
A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

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



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

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



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

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

14 Accordingly, the purpose of this Act is to facilitate the
15 timely implementation of the medical marijuana dispensary system
16 by:

- 17 (1) Establishing the office of medical marijuana
18 administration;
- 19 (2) Amending certain dates and deadlines in existing law
20 and establishing new deadlines, including deadlines
21 for implementing the computer software tracking system



- 1 and laboratory testing program, to address the delays
2 in full implementation of the medical marijuana
3 dispensary system;
- 4 (3) Providing for an alternative means to track marijuana
5 sales during any shutdown of the department of
6 health's computer tracking system; and
- 7 (4) Amending requirements for laboratory standards and
8 testing to ensure product and patient safety,
9 including by authorizing qualifying patients and
10 primary caregivers to directly obtain testing
11 services.

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

15 "§321- Office of medical marijuana administration;
16 established; duties. (a) There is established within the
17 department the office of medical marijuana administration, which
18 shall report directly to the deputy director for health
19 resources.

20 (b) The office of medical marijuana administration shall
21 administer medical marijuana dispensary licensure and regulation



1 pursuant to this chapter and the registration of qualifying
2 patients pursuant to section 329-123."

3 SECTION 3. Chapter 329, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§329-_____ Testing of marijuana received from a qualifying
7 patient or primary caregiver. A certified laboratory may test
8 samples of marijuana and manufactured marijuana products
9 received directly from a qualifying patient or primary caregiver
10 who resides on the same island as that on which the certified
11 laboratory is located."

12 SECTION 4. Section 329-122, Hawaii Revised Statutes, is
13 amended by amending subsection (d) to read as follows:

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

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



1 (3) A production center [~~or~~], retail dispensing location,
2 qualifying patient, or primary caregiver and a
3 certified laboratory for the purpose of laboratory
4 testing;
5 provided that "transport" [~~does not include~~] includes the
6 interisland transportation of marijuana, usable marijuana, or
7 any manufactured marijuana product, [~~except~~] only when the
8 transportation is between a production center or retail
9 dispensing location and a certified laboratory and is performed
10 for the sole purpose of laboratory testing pursuant to section
11 329D-8, as permitted under section 329D-6(m) and subject to
12 section 329D-6(j), and with the understanding that state law and
13 its protections do not apply outside of the jurisdictional
14 limits of the State."

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

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



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

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

7 After December 31, [~~2018~~] 2019, no primary caregiver shall be
8 authorized to cultivate marijuana for any qualifying patient."

9 SECTION 6. Section 329D-2, Hawaii Revised Statutes, is
10 amended by amending subsection (j) to read as follows:

11 "(j) Notwithstanding subsection (d), the department shall
12 determine whether, based on the qualifying patient need,
13 additional dispensary licenses shall be offered to qualified
14 applicants in the State after October 1, [~~2017~~] 2018; provided
15 that the department shall make available not more than one
16 license per five hundred qualifying patients residing in any
17 single county[-]; provided further that in considering whether
18 to award a new license, the department shall consider an
19 applicant's capability to serve and supply medical marijuana to
20 qualified patients in an underserved geographical area of a
21 county."



1 SECTION 7. Section 329D-6, Hawaii Revised Statutes, is
2 amended by amending subsections (j) and (k) to read as follows:

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

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

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

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



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

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

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

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

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

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



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



- 1 (i) A qualifying patient shall be authorized to
2 purchase marijuana or a manufactured
3 marijuana product from the licensed
4 dispensary at which the patient's last
5 purchase of marijuana or a manufactured
6 marijuana product was made prior to the
7 computer software tracking system becoming
8 inoperable, which shall thereafter be the
9 designated dispensary for that qualifying
10 patient;
- 11 (ii) A qualifying patient shall not be authorized
12 to make a purchase from any other licensed
13 dispensary unless the patient obtains
14 written authorization from the department to
15 make a purchase from a licensed dispensary
16 other than their designated dispensary;
- 17 (iii) A qualifying patient who has not made any
18 purchase from a licensed dispensary prior to
19 the computer software tracking system being
20 declared inoperable shall designate one
21 licensed dispensary for purchases and shall



1 not be authorized to make purchases from any
2 other licensed dispensary, subject to clause
3 (ii);

4 (iv) A qualifying patient shall not purchase any
5 marijuana or manufactured marijuana product
6 that exceeds the limitations established by
7 section 329D-13; and

8 (C) Once the computer software tracking system is
9 operational and functioning to meet the
10 requirements of this subsection, the department
11 shall notify all licensed dispensaries and the
12 alternate tracking system in this subsection
13 shall be discontinued.

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

17 (1) Interface with the department's computer software
18 tracking system established pursuant to subsection
19 (j);

20 (2) Allow each licensed dispensary's production center to
21 submit to the department in real time, by automatic



1 identification and data capture, all marijuana,
2 marijuana plants, and manufactured marijuana product
3 inventory in possession of that dispensary from either
4 seed or immature plant state, including all plants
5 that are derived from cuttings or cloning, until the
6 marijuana or manufactured marijuana product is sold or
7 destroyed pursuant to section 329D-7; ~~and~~

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



1 (4) Allow the licensed dispensary to submit all data
 2 required by this subsection to the department and
 3 permit the department to access the data if the
 4 department's computer software tracking system is not
 5 functioning properly and sales are made pursuant to
 6 the alternate tracking system under subsection (j)."

7 SECTION 8. Section 329D-7, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "**§329D-7 Medical marijuana dispensary rules.** The
 10 department shall establish standards with respect to:

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

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

18 (3) Criteria and procedures for the consideration and
 19 selection, based on merit, of applications for
 20 licensure of dispensaries; provided that the criteria
 21 shall include but not be limited to an applicant's:



- 1 (A) Ability to operate a business;
- 2 (B) Financial stability and access to financial
- 3 resources; provided that applicants for medical
- 4 marijuana dispensary licenses shall provide
- 5 documentation that demonstrates control of not
- 6 less than \$1,000,000 in the form of escrow
- 7 accounts, letters of credit, surety bonds, bank
- 8 statements, lines of credit or the equivalent to
- 9 begin operating the dispensary;
- 10 (C) Ability to comply with the security requirements
- 11 developed pursuant to paragraph (6);
- 12 (D) Capacity to meet the needs of qualifying
- 13 patients;
- 14 (E) Ability to comply with criminal background check
- 15 requirements developed pursuant to paragraph (8);
- 16 and
- 17 (F) Ability to comply with inventory controls
- 18 developed pursuant to paragraph (13);
- 19 (4) Specific requirements regarding annual audits and
- 20 reports required from each production center and
- 21 dispensary licensed pursuant to this chapter;



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

- 1 (i) Presentation of a valid government-issued
2 photo identification and a valid
3 identification as issued by the department
4 pursuant to section 329-123, by a qualifying
5 patient or caregiver, upon entering the
6 premises;
- 7 (ii) Video monitoring and recording of the
8 premises; provided that recordings shall be
9 retained for at least _____ days;
- 10 (iii) An alarm system;
- 11 (iv) Exterior lighting; and
- 12 (v) Other reasonable security measures as deemed
13 necessary by the department;
- 14 (7) Security requirements for the transportation of
15 marijuana and manufactured marijuana products between
16 production centers and retail dispensing locations[+]
17 and between a production center, retail dispensing
18 location, qualifying patient, or primary caregiver and
19 a certified laboratory, pursuant to section 321- _____ ;
- 20 (8) Standards and criminal background checks to ensure the
21 reputable and responsible character and fitness of all



1 license applicants, licensees, employees,
2 subcontractors and their employees, and prospective
3 employees of medical marijuana dispensaries to operate
4 a dispensary; provided that the standards, at a
5 minimum, shall exclude from licensure or employment
6 any person convicted of any felony;

7 (9) The training and certification of operators and
8 employees of production centers and dispensaries;

9 (10) The types of manufactured marijuana products that
10 dispensaries shall be authorized to manufacture and
11 sell pursuant to sections 329D-9 and 329D-10;

12 (11) Laboratory standards related to testing marijuana and
13 manufactured marijuana products for content,
14 contamination, and consistency;

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



- 1 (A) During a period of fifteen consecutive days,
- 2 exceeds the equivalent of four ounces of
- 3 marijuana; or
- 4 (B) During a period of thirty consecutive days,
- 5 exceeds the equivalent of eight ounces of
- 6 marijuana;
- 7 (13) Dispensary and production center inventory controls to
- 8 prevent the unauthorized diversion of marijuana or
- 9 manufactured marijuana products or the distribution of
- 10 marijuana or manufactured marijuana products to
- 11 qualifying patients or primary caregivers in
- 12 quantities that exceed limits established by this
- 13 chapter; provided that the controls, at a minimum,
- 14 shall include:
- 15 (A) A computer software tracking system as specified
- 16 in section 329D-6(j) and (k); and
- 17 (B) Product packaging standards sufficient to allow
- 18 law enforcement personnel to reasonably determine
- 19 the contents of an unopened package;
- 20 (14) Limitation to the size or format of signs placed
- 21 outside a retail dispensing location or production

- 1 center; provided that the signage limitations, at a
2 minimum, shall comply with section 329D-6(o)(2) and
3 shall not include the image of a cartoon character or
4 other design intended to appeal to children;
- 5 (15) The disposal or destruction of unwanted or unused
6 marijuana and manufactured marijuana products;
- 7 (16) The enforcement of the following prohibitions against:
- 8 (A) The sale or provision of marijuana or
9 manufactured marijuana products to unauthorized
10 persons;
- 11 (B) The sale or provision of marijuana or
12 manufactured marijuana products to qualifying
13 patients or primary caregivers in quantities that
14 exceed limits established by this chapter;
- 15 (C) Any use or consumption of marijuana or
16 manufactured marijuana products on the premises
17 of a retail dispensing location or production
18 center; and
- 19 (D) The distribution of marijuana or manufactured
20 marijuana products, for free, on the premises of



1 a retail dispensing location or production
2 center;

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

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

12 SECTION 9. Section 329D-8, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The department shall establish and enforce standards
15 for laboratory-based testing of marijuana and manufactured
16 marijuana products for content, contamination, and
17 consistency[-]; provided that in establishing these standards,
18 the department shall:

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



- 1 (2) Consider the impact of the standards on the retail
- 2 cost of the product to the qualifying patient;
- 3 (3) Review and take guidance from the testing programs and
- 4 standards for pesticides under the regulations of the
- 5 United States Environmental Protection Agency; and
- 6 (4) For the testing for microbiological impurities,
- 7 consider the benefits of organically grown marijuana
- 8 that features the use of bacteria in lieu of
- 9 pesticides."

10 SECTION 10. Section 329D-27, Hawaii Revised Statutes, is
 11 amended by amending subsections (b) and (c) to read as follows:

12 "(b) No later than January 4, 2016, the department shall
 13 adopt interim rules, which shall be exempt from chapter 91 and
 14 chapter 201M, to effectuate the purposes of this chapter;
 15 provided that the interim rules shall remain in effect until
 16 July 1, [~~2018,~~ 2020, or until rules are adopted pursuant to
 17 subsection (a), whichever occurs sooner.

18 (c) The department may amend the interim rules, and the
 19 amendments shall be exempt from chapters 91 and 201M, to
 20 effectuate the purposes of this chapter; provided that any
 21 amended interim rules shall remain in effect until July 1,



1 [~~2018~~] 2020, or until rules are adopted pursuant to subsection
2 (a), whichever occurs sooner."

3 SECTION 11. Act 241, Session Laws of Hawaii 2015, is
4 amended by amending section 14 to read as follows:

5 "SECTION 14. For the purposes of effectuating this Act,
6 the personnel hired and the contracts entered into by the
7 department of health, pursuant to this Act, shall be exempt from
8 chapter 76, Hawaii Revised Statutes, for a period beginning on
9 July 1, 2015, and ending on June 30, [~~2017~~] 2020; provided
10 that:

- 11 (1) All personnel actions taken pursuant to this Act by
12 the department of health after June 30, [~~2017~~] 2020,
13 shall be subject to chapter 76, Hawaii Revised
14 Statutes, as appropriate; and
- 15 (2) Any employee hired by the department of health to
16 effectuate this Act, who occupies a position exempt
17 from civil service on July 1, [~~2017~~] 2020, shall:
- 18 (A) Be appointed to a civil service position; and
19 (B) Not suffer any loss of prior service credit,
20 vacation or sick leave credits previously earned,
21 or other employee benefits or privileges;



1 provided that the employee possesses the minimum
2 qualifications and public employment requirements for
3 the class or position to which appointed; provided
4 further that subsequent changes in status shall be
5 made pursuant to applicable civil service and
6 compensation laws."

7 SECTION 12. All appropriations records, equipment,
8 machines, files, supplies, contracts, books, papers, documents,
9 maps, and other personal property heretofore made, used,
10 acquired, or held by the office of health care assurance
11 relating to the functions transferred to the office of medical
12 marijuana administration shall be transferred with the functions
13 to which they relate.

14 SECTION 13. Employees performing duties related to medical
15 marijuana dispensary licensure and regulation pursuant to
16 chapter 329D, Hawaii Revised Statutes, and relating to the
17 registration of qualifying patients pursuant to section 329-123,
18 Hawaii Revised Statutes, shall be transferred to the office of
19 medical marijuana administration without loss of salary,
20 seniority (except as prescribed by applicable collective
21 bargaining agreements), retention points, prior service credit,



1 any vacation and sick leave credits previously earned, and other
2 rights, benefits, and privileges, in accordance with state
3 personnel laws and this Act; provided that the employees possess
4 the minimum qualifications and public employment requirements
5 for the class or position to which transferred or appointed, as
6 applicable; provided further that subsequent changes in status
7 may be made pursuant to applicable civil service and
8 compensation laws.

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



1 SECTION 14. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 15. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 16. This Act shall take effect on June 29, 2090.



Report Title:

Medical Marijuana Dispensaries; Computer Tracking System;
Testing Standards

Description:

Establishes the Office of Medical Marijuana Administration in DOH to administer dispensary system and patient registration. Extends civil service exemptions and interim rulemaking authority. Requires an alternate tracking system for use when the DOH computer tracking system is nonfunctional. Adds considerations for establishing testing standards and selecting additional dispensary licensees. Specifies retention requirements for video security recordings. (HB1488 HD1)

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

