product cannot be seen from outside the packaging;
- (2) Uses only black lettering on a white background with no pictures or graphics;
- (3) Is clearly labeled with the phrase "For medical use only";
- (4) Is clearly labeled with the phrase "Not for resale or transfer to another person";
- (5) Includes instructions for use and "use by date";
- (6) Contains information about the contents and potency of the product;
- (7) Includes the name of the production center where marijuana in the product was produced, including the batch number and date of packaging;
- (8) Includes a barcode generated by tracking software; and
- (9) In the case of a manufactured marijuana product, a listing of the equivalent physical weight of the marijuana used to manufacture the amount of the product that is within the packaging, pursuant to section -9(c).

(b) Any capsule, lozenge, or pill containing marijuana or its principal psychoactive constituent tetrahydrocannabinol shall be packaged so that one dose, serving, or single wrapped item contains no more than ten milligrams of tetrahydrocannabinol; provided that no manufactured marijuana product that is sold in a pack of multiple doses, servings, or single wrapped items, nor any

containers of oils, shall contain more than a total of one hundred milligrams of tetrahydrocannabinol per pack or container.

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

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

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

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

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

- (1) Fraud, deceit, misrepresentation, embezzlement, or theft;
- (2) The forgery or alteration of a medical marijuana permit;
- (3) Furnishing fraudulent medical information or the concealment of a material fact;
- (4) The use of a false name or patient identification number, or the giving of a false address; or
- (5) The alteration of a state issued medical use of marijuana permit card.

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

**§ -15 Criminal offense; unauthorized access to retail dispensing location.** (a) No person shall intentionally or knowingly enter or remain upon the premises of a medical marijuana retail dispensing location unless the individual is:

- (1) An individual licensee or registered employee of the dispensary;
- (2) A qualifying patient or primary caregiver of a qualifying patient;
- (3) A government employee or official acting in the person's official capacity; or

- (4) Previously included on a current department-approved list provided to the department by the licensee of those persons who are allowed into that dispensary's facilities for a specific purpose for that dispensary, including but not limited to construction, maintenance, repairs, legal counsel, or investors; provided that:
- (A) The person has been individually approved by the department to be included on the list;
  - (B) The person is at least twenty-one years of age, as verified by a valid government issued identification card;
  - (C) The department has confirmed that the person has no felony convictions;
  - (D) The person is escorted by an individual licensee or registered employee of the dispensary at all times while in the dispensary facility;
  - (E) The person is only permitted within those portions of the dispensary facility as necessary to fulfill the person's purpose for entering;
  - (F) The person is only permitted within the dispensary facility during the times and for the duration necessary to fulfill the person's purpose for entering;
  - (G) The dispensary shall keep an accurate record of each person's first and last name, date and times upon entering and exiting the dispensary facility, purpose for entering, and the identity of the escort; and
  - (H) The approved list shall be effective for one year from the date of the department approval.

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

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

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

- (1) An individual licensee or registered employee of the production center;
- (2) A government employee or official acting in the person's official capacity; or
- (3) Previously included on a current department-approved list provided to the department by the licensee of those persons who are allowed into that dispensary's facilities for a specific purpose for that dispensary, including but not limited to construction, maintenance, repairs, legal counsel, or investors; provided that:
  - (A) The person has been individually approved by the department to be included on the list;
  - (B) The person is at least twenty-one years of age, as verified by a valid government issued identification card;
  - (C) The department has confirmed that the person has no felony convictions;

- (D) The person is escorted by an individual licensee or registered employee of the dispensary at all times while in the dispensary facility;
- (E) The person is only permitted within those portions of the dispensary facility as necessary to fulfill the person's purpose for entering;
- (F) The person is only permitted within the dispensary facility during the times and for the duration necessary to fulfill the person's purpose for entering;
- (G) The dispensary shall keep an accurate record of each person's identity, date and times upon entering and exiting the dispensary facility, purpose for entering, and the identity of the escort; and
- (H) The approved list shall be effective for one year from the date of department approval.

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

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

**§ -17 Prohibition of distribution of medical marijuana and medical marijuana products to minors; penalties.** (a) A person commits the offense of promoting medical marijuana or medical marijuana products to a minor if the person intentionally or knowingly distributes any amount of marijuana or manufactured marijuana products that came from a dispensary or production center to a minor who is not a registered qualifying patient.

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

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

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

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

- (1) Makes or causes a false entry in medical marijuana dispensary records;
- (2) Alters, erases, obliterates, deletes, removes, or destroys a true entry in medical marijuana dispensary records;
- (3) Omits to make a true entry in medical marijuana dispensary records in violation of a duty that the person knows to be imposed upon the person by law or by the nature of the person's position; or

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

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

(c) For the purposes of this section:

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or other similar capabilities.

“Information” includes data, text, images, sounds, codes, computer programs, software, or databases.

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

“Record” means information that is written or printed or that is stored in an electronic or other medium and is retrievable in a perceivable form.

**§ -20 Law enforcement access to dispensary and production center records.** Notwithstanding any other law, the department shall disclose information, documents, and other records regarding medical marijuana dispensaries and production centers, upon request, to any state, federal, or county agency engaged in the criminal investigation or prosecution of violations of applicable state, county, or federal laws or regulations related to the operations or activities of a medical marijuana dispensary.

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

- (1) Procuring a license through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross carelessness, or manifest incapacity;
- (3) Violation of any of the provisions of this chapter or the rules adopted thereto;
- (4) False, fraudulent, or deceptive advertising;
- (5) Any other conduct constituting fraudulent or dishonest dealings;
- (6) Failure to comply with a department order; and
- (7) Making a false statement on any document submitted or required to be filed by this chapter, including furnishing false or fraudulent material information in any application.

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

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

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

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

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

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

- (1) A medical marijuana production center shall be permitted in any area in which agricultural production is permitted except as provided within this chapter; and
  - (2) No medical marijuana production center or dispensary shall be permitted within seven hundred fifty feet of the real property comprising a playground, public housing project or complex, or school.
- (b) As used in this section:

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

“Public housing project or complex” means a housing project directly controlled, owned, developed, or managed by the Hawaii public housing authority pursuant to the federal or state low-rent public housing program.

“School” means any public or private preschool, kindergarten, elementary, intermediate, middle, secondary, or high school.

§ -23 **Annual inspections, audits, and reports.** (a) Each medical marijuana production center and dispensary licensed pursuant to this part shall:

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

(b) The department shall report annually to the governor and the legislature on the establishment and regulation of medical marijuana production centers and dispensaries including but not limited to the number and location of production centers and dispensaries licensed, the total licensing fees collected, the total amount of taxes collected from production centers and dispensaries, and any licensing violations determined by the department.

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

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

§ -26 **Public education.** (a) The department shall conduct a continuing education and training program to explain and clarify the purposes and requirements of this chapter or to provide substance abuse prevention and education. The program shall target community partner agencies, physicians and other health care providers, patients and caregivers, law enforcement agencies, law and policy makers, and the general public.

(b) The department shall employ at least one full-time staff member whose qualifications and duties include the provision of medical marijuana health education.

§ -27 **Administrative rules.** (a) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter.

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

### PART III

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

“§46-4 **County zoning.** (a) This section and any ordinance, rule, or regulation adopted in accordance with this section shall apply to lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

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

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

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

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

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

The powers granted herein shall be liberally construed in favor of the county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accordance with a long-range, comprehensive general plan to ensure the greatest benefit for the State as a whole. This section shall not be construed to limit or repeal any powers of any county to achieve these ends through zoning and building regulations, except insofar as forest and water reserve zones are concerned and as provided in subsections (c) and (d).

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

(b) Any final order of a zoning agency established under this section may be appealed to the circuit court of the circuit in which the land in question is found. The appeal shall be in accordance with the Hawaii rules of civil procedure.

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

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

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

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

#### PART IV

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

**“[H§321-30.1] Medical marijuana registry and regulation special fund; established.** (a) There is established within the state treasury the medical marijuana registry and regulation special fund. The fund shall be expended at the discretion of the director of health:

- (1) To establish and regulate a system of medical marijuana dispensaries in the State;
- [(+)] (2) To offset the cost of the processing and issuance of patient registry identification certificates and primary caregiver registration certificates;
- [(-)] (3) To fund positions and operating costs authorized by the legislature;
- [(-)] (4) To establish and manage a secure and confidential database; ~~and~~
- (5) To fund public education as required by section -26;
- (6) To fund substance abuse prevention and education programs; and
- [(+)] (7) For any other expenditure necessary, ~~[as authorized by the legislature,]~~ consistent with this chapter and chapter , to implement [a] medical marijuana registry and regulation ~~[program-]~~ programs.

(b) The fund shall consist of all moneys derived from fees collected pursuant to subsection (c)[-] and section -4. There is established within the medical marijuana registry and regulation special fund:

- (1) A medical marijuana registry program sub-account, into which shall be deposited [A-H] all fees collected pursuant to subsection (c) [shall be deposited into the medical marijuana registry special fund-]; and
- (2) A medical marijuana dispensary program sub-account, into which shall be deposited all fees collected pursuant to section -4.

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

#### PART V

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

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

(b) An owner or employee of a licensed medical marijuana dispensary not strictly complying with the requirements of chapter , and any adminis-

trative rules adopted thereunder, shall not be afforded the protections provided by subsection (a).

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

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

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

- (1) From a dispensary licensed pursuant to chapter ; provided that the marijuana shall be purchased and paid for at the time of purchase; or
- (2) By cultivating marijuana in an amount that does not exceed an adequate supply for the qualifying patient, pursuant to section 329-122.

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

(b) This section shall not apply to:

- (1) A qualifying patient who is a minor or an adult lacking legal capacity and the primary caregiver is the parent, guardian, or person having legal custody of a qualifying patient described in this paragraph; or
- (2) A qualifying patient on any island on which there is no medical marijuana dispensary licensed pursuant to chapter .

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

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

““Adequate supply” means an amount of marijuana jointly possessed between the qualifying patient and the primary caregiver that is not more than is reasonably necessary to ~~[assure]~~ ensure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of a qualifying patient’s debilitating medical condition; provided that an “adequate supply” shall not exceed: seven marijuana plants, whether immature or mature, and four ounces of usable marijuana at any given time. The four ounces of usable marijuana shall include any combination of usable marijuana and manufactured marijuana products, as provided in chapter , with the marijuana in the manufactured marijuana products being calculated using information provided pursuant to section -9(c).

“Debilitating medical condition” means:

- (1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;
- (2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:
  - (A) Cachexia or wasting syndrome;

- (B) Severe pain;
  - (C) Severe nausea;
  - (D) Seizures, including those characteristic of epilepsy; ~~[or]~~
  - (E) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn’s disease; or
  - (F) Post-traumatic stress disorder; or
- (3) Any other medical condition approved by the department of health pursuant to administrative rules in response to a request from a physician or potentially qualifying patient.”

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

**“§329-122 Medical use of marijuana; conditions of use.** (a) Notwithstanding any law to the contrary, the medical use of marijuana by a qualifying patient shall be permitted only if:

- (1) The qualifying patient has been diagnosed by a physician as having a debilitating medical condition;
- (2) The qualifying patient’s physician has certified in writing that, in the physician’s professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the particular qualifying patient; and
- (3) The amount of marijuana possessed by the qualifying patient does not exceed an adequate supply.

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

- (1) The qualifying patient’s physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and
- (2) A parent, guardian, or person having legal custody consents in writing to:
  - (A) Allow the qualifying patient’s medical use of marijuana;
  - (B) Serve as the qualifying patient’s primary caregiver; and
  - (C) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

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

- (1) The medical use of marijuana that endangers the health or well-being of another person;
- (2) The medical use of marijuana:
  - (A) In a school bus, public bus, or any moving vehicle;
  - (B) In the workplace of one’s employment;
  - (C) On any school grounds;
  - (D) At any public park, public beach, public recreation center, recreation or youth center; or
  - (E) ~~[Other]~~ At any other place open to the public; [and] provided that a qualifying patient, primary caregiver, or an owner or employee of a medical marijuana dispensary licensed under chapter \_\_\_\_\_ shall not be prohibited from transporting marijuana or any manufactured marijuana product, as that term is defined in section -1, in any public place; provided further that the marijuana or manufactured marijuana product

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

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

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

- (1) A qualifying patient and the qualifying patient's primary caregiver;  
or
- (2) The production centers and the retail dispensing locations under a dispensary licensee's license;

provided that "transport" does not include the interisland transportation of marijuana, usable marijuana, or any manufactured marijuana product."

**PART VI**

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

"(a) Physicians who issue written certifications shall provide, in each written certification, the name, address, patient identification number, and other identifying information of the qualifying patient. The department of health shall require, in rules adopted pursuant to chapter 91, that all written certifications comply with a designated form completed by or on behalf of a qualifying patient. The form shall require information from the applicant, primary caregiver, and ~~[primary care]~~ physician as specifically required or permitted by this chapter. The form shall require the address of the location where the marijuana is grown and shall appear on the registry card issued by the department of health. The certifying physician shall be required to ~~[be the qualifying patient's primary care physician.]~~ have a bona fide physician-patient relationship with the qualifying patient. All current active medical marijuana permits shall be honored through their expiration date."

**PART VII**

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

- (b) Criminal history record checks may be conducted by:
  - (1) The department of health or the department's designee on operators of adult foster homes or developmental disabilities domiciliary homes and their employees, as provided by section 333F-22;
  - (2) The department of health or the department's designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services as provided by section 321-171.5;
  - (3) The department of health or the department's designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals

- with intellectual disabilities, hospital, rural health center and rehabilitation agency, and, in the case of any of the above facilities operating in a private residence, on any adult living in the facility other than the client as provided by section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
  - (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
  - (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
  - (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
  - (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
  - (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
  - (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
  - (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
  - (12) The department of health on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in foster family homes as provided by section 321-484;
  - (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
  - (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
  - (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
  - (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
  - (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
  - (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;

- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of health on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 321-496;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the [adult protective and community services branch], as provided by section 346-97;
- (23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
  - (A) Each principal of every non-corporate applicant for a money transmitter license; and
  - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license,
 as provided by sections 489D-9 and 489D-15;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
  - (A) Employees;
  - (B) Applicants seeking employment;
  - (C) Current or prospective members of the corporation board or regional system board; or
  - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;

- (31) The department of commerce and consumer affairs on:
- (A) An applicant for a mortgage loan originator license; and
  - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license,
- as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-33;
- (33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;
- (34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;
- (35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;
- (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;
- (37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;
- (38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;
- (39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;
- ~~[(40)]~~ The department of commerce and consumer affairs on applicants for real estate appraiser licensure or certification as provided by chapter 466K; ~~[and]~~
- (41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical marijuana dispensaries, and individuals permitted to enter and remain in medical marijuana dispensary facilities as provided under sections -15(a)(4) and -16(a)(3); and
- ~~[(41)]~~ (42) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

## PART VIII

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

## **ACT 241**

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

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

**SECTION 12.** Not later than July 1, 2017, the department of health shall establish a repayment plan and schedule to repay to the general fund, the sums deposited into the medical marijuana registry and regulation special fund established pursuant to section 321-30.1, Hawaii Revised Statutes. The department of health shall only use moneys from the medical marijuana registry and regulation special fund to repay the general fund.

### **PART IX**

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

### **PART X**

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

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

### **PART XI**

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

SECTION 16. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Approved July 14, 2015.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 242**

S.B. NO. 1291

A Bill for an Act Relating to Medical Marijuana.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that support for the medical use of marijuana in the State is strong and that the experience of the State with the medical use of marijuana has been favorable, but that existing protections for patients are very weak regarding civil penalties. Patients within the medical marijuana program should not be less secure in their housing, school enrollment, or supplemental medical care than patients who have made different private decisions with their doctors concerning medication or treatment.

The legislature is mindful of the difficult position of medical marijuana patients under federal law and seeks to ensure that the rights of patients are protected, while at the same time respecting the needs of institutions and individuals to protect themselves from federal penalties. For this reason, the rights afforded under this Act are limited to those situations in which a school or landlord would not lose a monetary or licensing-related benefit for compliance with state law, and to those situations in which patients and caregivers are in strict compliance with the State's medical marijuana law.

SECTION 2. Chapter 329, Hawaii Revised Statutes, is amended by adding a new section to part IX to be appropriately designated and to read as follows:

**“§329- Medical marijuana patient and caregiver protections.** (a) No school shall refuse to enroll or otherwise penalize, and no landlord shall refuse to lease property to or otherwise penalize, a person solely for the person's status as a qualifying patient or primary caregiver in the medical marijuana program under this part, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation; provided that the qualifying patient or primary caregiver strictly complied with the requirements of this part; provided further that the qualifying patient or primary caregiver shall present a medical marijuana registry card or certificate and photo identification, to ensure that the qualifying patient or primary caregiver is validly registered with the department of health pursuant to section 329-123.

(b) For the purposes of medical care, including organ transplants, a registered qualifying patient's use of marijuana in compliance with this part