



January 28, 2025

## **Written Statement for JHA Informational Briefing on Cannabis Legalization and Regulation**

Aloha Chair Tarnas, Vice Chair Poepoe, distinguished members of the Judiciary and Hawaiian Affairs Committee, and other interested parties,

My name is Karen O'Keefe. I am the director of state policies for the nonprofit Marijuana Policy Project (MPP), the largest cannabis policy reform organization in the nation. I have been with MPP for 21 years and my team and I had the privilege of helping craft and pass dozens of cannabis policy reforms, including for medical cannabis, decriminalization, and adult-use legalization and regulation.

As a student criminal defense attorney in New Orleans, I witnessed staggering racial disparities in cannabis enforcement and a sentence for marijuana that shocked the conscience. I also had friends in college who had their career plans derailed by cannabis convictions. And I had seen the abject failure of prohibition to keep cannabis out of the hands of youth.

### **I. Public Support and State Laws Are Evolving**

Back in 2003, U.S. support for legalization was at 34%,<sup>1</sup> no state had legalized cannabis for adults-use, and only eight had medical cannabis laws on the books — Hawai'i among them.

In the past 20 years, public support for legalization has doubled to 68%,<sup>2</sup> as voters have seen that the sky does not fall as prohibition is replaced by legalization and regulation. Thirty more states have allowed medical cannabis, for a total of 38,<sup>3</sup> and 54% of Americans<sup>4</sup> — and all Canadians — now live in a jurisdiction where cannabis is legal for adults 21 and older.

Voters have been far ahead of elected officials on this issue. The first eight cannabis legalization laws passed by voter initiative. But about half of the states — including Hawai'i — have no citizen initiative process.<sup>5</sup> In those states, reforms must start with the

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<sup>1</sup> "Do Americans Support the Legalization of Marijuana?" Gallup, Nov. 1, 2024. chart available at <https://news.gallup.com/poll/284135/percentage-americans-smoke-marijuana.aspx>

<sup>2</sup> Ibid.

<sup>3</sup> <https://www.mpp.org/issues/medical-marijuana/key-aspects-of-state-and-dc-medical-marijuana-laws/>

<sup>4</sup> Athena Chapekis and Sono Shah, "Most Americans now live in a legal marijuana state – and most have at least one dispensary in their county," Pew Research Center, February 29, 2024.

<sup>5</sup> "How many states permit initiatives?" Ballotpedia.  
[https://ballotpedia.org/How\\_many\\_states\\_permit\\_initiatives](https://ballotpedia.org/How_many_states_permit_initiatives)

legislature, which results in more deliberative — and lengthy — bills with extensive stakeholder input.

## **II. Key Features for State Cannabis Laws**

Because 24 states have already passed legalization laws,<sup>6</sup> Hawai'i is able to incorporate lessons learned from them. The attorney general's office — which crafted last year's bill — Chair Tarnas, Sean Aronson, and the others involved deserve kudos for their exhaustive work to craft a public health and public safety grounded law that is also grounded in equity.

Here are some priorities, which are reflected in HB 1246.

### **A. Preserving and Expanding Access to Medical Cannabis**

For 25 years, Hawai'i has recognized that people with serious medical conditions should be allowed to use and safely access medical cannabis. As part of legalization, it's vital that patient protections stay in place, that patients not be subject to an excise tax, and that patients have increased access to their medicine. HB 1246 reflects the lessons of other states, in doing all of these things.

Like Maryland and several other states, the bill would integrate the medical cannabis and adult-use programs under one regulatory agency that is specific to cannabis (along with hemp). The bill allows existing medical businesses to also serve adult consumers if they pay a fee and meet requirements. This is key to their continued viability since many patients prefer not to register once they have the option of over-the-counter access. We've seen in Vermont and New York that failing to allow medical dispensaries to convert to dual-use can jeopardize these businesses and the patients who depend on them.

Equally importantly, HB 1246 allows patients to also buy their medicine from new retail stores with the lower medical tax rate (4%), instead of the adult-use tax rate (14%). Illinois failed to allow new retailers to serve medical patients in this way, resulting in patients having to drive far further for access than adult-use consumers.

### **B. Creating Opportunity for Small, Local Businesses**

HB 1246 fosters smaller, local businesses by capping the amount of canopy growers can cultivate, including a "craft dispensary" license that can grow and sell directly to customers, and by capping the number of businesses an operator can have an interest in. It requires five-year Hawai'i residency and prioritizes small farmers, with a focus on those with indigenous farming, and transitioning legacy operators to the legal market.

### **C. Public Health, Public Education, and Public Safety**

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<sup>6</sup> States and snapshots of their laws are available here: <https://www.mpp.org/issues/legalization/review-of-state-laws-to-regulate-marijuana/>

One of the biggest advantages of legalization is that it allows for regulation to foster product safety. On the illicit market, studies have shown cannabis is often contaminated with hazardous pesticides, heavy metals, and additives.<sup>7</sup> Under HB 1246, cannabis must be produced in a manner consistent with health and safety regulations.

HB 1246 draws from other states' experiences by requiring informational handouts on risks to be given to every consumer. Warning signs must be posted in cannabis stores — including to educate about the hazards of impaired driving. HB 1246 also includes strict limits on packaging, which must be opaque, a single color with no graphics, and child-resistant. It bans candies and other products that are appealing to minors.

Before sales begin, regulators will implement a comprehensive public health and education campaign, including on the health risks associated with cannabis and ways to protect children.

The bill also prohibits public smoking (imposing a \$130 fine or community service), and has penalties for open containers and consuming cannabis while driving. Driving under the influence will continue to be illegal.

#### **D. Avoiding Provisions that Make Legal Businesses Uncompetitive**

We've seen some states adopt excessive tax rates and unnecessarily onerous rules that hamstring businesses and make it hard to compete with illicit operators — thus undermining a key goal of legalization. The initial tax in Washington state was 25% at three separate points of transfer, which lawmakers quickly realized was not viable and revised. HB 1246 strikes an appropriate balance to generate significant revenue, without creating such a hefty tax that it drives sales underground.

Another way states have caused the illicit market to persist is having large pockets of prohibition. In some states, counties and cities can outright ban retail sales and adult-use delivery, which leads to unregulated operators filling the gaps.

#### **E. Intoxicating Hemp Regulations**

The immediate past president of the Cannabis Regulators Association (CANNRA), Will Tilburg, who also served as Maryland's lead regulator stresses the importance of a uniform regulatory authority for both cannabis and intoxicating hemp derived cannabinoids. Failing to regulate intoxicating cannabinoids derived from hemp would leave a hole in regulatory oversight. HB 1246 creates a uniform regulatory system, while also creating a grant program to help transition the Hawai'i hemp industry to the new framework.

#### **F. Investing in Social Equity, Youth, and Communities**

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<sup>7</sup> See: Botelho, Diane & Boudreau, April & Rackov, Andrien & Rehman, Attiq & Phillips, Bruce & Hay, Cathy & Broad, Karen & Crowhurst, Peter & Cockburn, Sara & Smith, Troy & Balonova, Barbora. (2021). Analysis of Illicit and Legal Cannabis Products for a Suite of Chemical and Microbial Contaminants; "Unintentional use of fentanyl attributed to surreptitious cannabis adulteration," Hopwood, Taylor et al. Journal of the American Pharmacists Association, Volume 60, Issue 6, e370 - e374

MPP was proud to play a key role in shaping and advocating for Illinois's legalization and regulation law, which created a groundbreaking program to support social equity applicants and a separate program to reinvest 30% of cannabis taxes in communities that were the hardest hit by the war on drugs. HB 1246 takes a similar approach but earmarks 70% of cannabis tax revenue to foster an equitable industry, and creates grants programs to invest in youth development, public health and education, and public safety.

The bill allocates:

- 30% to a social equity fund to provide technical assistance, training, and financing for social equity applicants. This funding could also be used — such as once the businesses have launched successfully — for grants to social equity applicants that are community-based organizations to address community needs of disproportionately impacted areas, including childcare, after-school and summer programs, and programs that build youth resiliency.
- 10% to a public health and education grant program, including for substance abuse prevention and treatment and youth services, including after-school and summer programs and recreation centers, and services for housing, counseling, and preventing or treating youth substance abuse.
- 10% to a public safety grants fund for grants to state and county agencies and private entities, including for training police to detect impaired drivers (DRE training), crisis intervention services, mental health first aid training, and enforcement of cannabis and nuisance abatement law.
- 5% each to the AG's drug nuisance abatement, anti-money laundering, and organized crime units.
- 5% to a hemp grant fund, to help the Hawai'i hemp industry transition to the new regulatory landscape.

## **G. Stopping Derailing Lives Over Cannabis**

Several states, including New York and New Jersey, have led the way to make sure cannabis users' lives are not turned upside down for using cannabis responsibly. HB 1246 includes similar but more limited provisions.

It creates a state-initiated process to remove cannabis possession charges from one's record, so individuals do not have the door of opportunity closed for conduct that has been legalized. It also prevents parents from losing custody of their children for responsible cannabis use and from being denied a life-saving organ transplant or other medical care.

While HB 1246 would not protect individuals with private employers from being fired for testing positive for cannabis, as several states do, HB 1246 would prevent most state or local government workers from losing their jobs if they test positive. This is important because cannabis can show up in urine weeks after last use. Of course, there are no job protections for anyone impaired at work, or for where federal law mandates otherwise. There is also an exception for collectively bargained agreements that allow for testing.

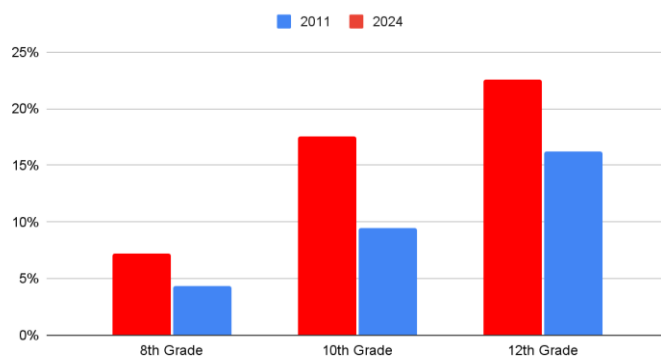
### III. Regulating Cannabis and Protecting Youth

Under prohibition, high schoolers often have the easiest access to cannabis. On the eve of states beginning to legalize cannabis in 2012, a Columbia University researchers survey of high schoolers found 40% knew a peer who sold cannabis.<sup>8</sup> Only 1% knew a peer who sold alcohol. Legalization moves cannabis sales out of schools and the streets and into the regulated, adults-only stores.

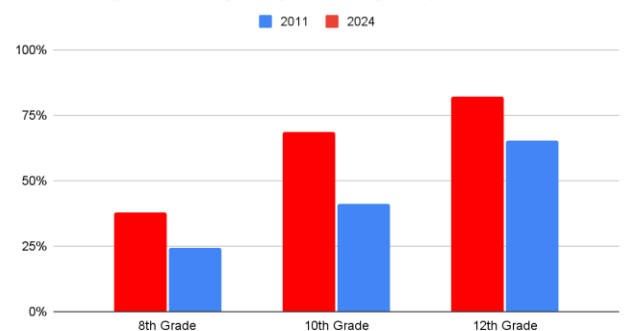
When states started legalizing cannabis, some feared it would “send the wrong message” and youth marijuana use would increase. We now have more than a decade of data, and the opposite has happened. In 19 of the 21 states that have legalization laws old enough to have before-and-after data, high schoolers’ marijuana use has decreased.<sup>9</sup> (In the other two states, the “before” year was 2021 — which was during COVID shutdowns which significantly impacted use rates.)

Nationwide, government data from both the CDC and the University of Michigan’s Monitoring the Future report shows as the nation went from zero legalization states to 24, teen marijuana use has dropped significantly.<sup>10</sup> Monitoring the Future’s survey data also shows the percent of 8th, 10th, and 12th graders who report cannabis is fairly easy or very easy to get has dropped dramatically.<sup>11</sup>

MTF Past 30 Day Marijuana Use



MTF: Marijuana "fairly easy" or "very easy" to obtain



<sup>8</sup> "National Survey of American Attitudes on Substance Abuse XVII: Teens," The National Center on Addiction and Substance Abuse at Columbia University, 2012, p. 2.

<sup>9</sup> For citations and charts with the full before-and-after data, see: "Adult-Use Cannabis Legalization Corresponds With Drops in Teen Use," Marijuana Policy Project.

<sup>10</sup> [High School Youth Risk Behavior Survey Data](#), CDC, 1991-2023.

<sup>11</sup> " [National Survey Results on Drug Use](#), 1975–2024, Monitoring the Future.

Moving cannabis sales from streets and schools to adults-only stores has been accompanied by reduced access and use of cannabis by youth. On the illegal market, no one is checking IDs before selling marijuana. In contrast, licensed cannabis stores have overwhelming compliance with age-gating.<sup>12</sup> As part of legalization, a portion of cannabis taxes are often directed to education and prevention, such as after-school activities.

While middle schoolers and high schoolers are using cannabis at lower rates, seniors in legal states are finally able to try a lab-tested product that many find preferable to pain medications and sleep-aids. The age group that saw the most significant increase in cannabis use in Colorado was people older than 65. Their use of cannabis more than tripled to 9.3%.<sup>13</sup>

#### **IV. Growing the Economy: Taxes, Revenue, and Tourism**

In addition to moving sales off the streets and into adults-only stores, legalization has brought in considerable revenue that has allowed states to invest more in their priorities — which have included education, substance abuse treatment and prevention, and youth development. Through 2023, states' adult-use cannabis taxes have raised \$20 billion, with \$4 billion generated in 2023 alone.<sup>14</sup>

My home state, Michigan, brought in \$473 million in cannabis sales taxes in 2023, with a 10% cannabis excise tax plus a 6% standard sales tax.<sup>15</sup> Fifteen percent of the excise tax revenue is allocated to the city or town where sales occur. One township with a population of under 14,000 was able to buy a \$842,000 fire fighting rig it desperately needed using its cannabis tax revenue.<sup>16</sup>

You can arrive at a fairly conservative estimate of cannabis tax revenue by adjusting Nevada's excise tax revenue for Hawai'i's population and visitors and HB 1246's tax rate. In

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<sup>12</sup> Carla J. Berg, Katelyn F. Romm, Alexandria Pannell, Priyanka Sridharan, Tanvi Sapra, Aishwarya Rajamahanty, Yuxian Cui, Yan Wang, Y. Tony Yang, Patricia A. Cavazos-Rehg, Cannabis retailer marketing strategies and regulatory compliance: A surveillance study of retailers in 5 US cities, *Addictive Behaviors*, Volume 143, 2023, 107696, ISSN 0306-4603, See additional sources at: "Study: Licensed Cannabis Retailers Are Strictly Complying with ID Verification Laws," NORML, April 5, 2023. Available at: <https://norml.org/blog/2023/04/05/study-licensed-cannabis-retailers-are-strictly-complying-with-id-verification-laws>

<sup>13</sup> "Impacts on Marijuana Legalization in Colorado", Colorado Division of Criminal Justice, 2021. P. 4.

<sup>14</sup> Details and citations available at "Cannabis Tax Revenue in States that Regulate Cannabis for Adult Use," Marijuana Policy Project [www.mpp.org/issues/legalization/cannabis-tax-revenue-states-regulate-cannabis-adult-use/](http://www.mpp.org/issues/legalization/cannabis-tax-revenue-states-regulate-cannabis-adult-use/)

<sup>15</sup> *Id.*

<sup>16</sup> "Marijuana tax money foots bill for Michigan township's new \$800K firetruck," MLive, April 25, 2024.

the first full year of sales, using this methodology, would result in \$33 million in cannabis sales taxes, with tax revenue exceeding \$50 million each year starting in year three.<sup>17</sup>

While the bill allows for regulatory costs to be covered before allocations are made, in practice, the entirety of the tax revenue should be available for the state's needs. HB 1246 directs the regulatory office to include licensing and application fees at amounts sufficient to cover the costs of regulation.

In addition to tax revenue, adult-use legalization can also create thousands of new jobs. Adjusting for population, based on Leafly and Vangst cannabis jobs reports for Nevada, Hawai'i can expect upwards of 5,000 new cannabis industry jobs.<sup>18</sup>

Some opponents have claimed Hawai'i's tourism industry would be negatively impacted, and "Japanese tourists will stop coming to Hawaii. Full stop."<sup>19</sup> If you look at the experience of legalization states, you'll see that those fears are not warranted.

California data shows tourism has *increased* since the state legalized cannabis in late 2016. Legal sales began in California in 2018. The next year, in 2019, tourism to California hit a record.<sup>20</sup> Tourism crashed during COVID shutdowns, but tourism to California has rebounded since then and hit a new record in 2023. While tourism from Japan to California has not fully rebounded post-COVID, Visit California data shows tourism from Japan *increased* post-legalization — between 2016 and 2019.<sup>21</sup>

The fears about tourism being hurt by legalization are not warranted. Instead, Hawai'i is likely already missing out on tourists due to its policy of prohibition. Nineteen percent of Americans consumed cannabis in the last year,<sup>22</sup> and 15% do so at least monthly.<sup>23</sup> Just as most people who enjoy alcohol wouldn't want to vacation in a dry county, many cannabis consumers factor in the legal status when deciding where to travel.

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<sup>17</sup> "Cannabis Tax Revenue," Nevada Department of Taxation, FY 2017, FY 2018, FY 2019, FY 2020. Calculated by multiplying the "10% State Retail Cannabis Excise Tax" row by 1.4 to adjust for HB 1246's 14% rate and dividing by two to adjust for Hawai'i's lower population and average daily visitors. Feel free to email [kokeefe@mpp.org](mailto:kokeefe@mpp.org) for the spreadsheet.

<sup>18</sup> "How Many Jobs Depend on Legal Cannabis in 2017? We Did the Math" Leafly, Jan. 5, 2017 (estimates 2,295 cannabis jobs in 2016, pre-legalization); "Jobs Report 2024 Positive growth returns" Vangst (estimates 12,825 cannabis jobs in Nevada in 2023, that is a net increase of 10,530 since 2016); Hawai'i's population plus average daily visitors is half of Nevada's (1.67 million, compared to Nevada's 3.324 million)

<sup>19</sup> <https://www.staradvertiser.com/2023/10/08/editorial/island-voices/column-legalizing-marijuana-will-cause-harm/>

<sup>20</sup> [www.gov.ca.gov/2024/05/05/at-the-top-of-the-golden-gate-bridge-governor-newsom-announces-tourism-spending-hit-an-all-time-high-in-california/](https://www.gov.ca.gov/2024/05/05/at-the-top-of-the-golden-gate-bridge-governor-newsom-announces-tourism-spending-hit-an-all-time-high-in-california/)

<sup>21</sup> "California Travel-Related Spend & Visitation Forecast," Visit California. (There were 537,000 visits from Japan to California in 2016, the year when California legalized — in November. That figure increased to 559,000 in 2019. Beginning in 2020, tourism crashed due to COVID. It is slowly rebounding. To access the data, click on "download report (XLS)." Unhide columns C-M. The data is row 21-5) Accessed Jan. 2, 2025.

<sup>22</sup> "Cannabis Facts and Stats," CDC <https://www.cdc.gov/cannabis/data-research/facts-stats/index.html>

<sup>23</sup> "What Percentage of Americans Smoke Marijuana?," Gallup, Nov. 1, 2024.

When Colorado was one of only four states with legal cannabis sales, in 2016, a survey from the Colorado Tourism Office found that 49% of visitors consider legalization when deciding to visit.<sup>24</sup> The state's tourism industry hit records in the years post legalization.<sup>25</sup>

Of note, while survey data shows that for most adult-use consumers, cannabis is essentially an *over-the-counter medicine* — used for pain, insomnia, or anxiety<sup>26</sup> — having medical cannabis reciprocity doesn't fix the problem for them. In most states, only around 1-3% of residents are registered patients<sup>27</sup> or about 1/10th of cannabis consumers. And post-legalization, those figures typically drop as many patients prefer not to be on the registry.

## V. Concluding Thoughts

In Hawai'i, the numbers are similar to the nationwide figures. Nineteen percent of Hawai'i adults admit to using cannabis in the last year,<sup>28</sup> while under 3% are registered patients. That means 16% of Hawai'i adults are using cannabis illegally. These adults should not be stigmatized by their government for relaxing with cannabis. Adults should be treated like grown ups and be allowed to make their own decisions about cannabis, just as they can choose to use alcohol.

While cannabis is not risk-free, it is far less dangerous than alcohol.<sup>29</sup> HB 1246 would appropriately educate consumers — and youth — about risks. At the same time, it would stop punishing adults with a fine for possessing up to 3 grams, and with a criminal record and possible jail time for additional amounts. HB 1246 also allows adults to buy a regulated product, instead of something that may be contaminated or even laced with fentanyl.

While states have learned and revised some laws to try to keep up with best practices, no cannabis legalization laws have been repealed. That's because they enjoy strong popular support.<sup>30</sup>

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<sup>24</sup> See: Jason Blevins | "Marijuana has huge influence on Colorado tourism, state survey says," The Denver Post, Oct. 2 2016.

<sup>25</sup> "Colorado Tourism Sets All-Time Records for Sixth Consecutive Year," Colorado.com June 28, 2017. <https://www.colorado.com/news/colorado-tourism-sets-all-time-records-sixth-consecutive-year>

<sup>26</sup> "Cannabis Consumers in America 2023, Part 1: An Overview of Consumers Today," New Frontier Data, p. 12.

<sup>27</sup> See "Number of Medical Cannabis Patients in Each State," MPP.

<sup>28</sup> Interactive NSDUH State Estimates, "Marijuana Use in Past Year Among Adults Aged 18 or Older, by State: 2021-2022," U.S. Substance Abuse and Mental Health Services Administration.

<sup>29</sup> Cannabis is less toxic, less addictive, and less harmful to the body than alcohol. The CDC reports the chronic health impacts of alcohol cause 117,000 deaths per year while cannabis hasn't been shown to increase mortality rates. "Facts About U.S. Deaths from Excessive Alcohol Use," Centers for Disease Control and Prevention (CDC). Accessed January 2, 2025; National Academies of Sciences, Engineering, and Medicine. 2017. The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research. Washington, D.C.: The National Academies Press, Conclusion 4-1, p. 221 ("Although the available evidence suggests that cannabis use is not associated with an increased risk of all-cause mortality, the limited nature of that evidence makes it impossible to have confidence in these findings." "There is insufficient evidence to support or refute a statistical association between self-reported cannabis use and all-cause mortality.")

<sup>30</sup> Civiqs polling data shows dramatic increases in support since states' voters passed legalization — up to 20-point increases in some cases.



Mahalo for your time and consideration. Please don't hesitate to reach out if I can answer any questions.

Sincerely,

A handwritten signature in black ink that reads "Karen O'Keefe". The signature is written in a cursive, flowing style.

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