

STAND. COM. REP. NO. 2621

Honolulu, Hawaii

FEB 16 2024

RE: S.B. No. 3335
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committees on Health and Human Services and Judiciary,
to which was referred S.B. No. 3335 entitled:

"A BILL FOR AN ACT RELATING TO CANNABIS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the Hawaii Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant;
- (2) Beginning January 1, 2026, legalize the personal adult use of cannabis;
- (3) Establish taxes for adult-use cannabis sales;
- (4) Transfer the personnel and assets of the Department of Health and assets of the Department of Agriculture pertaining to cannabis to the Hawaii Cannabis Authority; and
- (5) Appropriate funds.

Prior to the hearing on this measure, your Committees posted and made available for public view a proposed S.D. 1 of this measure, which retained the contents of this measure and also:

- (1) Establishes the Cannabis Control Implementation Advisory Committee;
- (2) Modifies the various special funds into which tax revenues shall be deposited;
- (3) Increases the number of members on the Cannabis Control Board and modifies the reporting requirements of the Executive Director;
- (4) Requires records relating to the arrest, criminal charge, or conviction of a person for certain acts decriminalized by this measure, including the possession of distribution of marijuana, to be ordered expunged;
- (5) Establishes that it shall be unlawful to operate any vehicle with a THC concentration of ten or more nanograms per milliliter of blood; and
- (6) Adjusts the appropriations in the measure for the respective special funds and the establishment of certain positions within various departments and agencies.

Your Committees received testimony in support of this measure or the proposed S.D. 1 from the Department of Health Office of Medical Cannabis Control and Regulation; Office of the Public Defender; one member of the Kaua'i County Council; Hawaii Cannabis Industry Association; Green Aloha Ltd.; Chamber of Sustainable Commerce; Big Island Grown; Cultivation Sector Consulting, LLC; Noa Botanicals, LLC; Patients Without Time; Techmana LLC; Hawaiian Ethos LLC; and forty-five individuals.

Your Committees received testimony in opposition to this measure or the proposed S.D. 1 from the Hawaii Paroling Authority; Department of the Prosecuting Attorney of the City and County of Honolulu; Hawai'i Police Department; Kaua'i Police Department; Department of the Prosecuting Attorney of the County of Maui; Maui Police Department; Honolulu Police Department; one member of the



Honolulu City Council; one member of the Kaua'i County Council; Doctors for Drug Policy Reform; Coalition for a Drug-Free Hawaii; Hawaii Substance Abuse Coalition; Pono Records; Hawaii High Intensity Drug Trafficking Area; Smart Approaches to Marijuana Hawaii; Weed and Seed Hawaii, Inc.; Retail Merchants of Hawaii; Hawaii Family Forum; Hawaii Farmers Union United; Agripelago; and over one hundred fifty individuals.

Your Committees received comments on this measure or the proposed S.D. 1 from the Department of the Attorney General; Department of Education; Department of Law Enforcement; Department of Taxation; Department of Budget and Finance; Department of Commerce and Consumer Affairs; Department of Health; Department of Agriculture; Hawaii Children's Action Network Speaks!; Tax Foundation of Hawaii; Akamai Cannabis Consulting; Healthcare Association of Hawaii; American Cancer Society Cancer Action Network; Law Enforcement Action Partnership; Cannabis Society of Hawai'i; ACLU of Hawai'i; Hawaii Credit Union League; Democratic Party of Hawai'i; Hawaii Appleseed Center for Law and Economic Justice; Hawai'i Public Health Institute; Last Prisoner Project; Marijuana Policy Project; Reimagining Public Safety in Hawai'i Coalition; Drug Policy Forum of Hawai'i; Council for Native Hawaiian Advancement; Oahu Cannabis Farms Alliance; Blue Skies Unlimited, LLC; and six individuals.

Your Committees find that cannabis, also known as marijuana, is a plant with psychoactive properties derived primarily from its main psychoactive component tetrahydrocannabinol (THC). In the United States, cannabis has three primary categories: cannabis for medical use; cannabis for non-medical adult use; and hemp that contains low levels of THC. Presently, non-hemp cannabis is an illegal drug and is classified by the federal government as a schedule I controlled substance under the Uniform Controlled Substances Act. Presently, the State regulates medical cannabis usage, including dispensaries authorized to operate in Hawaii. Additionally, the State has decriminalized the possession of small amounts of non-medical cannabis. However, recreational adult-use cannabis remains illegal.

Your Committees also find that twenty-four other jurisdictions across the United States have enacted laws to regulate the sale and adult use of recreational cannabis. Additionally, other jurisdictions have transitioned to utilizing



one regulatory agency for both medical and recreational use, to create regulatory consistency across products; clear oversight of consumable products for both consumer safety and youth access; avoid regulatory gaps; clarify communication for stakeholders; and streamline government operations.

Your Committees further find that regulatory inaction may increase consumer confusion, which can jeopardize public health and safety incidents and blur the lines between illicit markets and approved products. To properly regulate cannabis and its derivate products, uniform regulations for the entire cannabis plant are necessary to promote public health and safety. Therefore, establishing a singular entity tasked with the regulation of cannabis in all forms and for all uses will streamline government operations and policy formulation and eliminate regulatory gaps.

Accordingly, this measure establishes a framework to centralize cannabis under a single regulatory authority while legalizing the recreational adult use of cannabis statewide, under certain conditions.

Your Committees note the extensive testimony in opposition to this measure. As the federal Food and Drug Administration is considering rescheduling cannabis to a lower classification, the Legislature is taking a proactive approach to establish a framework for policy relating to cannabis if and when federal regulations are reduced. Additionally, your Committees also note the concerns raised by hemp farmers regarding existing hemp products and its regulatory framework. This measure will retain the regulatory framework in existing law for hemp farmers, consistent with the Central Intelligence Agency. Should this measure be enacted, hemp products will continue to be taxed under the general excise tax, rather than the cannabis tax proposed in this measure.

Your Committees have amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

- (1) Inserting language that clarifies the selection process for the Chairperson and Vice-Chairperson of the Cannabis Control Board;



- (2) Clarifying that, in the event of a tie in the election of the Chairperson or Vice-Chairperson of the Cannabis Control Board, the Governor shall be the tie-breaking vote;
- (3) Deleting language that would have legally expunged the record of an individual who distributed cannabis before January 1, 2026;
- (4) Clarifying that a taxpayer, rather than a cannabis retailer, shall obtain a separate cannabis tax permit for each place of business owned, controlled, or operated by the taxpayer;
- (5) Authorizing the Director of Taxation to revoke or cancel a cannabis permit issued for cause;
- (6) Deleting certain requirements relating to cannabis tax permits for the retail sale of cannabis or sale of medical cannabis that would impede the tax collection process;
- (7) Deleting language that would have imposed a general excise tax of ten percent on the retail sale of cannabis and, beginning January 1, 2026, establishing a new cannabis tax of fourteen percent to apply in lieu of the general excise tax;
- (8) Clarifying that the new cannabis tax of four percent, rather than the standard general excise tax, shall apply to medical cannabis sales;
- (9) Deleting language that would have allowed for a refund or credit for casualty losses;
- (10) Inserting language exempting the gross income from the retail sale of cannabis or sale of medical cannabis from the general excise tax;
- (11) Inserting language to require taxpayers to file an annual cannabis tax reconciliation return;



- (12) Inserting language to require taxpayers to file cannabis tax returns electronically;
- (13) Clarifying the requirements for the submission of monthly returns for all sales of cannabis by persons subject to the cannabis tax law;
- (14) Clarifying language to delete references to income tax provisions that require taxpayers to file an annual reconciliation return;
- (15) Clarifying the allocation for the disposition of cannabis tax revenues to be:
 - (A) Fifty percent of the tax collected shall be deposited into the Cannabis Regulation, Nuisance Abatement, and Law Enforcement Special Fund; and
 - (B) Fifty percent of the tax collected shall be deposited into the Cannabis Social Equity, Public Health and Education, and Public Safety Special Fund;
- (16) Clarifying that all persons subject to the cannabis tax shall follow certain recordkeeping requirements;
- (17) Clarifying that inspection requirements shall apply to all persons subject to cannabis tax law requirements, rather than general excise tax law requirements;
- (18) Deleting language that would have authorized the Department of Taxation to suspend, revoke, and deny renewals of cannabis tax permits;
- (19) Inserting language that establishes fifteen full-time equivalent (15.0 FTE) positions within the Hawaii Cannabis Authority;
- (20) Amending the positions established for the Department of Taxation to include:
 - (A) Two full-time equivalent (2.0 FTE) auditor positions;



- (B) One full-time equivalent (1.0 FTE) cashier position;
 - (C) Three full-time equivalent (3.0 FTE) special enforcement section investigator positions;
 - (D) Two full-time equivalent (2.0 FTE) tax information technician positions; and
 - (E) Two full-time equivalent (2.0 FTE) tax law change specialist positions;
- (21) Inserting an appropriation amount of \$1,190,000, rather than \$750,000, to the Department of Taxation for:
- (A) The establishment of the ten full-time equivalent (10.0 FTE) positions within the Department;
 - (B) Project management services; and
 - (C) Costs for building and security improvements;
- (22) Making the tax provisions of this measure effective January 1, 2026;
- (23) Inserting an effective date of December 31, 2050, to encourage further discussion; and
- (24) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3335, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3335, S.D. 1, and be referred to your Committees on Commerce and Consumer Protection and Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Health and Human
Services and Judiciary,



KARL RHOADS, Chair



JOY A. SAN BUENAVENTURA, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Health and Human Services
HHS

Bill / Resolution No.:* SB3335	Committee Referral: HHS/JDC, CPN/WAM	Date: 2/13/24
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
SAN BUENAVENTURA, Joy A. (C)	✓			
AQUINO, Henry J.C. (VC)		✓		
KEOHOKALOLE, Jarrett	✓			
SHIMABUKURO, Maile S.L.		✓		
AWA, Brenton	✓			
TOTAL	3	2		

Recommendation: Adopted Not Adopted

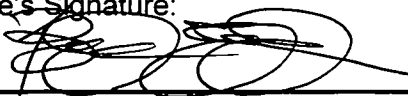
Chair's or Designee's Signature: 

Distribution: Original Yellow Pink Goldenrod
 File with Committee Report Clerk's Office Drafting Agency Committee File Copy

*Only one measure per Record of Votes

The Senate
Thirty-Second Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 3335	HHS / JDC, CPN / WAM	02 / 13 / 24		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)				✓
ELEFANTE, Brandon J.C.			✓	
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton	✓			
TOTAL	3	0	1	1 2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:				
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*Only one measure per Record of Votes