

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Written
Testimony Only

**Testimony COMMENTING on SB3335-SD1
RELATING TO CANNABIS**

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

SENATOR JARRETT KEAHOKALO, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

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1 **Fiscal Implications:** Significant. The Department of Health (“Department”) requests that this
2 measure be considered as a vehicle to provide this needed funding so long as it does not supplant
3 the priorities and requests outlined in the Governor's executive budget request.

4 **Department Position:** The Department offers comments regarding SB3335 SD1 which
5 proposes to legalize cannabis for non-medical, adult-use.

6 **Department Testimony:**

7 **PART I**

8 Legalizing adult use of cannabis should be expected to have a negative impact on the health of
9 the public. Whereas cannabis can provide a medical benefit for certain medical conditions,
10 patients can access this through the medical cannabis program. Recreational use is therefore not
11 a program to provide medical benefit and would only add harm. Despite the strong regulatory
12 requirements proposed by SB3335 SD1, the DOH remains highly concerned about the public
13 health and environmental impacts that increased accessibility of cannabis and opening of an
14 adult use marketplace will bring. As reported by the Act 169 Dual Use of Cannabis Task Force,
15 Public Health and Safety Working Group¹, there are a wide range of public health and safety
16 concerns associated with cannabis use and exposure.

1 **Mental Health and Substance Use:** Mental health, substance use, and youth suicide are critical
2 priorities of the DOH. There is substantial evidence that adolescents and young adults who use
3 cannabis daily or near-daily are more likely than non-users to develop future psychotic disorders
4 such as schizophrenia and for daily or near-daily adult users to be diagnosed with a psychotic
5 disorder such as schizophrenia.^{2,3,4,5,6,7,8,9,10,11,12,13} There is also substantial evidence that
6 adolescent and young adult cannabis users are more likely than non-users to increase their use
7 and to develop cannabis use disorder and that increases in cannabis use frequency is generally
8 associated with progression to developing cannabis use disorder.^{14,15,16,17,18,19,20,21,22}
9 Additionally, there is moderate evidence that adolescents and young adults who use cannabis are
10 more likely than non-users to have suicidal thoughts or attempt suicide, and have an increased
11 incidence of suicide completion.^{23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39}

12 **Fetus and Newborn Exposures:** Fetus and newborn exposure to cannabis is an increasingly
13 growing concern. National estimates show that between 3 to 7% of pregnant women report using
14 cannabis while pregnant.^{40,41} Biological evidence shows that tetrahydrocannabinol (THC), the
15 primary intoxicating compound in cannabis is passed through the placenta of women who use
16 cannabis during pregnancy and that the fetus absorbs and metabolizes the THC.^{42,43,44,45,46}
17 Despite this, cannabis use among pregnant women has continued to increase amidst the
18 perceived lack of risk from the increasing acceptance and accessibility of
19 cannabis.^{47,48,49,50,51,52,53,54,55,56} Biological evidence also shows that THC is present in the breast
20 milk of women who use cannabis and that infants who drink breast milk containing THC absorb
21 and metabolize the THC.^{57,58,59,60,61} There is substantial evidence of association between
22 maternal cannabis smoking and lower birth weight of offspring^{62,63} and moderate evidence that
23 maternal use of cannabis during pregnancy is associated with decreased academic ability,
24 attention problems, reduced cognitive function, and decreased IQ scores in exposed
25 offspring.^{64,65,66,67,68,69,70,71,72,73,74,75,76,77}

26 **Environmental Concerns:** According to an October 2020 report by the Denver Environmental
27 Health Cannabis Sustainability Work Group, cultivation of cannabis has had significant impacts
28 on consumption of energy and water, generation of solid waste, effluent discharge, greenhouse

1 gas emissions, land use, nuisance odor control, and, indoor air quality.^{78,79} Also in October 2020,
2 the National Cannabis Industry Association issued "Environmental Sustainability in the
3 Cannabis Industry: Impacts, Best Management Practices, and Policy Considerations,"
4 highlighting the impacts of the industry on land and soil health, water use, energy consumption,
5 air quality, and waste.⁸⁰ In addition, the Cannabis Regulators Association (CANNRA) has
6 provided guidance regarding the need for state and local environmental regulatory agencies to
7 engage and work with cannabis businesses in determining and quantifying environmental
8 impacts, and best ways to achieve compliance regarding energy use, waste management, air
9 quality, and water quality.⁸¹ Finally, CANNRA has also provided guidance regarding nuisance
10 odor compliance, which have been and continue to be, an ongoing source of complaints for
11 private residence cultivation, and should be expected to increase with adult use legalization.⁸²

12 **Youth and Young Adults:** Although proposed legalized adult use will be restricted to those
13 aged 21 and older, the human brain continues to develop into the mid-20s and remains
14 vulnerable to the effects of addictive substances.^{83,84} Various research on youth and young adults
15 show associations between e-cigarette use and cannabis use,^{85,86,87,88} and a systematic review and
16 meta-analysis of existing studies showed the odds of youth using cannabis were 3.5 times higher
17 if they vaped.⁸⁹ Flavor increases the likelihood that youth will try the vaping product, whether it
18 contains nicotine or cannabis.^{90,91} Protecting young adults legally allowed to use cannabis but
19 still very vulnerable to its detrimental effects will not work with age restrictions alone. Also,
20 although the use of child-resistant packaging reduces unintentional pediatric poisonings from a
21 wide range of products,^{92,93,94} these still rely on the user to properly employ and maintain the
22 packaging. A recent retrospective analysis of National Poison Data System data for pediatric
23 exposures to edible cannabis products in children younger than age 6 years found an increase of
24 1,375% from 2017-2021 with a significant increase in both ICU and non-ICU admissions.⁹⁵
25 Toxic pediatric exposures continue to be reported.⁹⁶ In addition to packaging requirements,
26 restriction of advertising and marketing practices remain critical to preventing appeal to youth as
27 well as preventing the encouragement of increased consumption and targeting of marginalized
28 communities as practiced by the tobacco industry.^{97,98} There is substantial evidence that more

1 unintentional exposures for children occur in states with increased legal access to cannabis and
2 these exposures can lead to significant clinical effects requiring medical
3 attention.^{99,100,101,102,103,104,105,106,107,108}

4 **Smoking, E-Cigarettes, and Vaping:** Smoked and vaped forms of hemp and cannabis should
5 be prohibited. There is substantial evidence that cannabis smoke contains many of the same
6 cancer-causing chemicals as tobacco smoke^{109,110,111,112,113} and while many flavorings and
7 additives used in e-cigarette or vaped products may be safe for oral ingestion, few, if any have
8 been demonstrated as safe for inhalation. This was highlighted by the outbreak of e-cigarette, or
9 vaping, product use-associated lung injury (EVALI), which caused 2,807 hospitalized cases
10 among all 50 states, the District of Columbia, and two U.S. territories and 68 confirmed
11 deaths.¹¹⁴ EVALI cases rapidly declined after vitamin E acetate, a common dietary supplement
12 that is generally recognized as safe ("GRAS") by the U.S. Food and Drug Administration as a
13 food additive, was removed from products.

14 **Intoxicating Hemp Products:** The DOH greatly appreciates the inclusion of regulatory
15 oversight of hemp-derived cannabinoid products under the Hawaii Cannabis Authority.
16 Cannabinoids are cannabinoids, regardless of whether they are derived from cannabis or hemp
17 plants, or synthesized, and some have psychoactive or intoxicating properties.¹¹⁵ The 2018 Farm
18 Bill's focus on the concentration of delta-9 THC as defining legal hemp and hemp products has
19 created a loophole through which consumers, including children, can walk into convenience
20 stores and gas stations, or shop online and purchase products that have the same psychoactive or
21 intoxicating effects as cannabis. There are a number of these "hemp synthesized intoxicants
22 (HSIs)," the most common being Delta-8 THC and Delta-10 THC. Proponents of HSIs assert
23 that the Farm Bill did not prohibit the chemicals in hemp from being converted into psychoactive
24 compounds. However, opponents of HSIs argue that the Farm Bill legalized hemp as an
25 agricultural commodity and did not intend for the chemicals in hemp to be converted into
26 intoxicating compounds. In October 2023, Virginia's restriction of HSIs was upheld by a federal
27 court, and Attorneys General in Nebraska, California, and Connecticut have filed lawsuits or
28 enforcement actions against HSI manufacturers and sellers, citing health and safety risks to

1 consumers.^{116,117,118} And on December 5, 2023, the U.S. Food and Drug Administration (FDA)
2 issued a warning letter¹¹⁹ to a manufacturer of food products, including gummies, that contain
3 Delta-8 THC. In its warning letter, FDA noted that: "1) Delta-8 THC products have not been
4 evaluated or approved by FDA for safe use and may be marketed in ways that put the public
5 health at risk; 2) FDA has received adverse event reports involving Delta-8 THC containing
6 products; 3) Delta-8 THC has psychoactive and intoxicating effects; 4) FDA is concerned about
7 the processes used to create the concentrations of Delta-8 THC claimed in the marketplace; and
8 5) FDA is concerned about Delta-8 THC products that may be consumed by children, as some
9 packaging and labeling may appeal to children."

10 **Regulatory Standards:** The DOH appreciates requirements for laboratory standards and testing,
11 packaging and labeling, products standards, and advertising and marketing controls. The DOH
12 also greatly appreciates the substantive appropriations for the Public Health and Education
13 Special Fund for cannabis testing. Cannabis testing capability and capacity will be critical to
14 oversight of private commercial testing laboratories and investigations of adverse consumer
15 events. Together, these provisions will help to ensure that cannabinoid-containing products
16 intended for human consumption and use meet the same consumer protection standards as non-
17 cannabinoid-containing products. In other words, other than the effect of the cannabinoid
18 content, a hemp-derived gummie and a cannabis-derived gummie should be as safe to consume
19 as a commercial candy gummie. These requirements will help to protect the public, especially
20 youth, from unintended intoxication, over-toxication, deceptive and misleading claims, and
21 unsafe products. The DOH also appreciates the maintenance of key existing medical use
22 provisions, the limitations against any use of cannabis that endangers the health or well-being of
23 another person, especially the use at any place open to the public, including smoking or vaping
24 cannabis in public as prohibited by chapter 328J, and the use of cannabis by anyone under
25 twenty-one years of age.

26 While DOH appreciates the inclusion of a "Public health and education special fund" for
27 education and substance abuse prevention and treatment, which includes educating the public
28 about cannabis use and laws, preventing and treating substance abuse among youth, and

1 controlling and treating substance abuse; this is not expected to eliminate the harms. Based on
2 what has been experienced with tobacco products, despite laws prohibiting purchase and
3 educational campaigns, use increased among youth. Efforts have been unsuccessful to date and
4 continue to be underway to protect our youth by banning flavored products. Despite best efforts
5 to implement a legal adult cannabis use program as responsibly and safely as possible, there will
6 be harm to the public health, especially for newborns, youth, and young adults.

7 **PART II**

8 The DOH Office of Medical Cannabis Control and Regulation (DOH-OMCCR) agrees with the
9 DOH comments about the harms to the health of the public that adult use legalization will bring,
10 and provides comments as a resource to the legislature should the legislature choose to pass this
11 measure.

12 **One Plant, One Regulatory Agency:** The DOH-OMCCR strongly supports the "one plant, one
13 regulatory agency" approach that SB3335 SD1 contemplates by placing medical use, adult use,
14 and hemp cannabinoid processing and products under the Hawaii Cannabis Authority ("HCA").
15 As a founding member of the Cannabis Regulatory Association ("CANNRA," [https://www.cann-
17 ra.org/](https://www.cann-
16 ra.org/)), the DOH-OMCCR has had the opportunity to learn from the experience of other states
18 implementing medical use and transitioning to adult use – having multiple regulatory agencies
19 has been a common, recurring challenge. As a result, more states are either starting as one
20 regulatory agency or transitioning to one agency, especially with regard to hemp cannabinoid
21 products. Currently, of CANNRA's 44 member states and the District of Columbia, 11 regulate
22 hemp cannabinoid products under the same agency as cannabis¹²⁰, and an additional four states
23 have pending legislation or have authorized the cannabis agency to regulate hemp cannabinoid
24 products.¹²¹ Hawaii is one of the 11 states where hemp cannabinoid products are regulated by the
25 same agency as cannabis—i.e., the DOH-OMCCR. States where there is not a single regulatory
26 agency often speak about the serious challenges associated with gaps in, and inconsistent,
regulations and the resulting uncertainty for the industry and consumers.

1 In following this trend, it is important to emphasize that SB3335 SD1 does not propose to
2 regulate hemp cultivation or industrial hemp products under the HCA, only hemp processing and
3 manufacturing of hemp cannabinoid products that are intended for human consumption and use.
4 This approach will help to ensure that all cannabinoid-containing products, whether derived from
5 cannabis or hemp, will meet the same basic good manufacturing practices of non-infused,
6 commercially available counterparts.

7 **Law Enforcement Role:** The DOH-OMCCR supports the continuing role of law enforcement
8 as proposed by SB3335 SD1. Cannabis remains illegal under federal law. Notwithstanding,
9 chapter 329, part IX, Hawaii Revised Statutes, provides a safe harbor from state criminal
10 prosecution for medical use to those operating within the scope of Hawaii's laws. As the state's
11 regulator for medical use cannabis, DOH-OMCCR values and relies on the support of the state
12 Narcotics Enforcement Division and county police in addressing non-compliance. The DOH-
13 OMCCR also strongly supports increasing the state's cannabis-related nuisance abatement
14 capacity by authorizing and supporting the Department of the Attorney General in civil
15 enforcement of violations of law. Adult-use legalization will not eliminate the illicit market or
16 bad actors. As experienced by other states, these will persist in parallel to the legal, regulated
17 market. A well-funded and defined law enforcement mission to prevent illicit activities and assist
18 the HCA will help to ensure the viability of the legal market and assure the public safety.

19 **Social Equity Program:** Increasingly, the promotion of social and economic equity in the
20 cannabis industry and through revenue generated by the cannabis industry has become a central
21 mission of states' programs. Acknowledging that equity can only be achieved through the
22 elimination of barriers that prevent the full participation of some groups,¹²² seventeen of
23 CANNRA's member states maintain equity programs ranging from specific license types to
24 grants and access to capital, technical assistance, community reinvestment, and business
25 incubator or mentorship programs for disproportionately impacted or disadvantaged
26 communities, people with past cannabis-related convictions, farmers, women-, veteran-, and
27 minority-owned businesses, legacy operators, etc. As such, DOH-OMCCR appreciates SB3555's
28 intent to address inequalities by bringing economic opportunity to disadvantaged regions of

1 Hawaii and transition illicit operators to the legal market through a robust social equity grant and
2 fee waiver program.

3 **Delayed Effective Date:** The DOH-OMCCR strongly supports delaying of the effective date for
4 legalized adult use and the opening of the marketplace for a minimum of eighteen (18) months
5 and exemption of certain procurements from requirements under chapter 103D. Adequate time
6 will be needed to establish the HCA and the Cannabis Control Board, adopt Hawaii
7 Administrative Rules, transfer personnel and assets from the Department of Health to the HCA,
8 convert existing and license new businesses, and other myriad aspects of standing up a new
9 agency. Many processes in the state system move slowly and are often constrained by limited
10 resources within the program itself. For example, the reorganization to establish DOH-OMCCR
11 from the Patient Registry and Dispensary Licensing programs was initiated in June 2018 and not
12 recognized until July 2019. Documents to establish the new DOH-OMCCR administrative
13 positions created by the reorganization were submitted in April 2019 and the first positions
14 became available for recruitment September 2019. Even with interim rulemaking authority,
15 limited amendments to administrative rules take at least 4 to 6 months to complete. These
16 limitations are not unique to Hawaii, and other states have reported timelines of 6 months to
17 more than 2 years from the effective date of adult-use to accepting new license applications and
18 an additional 6 to 24 months before issuing licenses. The delayed effective date and flexibility to
19 contract for services to effect the needed changes will be critical to operationalizing an adult-use
20 regime.

21 **Public Health Protections:** The DOH-OMCCR concurs with the compelling public health
22 impact concerns that the Department of Health has regarding adult use legalization. The
23 intoxicating and impairing qualities of cannabis, manufactured cannabis products, and certain
24 hemp-cannabinoid products, has increased, and new and evolving forms and modes of
25 consumption continuously appear. As such, the DOH-OMCCR strongly supports the extensive,
26 well-funded public health protections embedded in SB3335 SD1 and the clear charge to the
27 Cannabis Control Board that "the protection of public health and safety shall be the highest

1 priorities for the board..., and that wherever protection of public health and safety is inconsistent
2 with other interests..., the protection of public health and safety shall be paramount."

3 Protection of youth and young adults will be especially important as problem use in these
4 populations will required significant, long-term investments by the state. Although the rates of
5 consumption among youth do not appear to be increasing in states that have transitioned to adult-
6 use, increasing intensity of use, i.e., more frequent use and/or higher THC use, has been a
7 concerning observed trend. According to the Colorado Retail Marijuana Public Health Advisory
8 Committee, "Adolescents and young adults who use marijuana are more likely to experience
9 psychotic symptoms as adults (such as hallucinations, paranoia, and delusional beliefs), future
10 psychotic disorders (such as schizophrenia) and suicidal thoughts or attempting suicide.
11 Evidence shows that adolescents who use marijuana are more likely to not graduate high school
12 or attain a college degree, can become addicted to marijuana, and that treatment for marijuana
13 addiction can decrease use and dependence." In addition that, "Children born to mothers who
14 used marijuana during pregnancy are more likely to be born small for gestational age, experience
15 attention problems and reduced cognitive function in childhood, and have decreased academic
16 ability, including reduced IQ scores."

17 Implementation of a robust public health and education campaign to inform the public about the
18 new laws and the health risks, as well as preparing for increased demand for addiction and
19 substance use treatment services needs to begin before adult-use becomes effective and
20 continuously maintained to be assure the protection of the public health.

21 **Offered Amendments:** Should this measure move forward, the DOH respectfully requests the
22 following amendment to section 322-1, HRS, to clarify the department's role related to
23 complaints about odors related to the cultivation or use of cannabis.

24 **§322-1 Removal, prevention.** The department of health and its agents shall examine
25 into all nuisances, foul or noxious odors, gases or vapors, water in which mosquito larvae
26 exist, sources of filth, and all causes of sickness or disease, on shore, and in any vessel,
27 which may be known to them or brought to their attention, which in their opinion are

1 dangerous or injurious to health, and into any and all conditions created or existing which
2 cause or tend to cause sickness or disease or to be dangerous or injurious to health, and
3 shall cause the same to be abated, destroyed, removed, or prevented.

4 For purposes of this part, a nuisance shall include:

- 5 (1) Toxic materials that are used in or by-products of the manufacture or conversion
6 of methamphetamine, and clandestine drug labs that manufacture methamphetamine; and
7 (2) Odors and filth resulting from a person feeding feral birds.

8 For purposes of this part, a nuisance shall not include:

- 9 (1) A hemp or cannabis product or any foul or noxious odor, gas or vapor derived
10 from one.

11
12 Thank you for the opportunity to testify on this measure.

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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I. HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
and
Senate Committee on Ways and Means

Tuesday, March 1, 2024
9:50 a.m.
Conference Room 211 & Via Videoconference

On the following measure:
S.B. 3335, S.D.1, RELATING TO CANNABIS.

Chairs Keohokalole and Dela Cruz and Members of the Committees:

My name is Nadine Ando, and I am the Director of the Department of Commerce and Consumer Affairs (Department). The Department offers comments on this bill.

The purposes of this bill are to: (1) establish the Hawai'i 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, legalizes 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 to the Hawai'i Cannabis Authority; and (5) appropriate funds.

The Department acknowledges the complex nature of the cannabis issue, involving considerations related to public health, safety, and economic opportunities. The commitment to public health protections, including an extensive public health and

education campaign, reflects a responsible approach to mitigate potential risks associated with cannabis use. The DCCA also supports the intent to establish a zero-tolerance policy toward distributing cannabis to individuals under the age of twenty-one and driving under the influence of cannabis.

The DCCA would like to underscore the significance of the clear separation of operations between the Department of Commerce and Consumer Affairs and the Hawai'i Cannabis Authority, as delineated in the proposed legislation. Part II, §A-11 (a) emphasizes that the Hawai'i Cannabis Authority is to be a public body corporate and politic within the Department for administrative purposes only. The legislation explicitly states that the department of commerce and consumer affairs shall not direct or exert authority over the day-to-day operations or functions of the authority. This clear separation ensures that the Hawai'i Cannabis Authority operates independently, fostering effective governance and decision-making in the field of cannabis regulation.

The Department would also like to address challenges faced by financial institutions nationwide, particularly in Hawai'i. It is important to note that financial institutions across the nation are not for or against cannabis sales (medical or adult use). Financial institutions have hesitated to open accounts due to the Anti-Money Laundering Act and the Bank Secrecy Act, which impose severe penalties on individual employees for aiding and abetting money laundering activities. Importantly, the proposed bill cannot address federal penalties for money laundering, a point discussed in detail with relevant authorities. Financial institutions nationwide do not take a stance on marijuana sales but emphasize the limited availability of banking services, with approximately 100 banks and credit unions providing such services across the country.

Thank you for the opportunity to offer comments on this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

JARED K. REDULLA
Deputy Director
Law Enforcement

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

715 South King Street
Honolulu, Hawaii 96813

TESTIMONY ON SENATE BILL 3335, SENATE DRAFT 1

RELATING TO CANNABIS

Before the Senate Committees on

Ways and Means

And

Commerce and Consumer Protection

Friday, March 1, 2024; 9:50 a.m.

State Capitol Conference Room 211, Via Videoconference

Testifier: Jared Redulla

Chairs Dela Cruz and Keohokalole, Vice Chairs Moriwaki and Fukunaga, and members of the Committees:

The Department of Law Enforcement (DLE) has **serious concerns** regarding Senate Bill (SB) 3335, Senate Draft 1 Related to Cannabis.

SB 3335 proposes to: 1) Establish the Hawai'i 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 Department of Agriculture to the Hawai'i Cannabis Authority, and 5) Appropriates funds.

Under Act 278 of the 2022 Session Laws of Hawaii, the Legislature acted to consolidate state law enforcement responsibilities into a single state department (i.e., the DLE) with goals of centralizing state law enforcement functions to increase public safety, improve decision making, promote accountability, streamline communication, decrease costs, reduce duplication of efforts, and provide uniform training and standards. Among the many responsibilities of the DLE arising from Act 278 is the paramount responsibility of the DLE to both increase and safeguard public safety through, just, transparent, unbiased, and responsive law enforcement. Consequently, as a law enforcement agency responsible for the protection of the public, the DLE has

respectful, but serious concerns over the legalization of cannabis as proposed in SB 3335. The DLE is seriously concerned for several reasons.

First, the DLE is aware of the experiences of other states that have legalized cannabis systems and where there have been significant risks for the public's safety. One significant risk is the risk associated with driving and roadway safety in states that have legalized cannabis systems. For example, in Colorado, the Rocky Mountain High Intensity Drug Trafficking Area (HIDTA) reported fatal car crashes that involved cannabis nearly doubled between 2013 to 2020 from 55 to 131. Moreover, one in four roadway deaths in Colorado was reported by the Colorado Division of Criminal Justice in 2020 as involving cannabis.

According to the Hawaii Department of Health, more than 100 people die in traffic related crashes each year in Hawaii. Traffic related deaths are the second leading cause of injury related death among 15- to 24-year-olds, and the fourth leading cause of death for all ages. The DLE is concerned and is seriously concerned about SB 3335 because based on the experience of Colorado, if cannabis were to be legalized in an adult use system for Hawaii, then it is highly probable that the rate of fatal car crashes and roadway deaths in Hawaii would very likely increase, especially amongst young drivers in Hawaii. An elevated risk of car crashes and roadway deaths increases the DLE's concern for public safety.

Second, the DLE is also concerned over the gains made in the illicit marketplaces (i.e., "the black market") of other states that have legalized cannabis systems. For example, the Oregon-Idaho HIDTA reported illicit cannabis plant seizures 17-times (17x) greater in 2021 (1,330,766 plants) versus 2020 (76,753) and 2018 (5260). Moreover, a 2019 study showed that 85-90 percent of California-produced cannabis was exported. These statistics are concerning to the DLE because in those states, the black market continues to flourish despite legalization. Moreover, according to a Smart Approaches to Marijuana publication titled, "Preventing Another Big Tobacco", "All legal states have failed to curtail the illicit market."

The black market for contraband continues to flourish in Hawaii. The Hawaii black market offers contraband including illicit drugs, firearms, stolen property, and fireworks. Despite law enforcement's continuing efforts to reduce these types of contraband in the local black market, seizures of contraband continue. The DLE is concerned because the experience of other states that have legal programs has shown that despite legalization, large seizures of illegal bulk cannabis continue in those states. If Hawaii were to legalize cannabis similarly, then Hawaii can expect large seizures of illegal black-market cannabis to compete with limited law enforcement resources which it must also dedicate towards confronting illicit drugs (e.g., fentanyl and methamphetamine), ghost guns, and fireworks. All these types of contraband are high

enforcement priorities for the DLE and DLE's resources will be taxed severely if large amounts of illegal cannabis flood the black market.

Finally, the DLE is most concerned about a potential rise in violent crime that could result in Hawaii as the result of cannabis legalization. Last week, San Bernardino County authorities in California announced arrests in a recent mass murder case in which six men were murdered during a shootout in the San Bernardino desert. According to a news report by NBC Los Angeles on 01-31-24, the San Bernardino Sheriff attributed the murders to a "dispute over marijuana" and said violent confrontations over illegal marijuana are not uncommon in San Bernardino County...". In response to a question over "cartel" involvement in the murders, the Sheriff also said, "...we believe a lot of these things occurring may be related to much bigger things going on", alluding that the murders might include organized crime or cartel involvement. Additionally, a California ABC-7 news report on 01-31-24 on the same San Bernardino murders described the murders as, "a direct consequence of illegal marijuana operations" and that the California black market "continues to thrive" even though "California voters legalized recreational marijuana in 2016, and the state has become the world's largest legal cannabis marketplace since then."

Hawaii is not immune to violent crime related to cannabis. In the early 2000s there were two murders related to disputes within indoor cannabis grows that ultimately led to the dismemberment of at least one of the bodies of the victims involved. Additionally, there was a shooting death related to a cannabis grow on the Big Island during that timeframe as well. Moreover, the DLE is aware that illegal cannabis marketplaces continue to thrive in Hawaii despite Hawaii's legitimate medical use and dispensary schemes. If cannabis becomes legalized for adult use in Hawaii as SB 3335 proposes, then the DLE fears that California's experience with cannabis-related violent crime may establish a foothold in Hawaii and increase the risk of violence in the community.

Illustrative of the concerns we have with this bill are included in the following research:

The National Fraternal Order of Police stated that a joint study conducted by the University of Colorado, Johns Hopkins University, and Harvard Medical School about the impact of legalization in Colorado determined the following:

1. There is evidence of a persistent black market for marijuana which may increase the presence of Mexican drug cartels that are bringing in other drugs like heroin.
2. There are higher rates of traffic fatalities while driving under the influence of marijuana.

3. An increase in marijuana-related poisonings and hospital visits for children occurs.
4. There was no reduction in crime or significant increase in tax revenues.
5. Use of marijuana by children less than 17 years of age is rising faster than the national average and arrests of juveniles for marijuana-related offenses are up 5%.

The National Association of Assistant United States Attorneys noted that citizens in states that have legalized marijuana for medical use have seen the abuse of such laws:

1. Increased violence directed toward marijuana dispensary owners and employees.
2. Increased burglaries of marijuana dispensaries.
3. Lack of effort on the part of dispensary owners/ employees to control unlawful or nuisance behavior in and around the business or to comply with state laws designed to regulate medical marijuana use.
4. Increased loitering, noises, litter, and property damage, smoking of marijuana in public areas
5. Increased offenses involving driving while under the influence of marijuana.
6. An influx of criminal elements into the neighborhoods where dispensaries are located.
7. Marijuana distributors operating in school zones or close to schools or parks
8. Increased sales of marijuana to juveniles under the age of 18 or to customers who are young and do not have an illness or a serious medical condition.

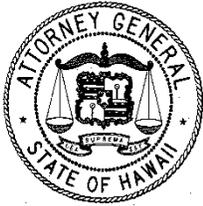
The National Sheriffs Associations, the National District Attorneys Association, the National Narcotic Officers' Associations Coalition (NNOAC) have noted that states that legalized marijuana have been unable to control the black market for the drug.

The Oregon State Police reported that 70 percent of the marijuana transactions remain illegal, despite legalization laws. Marijuana is sold on the street in legalized states and exported in vast quantities to other, non-legalized jurisdictions.

In conclusion, the DLE is aware that the community's attitudes toward cannabis have evolved. However, the DLE is equally aware of the real-world examples of other

states where state legalized cannabis programs have increased risks that affect the public's safety. Consequently, because of the increased risks associated with legalized cannabis programs described above, the DLE respectfully has serious concerns over the proposed contents of SB 3335.

While the Department has significant concerns with this proposal, should the legislature decide to move this forward, additional resources for law enforcement is a necessary component of this bill. Based on the experiences from other jurisdictions, additional staff and resources for enforcement are critical features needed to offset the substantial predictable illegal activity that our community will see. To provide the DLE with tools to even attempt to enforce the law, the appropriation amount should be at least \$2,000,000 for the enforcement unit and seventeen (17) DLE enforcement staff that is provided in this bill.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 3335, S.D. 1, RELATING TO CANNABIS.

BEFORE THE:

SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION AND ON
WAYS AND MEANS

DATE: Friday, March 1, 2024

TIME: 9:50 a.m.

LOCATION: State Capitol, Room 221 and Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Dave Day,
Special Assistant to the Attorney General, at 586-1284
or Andrew Goff, Deputy Attorney General, at 587-3050)

Chairs Keohokalole and Dela Cruz and Members of the Committees:

The Department of the Attorney General (Department) offers the following comments on this bill. The Department's full position on cannabis legislation is set forth in the *Report Regarding the Final Draft Bill Entitled "Relating to Cannabis,"* prepared by the Department of the Attorney General, dated January 5, 2024, which is attached hereto. If the Legislature chooses to legalize adult-use cannabis, legislation should be balanced and moderate, with a focus on protecting public health and public safety to the greatest extent possible.

The purpose of this bill is to create a comprehensive regulatory framework for all aspects of cannabis, including medical cannabis, adult-use cannabis, and hemp by: (1) establishing the Hawaii Cannabis Authority (HCA), Cannabis Control Board (CCB), and Cannabis Control Implementation Advisory Committee within the Department of Commerce and Consumer Affairs; (2) establishing laws for the cultivation, manufacture, sale, and personal use of adult-use cannabis; (3) amending or repealing existing laws relating to cannabis, including hemp; (4) establishing taxes for adult-use cannabis sales; (5) legalizing the possession of certain amounts of adult-use cannabis for individuals twenty-one years of age and over beginning January 1, 2026; and (6) transferring the

personnel and assets of the Department of Health and assets of the Department of Agriculture to the HCA, among other things.

This bill condenses three separate special funds established in the original bill, the cannabis regulation special fund, cannabis nuisance abatement special fund, and cannabis law enforcement special fund, into one special fund: the cannabis regulation, nuisance abatement, and law enforcement special fund. See page 51, line 13, through page 53, line 4. We note that this special fund would be administered and expended by three separate agencies: the HCA, the Department of the Attorney General, and the Department of Law Enforcement. See page 51, line 18, through page 52, line 8. Appropriation accounts are usually housed in the accounting system under one department. Having multiple departments administer the special fund would call into question which department is responsible for oversight and maintenance of the account. It will also make allocating money in the special fund more difficult and require very careful appropriation wording to be used in the future. For easier administration, we recommend keeping three separate special funds rather than establishing a single special fund to be administered by three agencies.

Thank you for the opportunity to provide comments.

**REPORT REGARDING THE FINAL DRAFT
BILL ENTITLED “RELATING TO
CANNABIS,” PREPARED BY THE
DEPARTMENT OF THE ATTORNEY
GENERAL**

Prepared for and respectfully submitted to

Senator Joy A. San Buenaventura
Chair, Senate Committee on Health and Human Services

Senator Jarrett Keohokalole
Chair, Senate Committee on Commerce and Consumer Protection

Representative David A. Tarnas
Chair, House Committee on Judiciary and Hawaiian Affairs

Friday, January 5, 2024

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I. EXECUTIVE SUMMARY

Historically, the Department of the Attorney General (“Department”) has opposed legislative efforts to legalize adult-use cannabis without offering substantial constructive comments or feedback to improve the bill. This may have been a reasonable position to take when the chances that any one of the prior bills would become law were slim. But as it has become apparent that passage of a cannabis-legalization bill has become much more likely in recent years, we believe that it would be irresponsible—both from a legal standpoint and as a matter of commonsense—for the Department to refrain from weighing in on how a transition to legalization could best protect the public welfare.

The Attorney General performs many roles in our system of government. Among them, the Attorney General is the chief legal officer and the chief law enforcement officer in the State of Hawai‘i. The Attorney General both prosecutes crimes and gives advice and counsel to public officials in matters connected with their public duties. Because of the Attorney General’s different roles, questions concerning bills that would legalize and regulate adult-use cannabis can be difficult to answer. From a legal perspective, cannabis remains illegal under federal law and is listed as a Schedule I substance under the Controlled Substances Act, which means that a legalization regime is always subject to very substantial risks. From a law-enforcement perspective, the legalization of cannabis raises concerns—from the potential proliferation of black-market activity parallel to the legal market, to the difficulty of ascertaining whether someone is driving while high, to the very real health impacts that may arise from cannabis use, especially by our youth. From these perspectives alone, the Attorney General cannot support a bill legalizing adult-use cannabis, irrespective of how well-crafted the bill may be.

Viewing the Attorney General’s roles together, however, we believe that the Legislature must be provided with comprehensive legal guidance in the drafting process because the legal and law-enforcement problems that could arise from the passage of a bill are very real and very serious. Mere unproductive naysaying and refusing to assist is something that the Department cannot indulge in. To do so will possibly result in laws in which law-enforcement and public-health concerns are unaddressed. That is a luxury that the Department of the Attorney General cannot afford.

The Department of the Attorney General, therefore, has taken its duty to advise the Legislature with the utmost gravity. Hundreds of hours of research, drafting, and consultation have gone into producing the four documents provided to you today: (1) this Report; (2) a final draft bill entitled

“Relating to Cannabis,” in both PDF and Word formats; (3) a table of contents for the final draft bill; and (4) a redline showing the changes made between the draft bill circulated to you on November 9, 2023, and the final draft bill, including annotations.

This Report is intended to provide context to the Department’s work in creating the final draft bill, the choices that the Department made in including or excluding certain provisions, and the Department’s ultimate position on the final draft bill. The Report will proceed in four parts.

First, this Report will detail the Department’s work in 2023 in researching and drafting the final draft bill.

Second, this Report will give a high-level overview of just some of the inherent problems posed by any legislation legalizing cannabis. No effort to legalize adult-use cannabis, however carefully planned and well intentioned, will be without problems and serious risks to public safety and public health. It is important for the Legislature to consider these risks for the purposes of determining whether a bill should be passed at all, but also to understand how the final draft bill attempts to mitigate these risks.

Third, this Report will detail what the Department considers to be the “six pillars”—the most important elements—of the final draft bill:

- (A) The enacting of the Hawai‘i Cannabis Law, which is a legal safe harbor from state criminal prosecution concerning activities relating to cannabis for those who strictly comply with its provisions;
- (B) The creation of a robust, independent body—the Hawai‘i Cannabis Authority (“Authority”)—with the power to regulate all aspects of the cannabis plant (whether medical cannabis, adult-use cannabis, or hemp) in accordance with the Hawai‘i Cannabis Law;
- (C) The continuing role of law enforcement agencies in addressing illegal cannabis operations not acting in accordance with the Hawai‘i Cannabis Law, which pose threats to public order, public health, and those business operators who choose to operate in the legal market;
- (D) A vibrant, well-funded social-equity program to be implemented by the Authority with the intent to bring greater economic

opportunity to disadvantaged regions of our state and to help transition formerly illicit operators into the legal market;

- (E) A delayed effective date of eighteen months for the legalization of adult-use cannabis and the first legal retail sales to allow the Authority, law enforcement, licensees, and the public to prepare; and
- (F) The implementation of extensive, well-funded public-health protections, including public-education campaigns to inform the public about the new laws and the continuing risks to public health—especially to children—posed by cannabis and financial assistance for public-health services such as addiction and substance abuse treatment.

Fourth, the Report states the Department’s position: that the Department *does not support* the legalization of adult-use cannabis but *will not oppose* the passage of the final draft bill, as it may be amended, so long as provisions intended to protect public safety and public health remain in the bill and provisions unacceptable to the Department are not inserted, as set forth in Section V of this Report.

* * *

The Department believes that the final draft bill is well drafted and researched, reasonable, balanced, and keenly focused on protecting the public welfare. But no matter how sound a legal framework might seem in theory, the success or failure of a statewide cannabis legalization program is almost entirely a function of how it is implemented. Because of the problems associated with cannabis legalization for which there are no perfect solutions and the numerous variables associated with implementation, the Department does not warrant that legalization will be a “success” or will not be beset with major issues, even if the final draft bill were to be adopted without amendment. The Department can at most state that the proposed legislation represents our best judgment about how to promote a legal market, minimize risks of societal harm, mitigate damage that does come to pass, avoid liability, and provide workable tools and substantial resources for law enforcement and public-health officials to promote the public welfare.

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II. THE DEPARTMENT’S WORK ON THE FINAL DRAFT BILL

A. The Attorney General and the Department

Under the Hawai‘i Constitution, the Attorney General is the chief legal officer and chief law enforcement officer for the state and bears “the ultimate responsibility for enforcing penal laws of statewide application.”¹ The Attorney General is the head of the Department of the Attorney General, which is one of the principle executive departments of the state.²

The Attorney General and her Department perform a broad array of functions. Some of these functions involve the enforcement of laws—among other things, the Attorney General and the Department prosecute those who violate the laws of the state;³ conduct civil, administrative, and criminal investigations;⁴ and enforce drug-nuisance-abatement laws.⁵

The Attorney General also plays a very different role: she is the lawyer for the state and its public officials. As is relevant here, the Attorney General

shall, without charge, at all times when called upon, give advice and counsel to . . . public officers, in all matters connected with their public duties, and otherwise aid and assist them in every way requisite to enable them to perform their duties faithfully.⁶

The different roles of the Attorney General and the Department are sometimes in tension with one another. Advising the Legislature on the issue of legalizing adult-use cannabis is an example of such a time.

B. Why the Department Prepared the Final Draft Bill

Since Colorado and Washington became the first two states to legalize recreational adult-use cannabis in 2012, it is undeniable that our sister states are trending toward state-law legalization of adult-use cannabis. As of the date of this Report, 24 states plus the District of Columbia have enacted laws regulating adult-use cannabis.⁷ Less than two months ago, on November 7,

¹ Haw. const. art. V, § 6; *Amemiya v. Sapienza*, 63 Haw. 424, 427, 629 P.2d 1126, 1127, 1129 (1981); *Marsland v. First Hawaiian Bank*, 70 Haw. 126, 130, 764 P.2d 1228, 1230 (1988).

² HRS § 26-7.

³ HRS § 28-2.

⁴ HRS § 28-2.5.

⁵ HRS § 28-131.

⁶ HRS § 28-4.

⁷ National Conference of State Legislatures, *Report: State Medical Cannabis Laws*, available at <https://www.ncsl.org/health/state-medical-cannabis-laws> (last accessed Jan. 4, 2024).

2023, the Ohio electorate voted “yes” to legalize adult-use cannabis by a percentage of 57.19% to 42.81%.⁸

The story does not appear to be so different in Hawai‘i. A July 2022 Honolulu Star-Advertiser poll of 800 registered Hawai‘i voters answered the question “Do you support or oppose the legalization of recreational marijuana to generate tax revenue for the state?” as follows: 58% in support, 34% in opposition, and 8% undecided, with a margin of error of plus or minus 3.5 percentage points.⁹ The poll showed virtually identical support across each of the four major counties: City and County of Honolulu (58% support), County of Maui (56% support), County of Kaua‘i (56% support), and the County of Hawai‘i (59% support).¹⁰

Legislatively, in 2023, S.B. 669, S.D.2, a bill that would legalize adult-use cannabis, passed out of the Senate on third reading with a vote of 22 ayes, 7 ayes with reservations, and 3 noes.¹¹

Given that the odds of legislation legalizing adult-use cannabis becoming law within the next several years appear to have risen significantly, the grave legal and societal problems that could arise if such legislation became law, and the Department’s substantive concerns with previous legalization bills, Attorney General Anne Lopez decided that the Department needed to work on draft legislation with the intent of embedding provisions intended to protect the public welfare *into the very structure of the legislation*.

By working on this draft, the Department is not “supporting” the legislative policy of legalizing adult-use cannabis. Instead, the Department is recognizing that our state could legalize adult-use cannabis—like approximately half the states in the nation—even if the Department “opposed” the legislation and refused to assist the Legislature. This would be to the public’s detriment.

⁸ Ballotpedia, *Ohio Issue 2, Marijuana Legalization Initiative (2023)*, available at [https://ballotpedia.org/Ohio_Issue_2,_Marijuana_Legalization_Initiative_\(2023\)](https://ballotpedia.org/Ohio_Issue_2,_Marijuana_Legalization_Initiative_(2023)) (last accessed Jan. 4, 2024).

⁹ Ashley Mizuno, *Hawaii voters support legalizing recreational cannabis, but split on legalizing gambling*, Honolulu Star-Advertiser (July 25, 2022), available at <https://www.staradvertiser.com/2022/07/25/hawaii-news/hawaii-voters-support-legalizing-recreational-cannabis-but-split-on-legalizing-gambling/> (last accessed Jan. 4, 2024).

¹⁰ *Id.*

¹¹ Hawai‘i State Legislature, SB 669 SD2 Relating to Cannabis, available at https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=669&year=2024 (last accessed Jan. 4, 2024).

C. The Department’s Drafting Process

Beginning in May 2023 and continuing through October 2023, Special Assistant to the Attorney General Dave Day and a working group of deputy attorneys general and public servants from a variety of subject-matter divisions in the Department—Criminal Justice Division, Labor Division, Crime Prevention and Justice Assistance Division, Health Division, Commerce and Economic Development Division, Tax and Charities Division, and deputy attorneys general who have the Department of Public Safety and the Department of Law Enforcement (“DLE”) as clients—met to discuss what legislation legalizing adult-use cannabis might look like, challenges that could arise, possible solution to those challenges, necessary research, communications with other subject-matter divisions and agencies, the progress of drafting, and concrete proposals for the bill. In June 2023, the working group visited several licensed cannabis facilities on O‘ahu with officials from the Department of Health (“DOH”).

Formal drafting of the bill began in July 2023. The drafting team—Special Assistant Day, Deputy Attorney General Andrew Goff of the Health Division, and Deputy Attorney General Kotoba Kanazawa of the Legislative Division—worked with the larger departmental working group and other divisions within the Department, including the Tobacco Enforcement Unit and the Hawai‘i Criminal Justice Data Center. The drafting team also worked closely with Michele Nakata, Chief of the Office of Medical Cannabis Control and Regulation (“OMCCR”), a division of DOH, who provided invaluable insight into cannabis policy and regulation and frequently acted as a liaison with government regulators in our sister states.

During the initial drafting process, the drafting team consulted with, among others, state legislators, DOH and OMCCR, the Department of Commerce and Consumer Affairs (“DCCA”), the Department of Taxation, Banking Commissioner Iris Ikeda, and DLE. The drafting team had online meetings with cannabis regulators and state attorneys from the states of Alaska, Washington, Oregon, California, Colorado, Maryland, New York, and Massachusetts to discuss their experiences and thoughts on what works and what does not. The drafting team also met with policy experts, including the Cannabis Regulators Association (“CANNRA”),¹² the Parabola Center for Law and Policy,¹³ and Dr. Gary Kirkilas.¹⁴

¹² Cannabis Regulators Association Home Page, <https://www.cann-ra.org/>.

¹³ Parabola Center Home Page, <https://www.parabolacenter.com/>.

¹⁴ Dr. Gary Kirkilas Home Page, <https://drgarykirkilas.com/>.

In June 2023, Special Assistant Day attended the External Stakeholder Meeting of CANNRA in Annapolis, Maryland, where he spoke with regulators from at least a dozen states, along with licensees, health officials, and social-equity advocates about their experiences in the regulated-cannabis space and their thoughts about the Department’s conceptualization of the draft bill.

In August 2023, Special Assistant Day led an information-gathering site visit to the Massachusetts Cannabis Control Commission (“MCCC”) for the purpose of learning about the successes, challenges, costs, best practices, recommendations, and lessons learned since Massachusetts legalized adult-use cannabis. In attendance from Hawai‘i were Senator Joy San Buenaventura, Senator Jarrett Keohokalole, Representative David Tarnas, Department of Health Deputy Director for Health Resources Debbie Kim Morikawa, OMCCR Chief Michele Nakata, Special Assistant Day, and Deputy Attorney General Andrew Goff. In Massachusetts, the group met with the MCCC’s commissioners; the executive director, chief operating officer, chief financial and accounting officer, and associate general counsel; the MCCC’s licensing, social-equity, testing, and investigation teams; the head of the MCCC’s research initiative; local and state law enforcement officials; and Massachusetts Representative Daniel M. Donahue, who is the Chair of the Joint Committee on Cannabis Policy in the Massachusetts Legislature.

On August 29, 2023, members of the drafting team attended an event highlighting dangers of legalizing cannabis presented by the Honolulu Department of the Prosecuting Attorney entitled “Keep Hawaii, Hawaii: Impacts of Legalizing Marijuana.”

In October 2023, a draft of the cannabis bill was circulated to the heads of all principal departments, along with supervisors for every division in the Department, for comment and input.

On November 9, 2023, the Department circulated what will be referred to in this Report as the November 9, 2023 draft bill, entitled “Relating to Cannabis,” to Senator Joy San Buenaventura, Senator Jarrett Keohokalole, and Representative David Tarnas. Subsequently, the Department circulated the November 9, 2023 draft bill to police chiefs and prosecutors statewide and to the principals of the current licensed medical-cannabis dispensaries in the state. The November 9, 2023 draft bill found its way into the media and became publicly available online. The Department provided the November 9, 2023 draft bill to anyone who asked for a copy.

The Department has received comments from the following entities and individuals regarding the November 9, 2023 draft bill:

- Representative Tarnas provided substantial positive and constructive feedback on the November 9, 2023 draft bill, along with points of suggested revision. He emphasized that these points were his personal views and did not speak for the House of Representatives as a whole. Attorney General Lopez and members of the drafting team met with Representative Tarnas and his Legislative Attorney Sean Aronson to discuss his feedback. Many changes based upon Representative Tarnas’s comments have been incorporated into the final draft bill.
- County of Kaua‘i Prosecuting Attorney Rebecca V. Like presented feedback and comments on the November 9, 2023 draft bill.¹⁵
- The Executive Director of the Hawai‘i High Intensity Drug Trafficking Area Gary Yabuta stated his disagreement with a marijuana legalization model based upon Massachusetts.
- Karen O’Keefe, Director of State Policies, of the Marijuana Policy Project provided feedback. Some of Director O’Keefe’s points were addressed in Representative Tarnas’s feedback. The Department agreed with Director O’Keefe’s proposal that more money be allocated to social equity and community reinvestment, including a larger portion of the tax revenue; the Department, therefore, increased recommended seed funding for social-equity licensing from \$5 million to \$10 million, and increased the percentage of tax revenue going to social-equity licensing from 20% to 25%. *See Redline Draft at pp. 264, 325.*
- The MCCC provided feedback regarding Massachusetts’s program, stating that (1) adult-use cannabis legalization has diminished the unregulated markets and cannabis criminal-justice encounters, but that Black/Hispanic populations are still disproportionately impacted by cannabis violations despite similar use rates with other racial cohorts; and (2) preliminary research has found that youth-cannabis use has not increased after the implementation of Massachusetts’s cannabis-legalization legislation, but that public-health monitoring should assess and proactively prevent more severe adverse effects,

¹⁵ In December 2023, former Kaua‘i County Prosecuting Attorney Justin Kollar penned an editorial in the Honolulu Star-Advertiser in support of legalizing adult-use cannabis. Justin Kollar, *Column: Legal adult-use cannabis boosts safety*, Honolulu Star-Advertiser (Dec. 12, 2023), available at <https://www.staradvertiser.com/2023/12/12/editorial/island-voices/column-legal-adult-use-cannabis-boosts-safety/> (last accessed Jan. 4, 2024).

such as increased cannabis-use disorders, unintentional ingestion, and mental health disorders, which some studies have identified as emerging issues. In December 2023, the drafting team met with a number of MCCC officials to discuss the November 9, 2023 draft bill. Among other things, MCCC officials strongly advised that the DLE law-enforcement unit (*see* section IV.C.1, *infra*) should remain a key component of the bill.

- The Hawai‘i Hemp Farms Association (“HHFA”) provided substantial feedback on the bill and stated that it opposed the bill for a number of reasons, including if references to hemp remained in the bill. The Department also received 19 emails stating similar concerns. Members of the drafting team met with HHFA President Gail Byrne Baber and Vice President Grant Overton to discuss the bill. Based upon these discussions, the Department has made a number of changes to the hemp sections of the bill intended to address many of HHFA’s concerns, as exhibited in the redline bill (*see* section IV.B.2, *infra*).
- Clifton Otto, M.D., of Akamai Cannabis Consulting, provided comments recommending that the bill should be amended to provide a legal safe harbor from federal prosecution. The Department respectfully cannot accept this recommendation because it is black-letter law that states have no power to pass legislation overriding federal law or attempting to control federal law-enforcement activities. Only the United States Congress can legislate on the federal level.
- The Hawai‘i Cannabis Industry Association (HICIA) stated that it supports the November 9, 2023 draft bill, but provided some comments. Members of the drafting team met with T.Y. Cheng, Chairman of HICIA, to discuss its concerns.
- Tan Yan Chen, Executive Director of Cure O‘ahu, provided substantial constructive feedback on the bill. Among other things, Ms. Chen expressed concerns that the 18-month delayed effective date for legalization (*see* Final Draft Bill at p. 329, § 86) may not be sufficient to get the Authority up and running in time.

The redline draft presented to you today includes the changes made to the November 9, 2023 draft bill, many based upon the comments received, along with annotations of key points. The clean version of the bill will be referred to as the “final draft bill” in this report.

III. THE INHERENT PROBLEMS POSED WHEN CONSIDERING ANY LEGISLATION LEGALIZING CANNABIS

When considering legislation to legalize adult-use cannabis at the state level, many serious legal concerns and consequences arise from one very significant point: that cannabis remains illegal under federal law. Furthermore, there are many state and local law-enforcement concerns to consider arising from state-law cannabis legalization, and experiences from our sister states show that there are no easy, surefire solutions to these problems, if solutions exist at all. These include the continuation or growth in the illicit market, which competes with the legal market; driving while high; and problems relating to public health, particularly with respect to children.

We anticipate that during the legislative process, many different concerns will be raised. The Department, however, wishes to address just some of these here to demonstrate the gravity of a decision to enact any legislation legalizing adult-use cannabis, including if such legislation is the final draft bill we present to you today.

A. Illegality Under Federal Law

Under federal law, cannabis is a Schedule I drug under the Controlled Substances Act, meaning that, for federal purposes, it has “a high potential for abuse” and “has no currently accepted medical use in treatment in the United States,” and that “[t]here is a lack of accepted safety for use of the drug . . . under medical supervision.”¹⁶ Because of its illegality, federal law prohibits a myriad of activities concerning cannabis, including possession, creation, and distribution.¹⁷ In other words, in a state that has legalized cannabis, under federal law, a state licensed cannabis dispensary in full compliance with state law and regulations could theoretically still be subject to federal criminal prosecution.

Beyond the criminal penalties associated with violations of the Controlled Substances Act, the Department would like to focus on two aspects of federal illegality that would impact a cannabis-legalization regime in Hawai‘i: the questions of financial institutions and inter-island transportation.

Every single state we spoke to noted that the lack of banking and financial services willing to work with the cannabis industry is a major hurdle to the success of the legal market. Because banks and financial

¹⁶ 21 U.S.C. § 812(b)(1) & Schedule I (c)(10).

¹⁷ See 21 U.S.C. §§ 841, 844.

institutions are federally regulated, many believe that doing business with the cannabis industry is an unacceptable risk.

“Even in states where cannabis is legal, financial institutions that do not want to work with marijuana businesses consistently deny and shut down cannabis business bank accounts. This causes chaos across the state-legalized cannabis industry, primarily in those states without banks and credit unions willing to work within the confines of [federal guidance].”¹⁸ Alaska, for example, noted that there was only one institution that serviced the cannabis industry in the largest state by land area in the nation – a credit union in Fairbanks, which requires an airplane to reach from Anchorage.¹⁹

Mentioning the credit union in Fairbanks dovetails with the second issue: federally regulated transportation and transportation in areas of federal jurisdiction. As the only insular state in the United States, Hawai‘i will face legal problems regarding transportation that many other states do not have because transporting cannabis between islands will involve legal risk for the transporter under federal law. This includes the potential need to bring samples to other islands for testing purposes, if every island does not have a testing facility.

Discussions with Alaska and Massachusetts, both of which have inhabited island territories, stated the difficulties, but Massachusetts noted that with respect to Martha’s Vineyard, which has a seasonal population, the MCCC promulgated special self-testing regulations for the islands—an imperfect solution to just one of the problems associated with federally regulated transportation. Because Hawai‘i is a chain of islands, Hawai‘i will have problems with transportation that no other state has faced and are impossible to predict with any degree of precision should adult-use cannabis be legalized.

B. The Illicit Market

After legalization, the illicit, unregulated market will not disappear. Every state we spoke with noted that the illicit market continues to pose a threat to the legal market by undercutting the legal market in prices, a public-health danger because cannabis sold on the illicit market is not tested,

¹⁸ Hilary V. Bricket, *Navigating the Hazy Status of Marijuana Banking*, Business Law Today 1, 2 (Aug. 2017).

¹⁹ While the Draft Final Bill includes a provision on banking, see Final Draft Bill § A-92, p. 170, the problems with banking in the cannabis industry ultimately require a federal solution.

and a public-safety concern because of organized crime. In some states that have legalized cannabis, the illicit market has flourished.²⁰ In California, for example, in 2019, in the year after cannabis became legal, illicit cannabis smuggling arrests at LAX airport increased by 166%.²¹

Many provisions of the final draft bill are designed to combat the illicit cannabis market: the emphasis on the continuing role of law enforcement, no cannabis crimes are repealed, a competitive 10% tax rate on cannabis retail sales, the establishment of mission-driven cannabis law-enforcement and public-nuisance units, and a well-funded social-equity licensing program intended to help bring operators in the illicit market into the legal one are just some examples. But all of this together, along with the continuing roles of counties in enforcing the law, will not be a panacea to eliminate the illicit market and the law-enforcement concerns inherent in it.

C. Driving While High

There is no question that using cannabis can impair driving. The Centers for Disease Control and Prevention (“CDC”) cautions that cannabis affects areas of the brain that control your body’s movements, balance, coordination, memory, and judgment and its use can impair important skills required for safe driving by slowing reaction time and ability to make decisions, impairing coordination, and distorting perception.²²

As early as 2014, researchers at the National Institute of Health concluded that “[e]pidemiologic data show that the risk of involvement in a motor vehicle accident increases approximately 2-fold after smoking” and “[e]vidence suggests recent smoking and/or blood THC concentrations 2-5 ng/mL are associated with substantial driving impairment, particularly in occasional smokers.”²³

²⁰ See Joseph Detrano, Rutgers Center of Alcohol and Substance Use Studies, *available at* <https://alcoholstudies.rutgers.edu/cannabis-black-market-thrives-despite-legalization/> (last accessed Jan. 4, 2024).

²¹ Joseph Serna, *Pot smuggling arrests at LAX have surged 166% since marijuana legalization*, Los Angeles Times (May 12, 2019), *available at* <https://www.latimes.com/local/lanow/la-me-lax-marijuana-trafficking-california-airports-20190512-story.html> (last accessed Jan. 4, 2024).

²²Centers for Disease Control and Prevention, *Marijuana Use and Driving: What You Need to Know* (October 2021), *available at* <https://www.cdc.gov/marijuana/factsheets/pdf/MarijuanaFactSheets-Driving-508compliant.pdf> (last accessed Jan. 4, 2024).

²³ Rebecca L. Hartman & Marilyn A. Huestis, *Cannabis Effects on Driving Skills*, 59 *Clinical Chemistry*, Issue 3 (Mar. 1, 2013), *available at* <https://academic.oup.com/clinchem/article/59/3/478/5621997> (last accessed Jan. 4, 2024).

Statistics collected by the Rocky Mountain High Intensity Drug Trafficking Area Investigative Support Center illustrated a large increase in traffic fatalities in Colorado involving cannabis from the time it was legalized, from 2013 to 2020.²⁴ The statistics showed that since recreational cannabis was legalized in 2013:

- Traffic deaths when drivers tested positive for cannabis increased 138% (55 in 2013 compared with 131 in 2020) while all Colorado traffic deaths increased 29%.
- Since recreational cannabis was legalized, the percentage of all Colorado traffic deaths involving drivers who tested positive for marijuana increased from 11% in 2013 to 20% in 2020.²⁵

In 2020, of the 120 drivers involved in fatal wrecks in Colorado who tested positive for cannabis use, 117 were found to have delta-9 THC in their blood.²⁶ “This would indicate use within hours according to [Colorado] data.”²⁷ Of the drivers found to have delta-9 THC in their blood, “69% were over 5 nanograms per milliliter[.]”²⁸

In Washington, the AAA Foundation for Traffic Safety published a study entitled “Cannabis Use Among Drivers in Fatal Crashes in Washington State Before and After Legalization” that analyzed fatal crashes from 2008 to 2017 to determine the impact of the legalization of recreational cannabis.²⁹ The study found that, prior to cannabis legalization, an average of 8.8% of all drivers in fatal crashes statewide each year were THC-positive.³⁰ After legalization became effective, this increased to an average of 18.0%.³¹ The highest level was reached in 2017, the last year studied, with 21.4% of drivers involved in a fatal crash testing positive for THC.³²

If cannabis is legalized in Hawai‘i, and even if the Department’s recommendations regarding high driving and open containers are adopted

²⁴ Rocky Mountain High Intensity Drug Trafficking Area Investigative Support Center, *The Legalization of Marijuana in Colorado: The Impact*, Volume 8 (Sept. 2021), available at <https://www.dfaf.org/wp-content/uploads/2021/09/RMHIDTA-Marijuana-Report-2021.pdf> (last accessed Jan. 4, 2024).

²⁵ *Id.*, pp. 2, 8.

²⁶ *Id.*, p. 8.

²⁷ *Id.* (emphasis in original).

²⁸ *See, id.*

²⁹ Tefft, B.C. & Arnold, L.S., *Cannabis Use Among Drivers in Fatal Crashes in Washington State Before and After Legalization* (Jan. 2020), available at https://aaafoundation.org/wp-content/uploads/2020/01/19-0637_AAAFTS-WA-State-Cannabis-Use-Among-Drivers-in-Fatal-Crashes_r4.pdf (last accessed Jan. 4, 2024).

³⁰ *Id.*, p. 3.

³¹ *Id.*

³² *Id.*, p. 4, figure 1.

(see section IV.C.2, *infra*), it is reasonable to anticipate an increase in traffic accidents and fatalities involving cannabis-impaired drivers, as well as an increase in the raw number of traffic fatalities.

D. Public Health and the Protection of Children

The public servants at the Department of the Attorney General are not medical professionals, nor do we claim to be. But as law-enforcement officials, one of our top priorities is to look out for the public welfare of children. Through our discussions with the Department of Health, we have grave concerns regarding the impact that cannabis (particularly the more potent cannabis products available today) has on the developing brains of young people and the public safety and social costs that inevitably follow.

It is sometimes said that cannabis is a “harmless drug” and causes no damage to a person’s health. Every public-health official we spoke with rejected that assertion.

With respect to children, the CDC has stated that cannabis use among teens, who have actively developing brains, causes harm to the brain itself, with negative effects including difficulty with thinking and problem-solving, problems with memory and learning, reduced coordination, difficulty maintaining attention, and problems with their school and social life.³³ Another study noted that “[t]he potential association of cannabis use with adolescent development represents an increasingly relevant public health issue, particularly given evidence of increased problematic cannabis use among adolescents in areas where recreational cannabis use has been legalized.”³⁴ Calls to poison control centers about children 5 and under consuming edible cannabis products rose from 207 in 2017 to 3,054 in 2021, a

³³ Centers for Disease Control and Prevention, *Marijuana and Public Health, Health Effects: Teens*, available at <https://www.cdc.gov/marijuana/health-effects/teens.html> (last accessed Jan. 4, 2024).

³⁴ Matthew. D. Albaugh, Ph.D, et al., *Association of Cannabis Use During Adolescence with Neurodevelopment*, JAMA Psychiatry (June 16, 2021), available at https://www.thenmi.org/wp-content/uploads/2021/07/jamapsychiatry_albaugh_Cannabis_Neurodevelopment.pdf (last accessed Jan. 4, 2024); see also Claire McCarthy, M.D., *Secondhand marijuana smoke and kids*, Harvard Health Publishing (June 5, 2018), available at <https://www.health.harvard.edu/blog/secondhand-marijuana-smoke-and-kids-2018060514012> (last accessed Jan. 4, 2024) (exposure to cannabis second-hand smoke may have permanent effects on executive function, memory, and IQ).

1,375% increase.³⁵

The Department is deeply concerned about the negative health effects of cannabis on the young people of Hawai‘i and how legalization of cannabis in the state could exacerbate their risk of exposure to cannabis.

IV. THE SIX PILLARS OF THE FINAL DRAFT BILL

The Department has stated some of our major concerns with respect to cannabis legalization in general. The Department’s final draft bill was created with these concerns in mind—to allow our elected legislators who wish to proceed down the path of legalizing adult-use cannabis to give serious consideration to a bill that is intended to proactively address these concerns in a meaningful way, created by a team of excellent attorneys and public servants, in consultation with stakeholders in Hawai‘i and other states’ regulators. To do this, the Department implanted public-safety and public-health protections into the structure of the legislation.

In the Department’s opinion, the most important aspect of any cannabis-legalization regime is the transition period: the time between the passage of the bill and the date cannabis becomes legal with first-day sales from licensed cannabis businesses. The transition must be orderly, and the success or failure of the transition period is a function of whether or not law enforcement is acting vigorously to investigate and prosecute illegal cannabis offenses during the transition period and the readiness of law enforcement, regulators, licensees, and the public at large for the day when cannabis possession becomes legal for adults over 21 years of age and licensed dispensaries begin making their first sales.

While the final draft bill is obviously quite long, it utilizes six primary legislative “pillars” that provide the legislative structure for the whole. Each “pillar” is designed to address issues associated with the transition to a legal market and its continued success.

A. The Hawai‘i Cannabis Law

The final draft bill proposes the enactment of the Hawai‘i Cannabis Law—a legal safe harbor from state criminal prosecution concerning activities relating to cannabis for those who strictly comply with its provisions.

³⁵ Berkeley Lovelace, Jr., *Reports of young children accidentally eating marijuana edibles soar*, NBC News (Jan. 4, 2023), available at <https://www.nbcnews.com/health/health-news/reports-young-children-accidentally-eating-marijuana-edibles-soar-rcna63501> (last accessed Jan. 4, 2024).

It is common knowledge that illicit-market cannabis possession, cultivation, and distribution are prevalent in Hawai‘i even though these acts remain illegal outside of the medical-cannabis program. In turn, it is self-evident that one of the primary goals of legalizing the cannabis market through a regulatory regime is to encourage people to abandon the illicit market and to join the legal market.

Some states’ legislative efforts have intentionally or inadvertently sidelined or even denigrated law enforcement and the essential role it has played and must continue to play in combating criminal and illicit-market activity. The sidelining of the role of law enforcement can manifest itself in legislation through the repeal of criminal laws concerning cannabis. The denigration of the role of law enforcement can manifest itself with legislative language that is critical of historical law-enforcement practices in enforcing then-existing laws or that rewards those with criminal convictions with monetary grants. This only serves to disincentivize law enforcement from investigating and prosecuting cannabis crimes and illicit-market activity in the future, which will cause harm to the public interest and the legal cannabis market.

The final draft bill proposes a positive, forward-looking path. Here, in the final draft bill, strict compliance with the Hawai‘i Cannabis Law is the only path to legal cannabis operations and activities. Criminal laws concerning cannabis remain largely intact and in some instances are made more robust, particularly with respect to the sale of cannabis to children. Because unlicensed cannabis operations and activities will remain illegal and because we envision real consequences for violating cannabis laws (see section IV.C, *infra*), the final draft bill will help promote an orderly transition to a legal market, will incentivize those who wish to participate in the cannabis industry to enter the legal market, and will benefit those who are playing by the rules by punishing those operators who are not.

Another aspect of the Hawai‘i Cannabis Law to emphasize is balancing the policy goals of the Legislature, the necessity of regulation to protect the public welfare, and the imperative to help foster a legal market that can be competitive with the illicit market. To balance these considerations, the Department used moderation and reasonableness as touchstones. When a provision in the bill would cause licensees to bear a high cost for minimal societal benefit, we have generally excluded that provision to allow the regulated market to be competitive, which in turn curtails the illicit market.

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B. The Hawai‘i Cannabis Authority

The final draft bill creates a robust, independent body—the Hawai‘i Cannabis Authority (the “Authority”)—with the power to regulate all aspects of the cannabis plant (whether medical cannabis, adult-use cannabis, or hemp) in accordance with the Hawai‘i Cannabis Law. The Authority’s structure itself is modeled largely on the Massachusetts Cannabis Control Commission. It is governed by an executive board of five members appointed by the Governor and subject to Senate confirmation: (1) the chair, who shall have a professional background in public health, mental health, substance use treatment, or toxicology; (2) a vice chair who shall have a professional background in public safety or law enforcement; (3) one member who shall have professional experience in corporate management or a professional background in finance; (4) one member who shall have professional experience in oversight or industry management, including commodities, production, or distribution in a regulated industry; and (5) one member who shall have a professional background in legal, policy, or social justice issues related to a regulated industry.³⁶ The board is supported by an executive director with enumerated powers.³⁷

1. State Modeling of Regulatory Authority

In modeling the Hawai‘i Cannabis Authority, the Department looked at a variety of jurisdictions for the purpose of constructing a legislative framework and agency that appeared to work best. In drafting the Hawai‘i Cannabis Law and creating a new agency, the Authority, the Department pulled provisions from a number of jurisdictions that we felt were strong and would work in a cannabis-legalization bill focused on the public welfare. In the final draft bill, statutory provisions based upon laws and regulations from all over the country can be found.

The Department found, however, that Massachusetts and its regulatory agency, the Massachusetts Cannabis Control Commission, provided a good starting point from which to base a general legislative structure. Among the things that struck us as important are its independence from other state and local agencies, a well-structured and professional organization, a commission comprised of members with diverse backgrounds including public safety and public health, a strong executive direct and executive team, a mission-driven licensing paradigm that works

³⁶ See Final Draft Bill § A-7, pp. 28–29.

³⁷ See *id.*, § A-9, pp. 34–40.

with licensees to remain in compliance, a strong enforcement team working to ensure compliance with laws and regulations, and open lines of communication with state and local law enforcement, along with a belief that law enforcement continues to play a crucial role in safeguarding the public welfare. We also note something that made the MCCC stand out in our eyes: a high level of pride in their work, a belief in their mission, and good morale among the officers and staff.

The Department, therefore, utilized Massachusetts as a base model from which to begin its work. Having such a base model will allow Hawai‘i to use Massachusetts’ experiences and regulations efficiently, provide a reference point for those in the industry, and stand the Authority up faster—and speed in execution is *very* important (*see* section IV.E, *infra*)—by adapting a regulatory framework grounded in an existing comprehensive regulatory regime to Hawaii’s unique cannabis landscape.

That is not say that we adopted Massachusetts’s laws and regulations wholesale. Far from it. The Department has taken the concepts we believe have worked in Massachusetts, borrowed concepts from other states, and created new provisions that we believe will improve upon what other states have done to date. We also recognize that every program has had its share of challenges and problems that have necessitated shifts in philosophies or changes to laws. It is important that a cannabis program remains flexible, especially in its nascent stages, to adapt as data becomes more available, technologies continue to develop, and regulations become more standardized across the nation.

2. Regulating the Plant: The Question of Hemp

One of the crucial aspects of the final draft bill is the uniform regulation of all aspects of the cannabis plant. This includes having the Authority regulate hemp. Cannabis and hemp are the same plant, with many of the same chemical compounds, known as cannabinoids. The term “hemp” refers to a cannabis plant that has a low concentration of a specific cannabinoid, delta-9 tetrahydrocannabinol (delta-9 THC). Delta-9 THC is the most prevalent (but not only) cannabinoid that gets people high. There are also cannabinoids that are not intoxicating, such as cannabidiol (“CBD”).

While hemp was initially legalized on a federal level to allow for industrial products, such as cloth, paper, and hempcrete, the past few years have seen a rise in hemp-derived cannabinoid products. Some of these products, such as CBD products, are not considered psychoactive and are marketed as helpful to treat post-traumatic stress disorder, nausea, anxiety,

or epilepsy.³⁸ More concerning are products containing intoxicating cannabinoids such as delta-8 THC, delta-9 THC, delta-10 THC, and THC acetate (THC-O).³⁹ These cannabinoids are created by treating hemp-derived CBD with acids or solvents that may leave residue on the final product. The U.S. Food & Drug Administration (“FDA”) and CDC have both issued warnings regarding delta-8 THC products containing unsafe chemicals.⁴⁰ The FDA has stated:

Some manufacturers may use potentially unsafe household chemicals to make delta-8 THC through this chemical synthesis process. Additional chemicals may be used to change the color of the final product. The final delta-8 THC product may have potentially harmful by-products (contaminants) due to the chemicals used in the process, and there is uncertainty with respect to other potential contaminants that may be present or produced depending on the composition of the starting raw material. If consumed or inhaled, these chemicals, including some used to make (synthesize) delta-8 THC and the by-products created during synthesis, can be harmful.⁴¹

If adult-use cannabis were to become legal, two of the biggest barriers to a successful legal cannabis market are gaps in regulation that could cause harm to the public welfare and the potential proliferation of illicit cannabis that would cause harm to the legal market. Hemp, as currently regulated, would constitute such a gap in regulation and would make it more difficult for law enforcement and regulators to combat the illicit cannabis market.

Law enforcement is unable to readily distinguish hemp flower, leaves, and seeds from the same components of illegal cannabis. The only certain way to distinguish between hemp and cannabis plants is through chemical testing to determine how much THC is in the plant.⁴² State law enforcement and cannabis and hemp regulators must be equipped with the resources and mission to properly regulate hemp if cannabis is legalized.

³⁸ Hemp-Derived Cannabinoids—Cannabidiol, Cannabis Law Deskbook § 25:7 (2023-2024 ed.).

³⁹ Hemp-Derived Cannabinoids—Delta-8 THC and other cannabinoids, Cannabis Law Deskbook § 25:10 (2023-2024 ed.).

⁴⁰ See CDC, *Increases in Availability of Cannabis Products Containing Delta-8 THC and Reported Cases of Adverse Events* (Sep. 14, 2021), available at <https://emergency.cdc.gov/han/2021/han00451.asp> (last accessed Jan. 4, 2024); FDA, *5 Things to Know about Delta-8 Tetrahydrocannabinol – Delta-8 THC*, available at <https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc> (last accessed, Jan. 4, 2024).

⁴¹ See FDA, *supra* n.40.

⁴² See CANNRA, *Cannabinoid Hemp: An Overview*, available at <https://www.cann-ra.org/white-papers-and-factsheets> (last accessed, Jan. 4, 2024).

Including hemp in this bill ensures that one agency is tasked with overseeing the various and complex aspects of how federal and state law regulate cannabis. Currently in Hawai‘i, hemp cultivation is regulated by the United States Department of Agriculture (“USDA”), post-harvest transportation of hemp is regulated by the Hawai‘i Department of Agriculture (“DOA”), and hemp processing and products are regulated by DOH. This patchwork regulatory scheme leads to gaps in regulation and enforcement, and confusion among the agencies, industry, and consumers over what is legal. Having hemp included in one state agency that has the proper expertise is essential to ensuring a uniform approach to the cannabis plant, cannabinoids, and cannabis and hemp products.

If adult-use cannabis is to become legal in Hawai‘i, it is the Department’s position that because of its unique legal status, the cannabis plant—whether adult-use or medical cannabis or hemp—must have a single state regulator, the Authority. Regulators from other states we spoke to agreed with this approach, noting difficulties that hemp posed in their states where hemp is regulated by other agencies. The Department will oppose any cannabis legalization bill that does not centralize state regulatory authority over all aspects of the cannabis plant in the same regulator.

The Department is sensitive to the concerns raised by the HHFA. After careful consideration, and with a better understanding of HHFA’s concerns, the final draft bill has been amended to include more regulations favorable to the hemp industry, while still shifting overall jurisdiction over hemp to the Authority.⁴³

The intent of the final draft bill is to keep much of the current hemp regulatory structure in place, while bringing state regulations under the umbrella of the Authority. The cultivation of hemp is still regulated by the USDA.⁴⁴ The HHFA raised concerns that state regulations would encroach upon the USDA authority and lead to duplicative regulatory burdens. To allay those concerns, we included provisions based on Act 263 of 2023, requiring hemp cultivators to comply with all USDA regulations⁴⁵ and ensuring that the state regulations will not duplicate USDA regulations for hemp cultivation.⁴⁶

However, the USDA hemp cultivation program only covers cultivation of hemp up to harvesting the plant. Currently, there are no federal

⁴³ See Redline Draft at pp. 150–157.

⁴⁴ See *id.* §§ A-42(b), -80, pp. 92, 151.

⁴⁵ See *id.* § A-80(a), (b), p. 151–52.

⁴⁶ *Id.* § A-80(e), p. 153.

regulations specifically for hemp processing or the sale of a hemp cannabinoid product, as the FDA has concluded that the existing regulatory framework for foods or dietary supplements cannot adequately manage many of the risks associated with CBD and other cannabinoid products.⁴⁷ Therefore, it is imperative that the state regulatory framework includes hemp processing and the sale of hemp products.⁴⁸

After harvest, the state must regulate the processing of hemp into a product. This is a law enforcement concern, as extracting hemp cannabinoids can result in a concentrated delta-9 THC product that would no longer be considered hemp under the federal definition. The final draft bill requires a license for hemp processing to ensure hemp products created in the state use good manufacturing practices and meet testing requirements, so a consumer knows what is in the product and that the product is safe to consume.⁴⁹

Equally important is regulating the sale of hemp products in the state to ensure public safety and public health concerns presented by intoxicating hemp-derived cannabinoid products. There should be, at minimum, age restrictions and testing requirements for these products. It makes little sense to require stringent testing and age restrictions for the use of cannabis when a youth can purchase an intoxicating cannabinoid product, created with unclear manufacturing practices, that could contain harmful contaminants.

For these reasons, the final draft bill allows the Authority to create a restricted cannabinoid product list for specific products deemed harmful to public health or public safety.⁵⁰ Hemp-derived cannabinoid products on the list would require a permit to sell or be prohibited to sell.⁵¹ Fees, eligibility

⁴⁷ Janet Woodcock, M.D., *FDA Concludes that Existing Regulatory Frameworks for Foods and Supplements are Not Appropriate for Cannabidiol, Will Work with Congress on a New Way Forward*, available at <https://www.fda.gov/news-events/press-announcements/fda-concludes-existing-regulatory-frameworks-foods-and-supplements-are-not-appropriate-cannabidiol> (last accessed Jan. 4, 2024).

⁴⁸ While some advocates argue that any regulation of hemp products in the state is preempted by the 2018 Farm Act, the U.S. District Court for the District of Hawai‘i has held that regulating hemp products is not preempted, stating: “The 2018 Farm Act does not require the State of Hawai‘i to allow Plaintiff to sell and/or distribute its hemp products and, therefore, that portion of HAR 11-37 does not conflict with the 2018 Farm Act’s express preemption clause.” *Duke’s Invs. LLC v. Char*, Civ. No. 22-00385 LEK-RT, 2022 WL 17128976, at *8 (D. Haw. Nov. 22, 2022); *see also Duke’s Invs., LLC v. Char*, Civ. No. 22-00385 JAO-RT, 2023 WL 3166729, at *13 (D. Haw. Apr. 28, 2023) (the “2018 Farm Act explicitly provides that it does not preempt states from creating laws that regulate hemp more stringently.” (internal quotation marks omitted)).

⁴⁹ *See* Redline Draft § A-81, p. 155.

⁵⁰ *See Id.* § A-79(a), p. 150.

⁵¹ *See Id.* § A-78(b)(4), p. 149.

criteria, and other restrictions, including restricting sales to consumers over the age of 21, can be developed by rules.

The final draft bill contains several other changes to address the concerns of the HHFA. *First*, the final draft bill allows for a crude hemp extract product that may be sold to another hemp processor and has specific testing requirements.⁵² *Second*, the final draft bill is clear that a restricted cannabinoid product derived from hemp is not considered cannabis, while maintaining the Authority’s ability to limit or prohibit the sale of products that are considered dangerous to public health or public safety.⁵³ *Third*, the final draft bill clarifies that industrial hemp is not considered a hemp product, does not need a license to process, and is not subject to the same regulations as a hemp product, including testing, packaging, and labeling.⁵⁴ *Fourth*, included in the final draft bill is a provision adapted from Act 263 of 2023, that allows hemp to be processed by certain methods within an agricultural building or structure, as defined by HRS § 46-88.⁵⁵ We believe that this is a reasonable approach that takes the concerns of the hemp industry into account while also addressing the Department’s primary concern regarding hemp: uniform regulation of the cannabis plant.

C. Promotion of the Continuing Role of Law Enforcement and Prosecutors

The final draft bill promotes the continuing role of law enforcement and prosecutors in addressing illegal cannabis operations not acting in accordance with the Hawai‘i Cannabis Law, which pose threats to public order, public health, and those who choose to operate in the legal market. Here, the Department will focus on two aspects of the final draft bill: (1) criminal and civil law enforcement and (2) new provisions governing driving while high and open containers.

1. Criminal and Civil Enforcement

This draft bill acknowledges the role that law enforcement has played in the past in promoting the rule of law by asking law enforcement to play the same role moving forward. To enforce cannabis criminal laws, the Department of the Attorney General is proposing the creation of a Cannabis Enforcement Unit within DLE: a mission-driven unit tasked with investigating and enforcing cannabis criminal laws throughout the state in

⁵² See *Id.* §§ A-52(b)(4), -82(b), pp. 111, 156.

⁵³ See *Id.* §§ A-3 (definition of “cannabis”), A-79, pp. 10, 150–51.

⁵⁴ See *Id.* §§ A-81, -82, pp. 155–57.

⁵⁵ See *Id.* § A-81(d), p.155.

coordination with the Authority.⁵⁶ After discussing law-enforcement concerns with Representative Tarnas, the final draft bill was revised to provide that the Cannabis Enforcement Unit will focus on serious crimes involving cannabis, including distribution to minors, organized crime, and crimes involving violence or the use of firearms.⁵⁷ The draft bill also explicitly provides that nothing diminishes the authority or responsibility of county law enforcement officers and prosecutors to enforce and prosecute cannabis crimes.⁵⁸

Based upon the discussion with Representative Tarnas, the Department is now proposing the expansion of a drug-nuisance-abatement unit at the Department, which is already established, to tackle cannabis offenses with civil, rather than criminal, enforcement means.⁵⁹ The Attorney General can bring civil lawsuits to abate a nuisance caused by the manufacturing or distribution of drugs in violation of the penal code, HRS § 712, part IV. A court can quickly issue a temporary writ of injunction upon filing of a verified complaint or affidavit that would show a nuisance exists.⁶⁰

Finally, based upon the discussion with Representative Tarnas and comments received from Kaua‘i Prosecuting Attorney Like, the Department is proposing the creation of a public safety grant program for the purposes of providing grants to state and county agencies and private entities to assist with public-safety and law-enforcement resources relating to cannabis.⁶¹ Such grants could be used to train law-enforcement officers in drug-recognition techniques and mental-health first aid and to support crisis-intervention services, mental-health programs, and homeless outreach.⁶²

Through both criminal and civil enforcement mechanisms, legal force can be brought against illicit operators who are acting illegally and cause harm to the legal market. Through comprehensive law enforcement, illegal operators may be induced to attempt to enter the legal market.

⁵⁶ Final Draft Bill § A-18, pp. 53–55.

⁵⁷ *Id.* § A-18(a), pp. 52–53. Multiple officials at the MCCC stated that a mission-driven law-enforcement unit at the state level would be invaluable to combating the illicit market.

⁵⁸ Final Draft Bill § A-19, pp. 55–56.

⁵⁹ HRS § 28-131.

⁶⁰ HRS § 712-1272.

⁶¹ Final Draft Bill § A-90, p. 164.

⁶² *Id.* § A-90(b), pp. 164–66.

2. Driving While High and Open Containers

Detecting and effectively curtailing driving while impaired by cannabis has proven to be perhaps the single most difficult question to answer during the Department's drafting process. As discussed in section III.C., *supra.*, cannabis legalization has been shown to lead to an increase in traffic accidents and fatalities involving cannabis-impaired drivers, as well as an increase in the raw number of traffic fatalities. Therefore, it is imperative that if cannabis is to be legalized, the law must provide mechanisms for discouraging and controlling driving while high that can be used by law enforcement and effectively allow prosecutors to secure convictions.

Just as with drunk driving, driving while high must be condemned and viewed as inherently wrong. The intent of the final draft bill is to treat cannabis the same as the current laws regarding alcohol. To that effect, part IV of the final draft bill would prohibit the consumption of cannabis or possessing an open container of cannabis in vehicles and driving while under the influence of cannabis and would impose the same penalties for the analogous crimes involving alcohol.⁶³

The Department believes that two things are imperative: (1) that those under 21 years of age be subject to a zero tolerance legal standard of no THC in the body, unless that individual is a registered medical-cannabis patient, and (2) that those over the age of 21 and medical-cannabis patients under the age of 21 be subject to a set numerical standard of THC in the body that establishes intoxication as a matter of law, similar to the 0.08% blood alcohol content ("BAC") standard for drunk driving.

First, it is the Department's position that for those under the age of 21 are not registered medical-cannabis patients, the standard for driving under the influence of cannabis should be the same as for drunk driving—zero. There are good reasons for this: those under the age of 21, whose brains are still developing, should not be consuming cannabis products at all, for the reasons set forth in section III.D, *supra.*, unless they hold a valid medical-cannabis card. Further, unquestionably, under the Hawai'i Cannabis Law, those under 21 who are not medical cannabis patients are legally prohibited from possessing or consuming cannabis. Through the Authority's public-education campaigns, the public, including those under 21 years of age, will be informed about what is and is not allowed under the Hawai'i Cannabis Law. *See* section IV.F, *infra.*

⁶³ *See* Final Draft Bill Part IV, pp. 194–219; *Compare with, e.g.*, HRS §§ 291-3.1 (consuming or possessing intoxicating liquor while operating a motor vehicle or moped); -3.2 (consuming or possessing intoxicating liquor while a passenger in a motor vehicle); § 291E-61 (operating a vehicle under the influence of an intoxicant).

The final draft bill provides that it is unlawful for any person under the age of 21 to operate any vehicle with a measurable amount of THC.⁶⁴ This is the same standard applied to those under the age of 21 with a measurable amount of alcohol.⁶⁵ Statutes prohibiting driving with any THC in the system have routinely been upheld by courts in our sister states. *See, e.g., People v. Fate*, 636 N.E.2d 549, 551 (Ill. 1994) (upholding statute imposing absolute bar against driving vehicles following ingestion of any cannabis, without regard to physical impairment, as reasonable exercise of police power); *State v. Phillips*, 873 P.2d 706, 710 (Ariz. Ct. App. 1994) (“We believe that the legislature was reasonable in determining that there is no level of illicit drug use which can be acceptably combined with driving a vehicle; the established potential for lethal consequences is too great.”); *People v. Turner*, No. 347551, 2020 WL 1963977 (Mich. Ct. App. Apr. 23, 2020) (upholding statute that prohibiting driving with any amount of Schedule I controlled substance in body, noting that “under rational-basis review, perfection is ‘neither possible nor necessary’” (citation omitted)).

The final draft bill includes a per se limit of tetrahydrocannabinol (THC) a person over 21 or a person under 21 with a medical-cannabis card can have in their system while driving—it is illegal to drive with THC at a concentration of five or more nanograms per milliliter of blood. Once a driver is shown to have reached or surpassed this legal limit, that person will be considered impaired by law.

In setting this per se limit, we acknowledge that testing for cannabis impairment is inherently difficult due to the limitations of current technology. Unlike alcohol, THC and its metabolites can remain in a person’s system for a considerable amount of time after the initial effects of cannabis use have worn off. For that reason, we chose not to incorporate a zero-tolerance approach as the mere presence of THC or its metabolites may not be a reliable indication of impairment.

But legislating in this area does not require perfect science or unimpeachable facts. Five other states, Illinois, Montana, Nevada, Ohio and Washington, currently have per se limits for THC.⁶⁶ The legal level of THC

⁶⁴ Final Draft Bill, Section 9 at pp. 199–205. Again, the exception is if the person under 21 is a medical cannabis patient. *Id.* at p. 200.

⁶⁵ HRS § 291E-64(a) (“It shall be unlawful for any person under the age of twenty-one years to operate any vehicle with a measurable amount of alcohol.”).

⁶⁶ We note that Colorado allows a reasonable inference of impairment if a driver exceeds the specified THC level of 5 ng/mL. Colo. Rev. Stat. § 42-4-1301(6)(A)(IV). The Department

in these states ranges between 2 nanograms per milliliter (ng/ml) of blood and 5 ng/mL. Such per se statutory limits have been upheld against challenges in our sister states. *See, e.g., State v. Jensen*, 477 P.3d 335 (Mont. 2020) (upholding statute prohibiting driving with THC level, excluding metabolites, of 5 ng/mL in the blood and adopting trial court language with approval that “[t]he legislature has the responsibility to pass laws that provide for the general welfare notwithstanding the absence of a perfect measuring method”); *Williams v. State*, 50 P.3d 1116 (Nev. 2002) (upholding per se standard of 2 ng/mL of marijuana or 5 ng/mL of marijuana metabolite); *Garfinkel v. Second Jud. Dist. Ct. of State ex rel. Cnty. of Wahsoe*, No. 57028, 2010 WL 5275797 (Nev. Dec. 13, 2010) (rejecting claim that standard of 5 ng/mL of marijuana metabolite in blood lacked rational basis); *State v. Doane*, 152 N.E.3d 956 (Ohio Ct. App. 2020) (upholding per se marijuana metabolite statute). “While THC blood levels do not correlate to impairment in the same way that the 0.08 BAC correlates to alcohol impairment, THC levels above 5.00 ng/mL do appear to indicate recent consumption in most people (including chronic users), and recent consumption is linked to impairment.”⁶⁷

There is no perfect solution regarding driving while impaired by cannabis. The Department remains committed to the approach we believe will best ensure safe roadways. However, it bears reiterating that we are willing to work with the Legislature on alternative solutions that fit within our parameters in Section V, *infra*, including the bodily fluid to be tested, if they can be shown to be enforceable and effective deterrents to driving under the influence of cannabis.

D. The Social Equity Program

The final draft bill provides for a vibrant, well-funded social equity program to be implemented by the Authority with the intent to bring greater economic opportunity to disadvantaged regions of our state and to help transition formerly illicit operators into the legal market. “Social equity” licensing has been a hallmark of adult-use cannabis programs nationwide. We believe that a strong social equity licensing program, focused on providing economic opportunity to disproportionately impacted areas, is sound law-enforcement policy if the decision is made to legalize cannabis.

believes that providing for a reasonable inference of impairment will have minimal value in obtaining convictions where the burden of proof is beyond a reasonable doubt and rejects this as an alternative.

⁶⁷ *State v. Fraser*, 509 P.3d 282, 290 (Wash. 2022) (en banc); *see also* Section III.C, *supra*.

1. Social Equity Licensing

The final draft bill provides a social equity program for those who live in “disproportionately impacted areas,” which are “historically disadvantaged communities, areas of persistent poverty, and medically underserved communities[.]”⁶⁸ These are, not coincidentally, areas of high crime and low economic opportunities.

If it is the Legislature’s decision to legalize cannabis and open a new market, the economic benefits should flow not simply to the privileged few but to those in areas of high crime and persistent poverty.⁶⁹ It also provides a perhaps once-in-a-generation opportunity to promote genuine respect for the rule of law among individuals for whom such messages have not yet resonated because, in their minds, they have yet to tangibly experience its value for themselves.

We agree with the Report of the Dual Use Cannabis Task Force to the Thirty Fourth Legislature (2023) where it spoke of “equity in the market”: “Social equity applicants can face high barriers to market entry, given complicated and burdensome regulations, and having no guidance or support to operate in an extremely challenging regulated environment.”⁷⁰ Because bringing formerly illicit operators into the legal market is a self-evident goal of legalizing adult-use cannabis, a social equity program that provides the resources for success in the legal market is necessary to accomplish this goal.

This final draft bill provides such a program, with a position of Chief Equity Officer, who provides grants and technical assistance to qualifying social equity applicants.⁷¹ The final draft bill creates the cannabis social equity special fund to administer the social-equity program, and calls for initial seed funding of \$10 million, which doubles the initial \$5 million called

⁶⁸ Final Draft Bill §§ A-3 (definition of “disproportionately impacted area”), A-83, at pp. 15, 150.

⁶⁹ We note here that the bill provides residency requirements for licensees. See Final Draft Bill § A-43(b)(2), p. 89. While such residency requirements are frequently suspect, in *Brinkmeyer v. Washington State Liquor & Cannabis Bd.*, No. C20-5661 BHS, 2023 WL 1798173 (W.D. Wash. Feb. 7, 2023), *appeal dismissed*, 2023 WL 3884102 (9th Cir. 2023), the U.S. District Court for the District of Washington upheld a license residence requirement from a Dormant Commerce Clause and Privileges and Immunities Clause challenges, holding that those constitutional doctrines did not apply to federally illegal markets. The law regarding how federal constitutional provisions apply to federally illegal markets is very unclear at this time and a residency restriction involves legal risk. We are happy to discuss the merits of this provision with you and the Legislature.

⁷⁰ Report of the Dual Use Cannabis Task Force to the Thirty Fourth Legislature at p.14, available at <https://health.hawaii.gov/opppd/files/2022/12/Act-169-SLH-2022-Dual-Use-of-Cannabis-Task-Force-FINAL-REPORT.pdf>.

⁷¹ Final Draft Bill § A-6(c), p. 27.

for in the November 9, 2023 draft bill, and similarly increases the percentage of tax revenues going to social-equity licensing from 20% to 25%, based upon comments received from Director Karen O’Keefe of the Marijuana Policy Project.⁷²

The social-equity program can give grants to social-equity applicants to help them enter the legal market, as well as to community organizations for the purpose of developing and implementing nonprofit projects addressing community needs in disproportionately impacted areas, including housing and child-care programs.⁷³

2. A Forthcoming Report to the Legislature on Expungement

The Department is aware that the issue of expungement of low-level cannabis crimes and the sealing of court records is an important issue to many people and advocacy groups. While the Department does not oppose expungement as a concept, we believe decisions on expungement should be made after adult-use cannabis is legalized, a mechanism for expungement is identified that will enable expedient processing, and resources are made available to implement the mechanism correctly.

With respect to the issue of expungement and the sealing of court records relating to low-level cannabis offenses, the final draft bill calls for the Executive Director of the Authority, in consultation with the Department and the Judiciary to submit a report no later than 20 days prior to the regular session of 2027 regarding the advisability of expunging or sealing low-level criminal offenses related to cannabis, a recommendation regarding which offenses and records should be expunged or sealed, if any, and the best mechanism for expunging and sealing records without causing undue burden on the Judiciary, the Department, or any other agency.⁷⁴

We have two concerns with expungement of records, particularly with respect to calls for so-called “automatic” expungement: (1) executing “automatic” expungement, which we interpret to mean that expungement would happen immediately and no application would be required, is impossible; and (2) the Department believes that the expungement of cannabis convictions prior to the legalization of cannabis itself undermines a lawful transition to the legal cannabis market.

⁷² Redline Bill § A-13 at pp. 51–52; Section 27, p. 262; and Section 69 at p. 323.

⁷³ Final Draft Bill § A-84, pp. 150–54.

⁷⁴ *Id.* § A-27(b), pp. 64–65.

First, the current mechanism for expungement in statute does not allow for “automatic” expungement or sealing of a criminal record. The Hawai‘i Criminal Justice Data Center (“HCJDC”) is a division of the Department of the Attorney General and is responsible for the statewide criminal history record information system (CJIS-Hawaii) and for processing expungement orders pursuant to HRS § 831-3.2. To expunge records relating to any offense, every single record must be examined manually. HCJDC receives approximately 114 applications for expungement per month and there is currently only one staff member capable of processing expungement requests.

As of January 2, 2024, there are over 50,000 arrests with a charge code of HRS § 712-1249, Promoting a Detrimental Drug in the Third Degree, which the Department considers to be the most minor criminal offense for cannabis. There are over 10,000 convictions for the same offense, and a court order would be required to expunge these convictions under existing law.⁷⁵ The expungement process is not automatic: it is time and resource intensive. If the Legislature decides to implement an expungement program, it must be an application-driven process.

Updating information-technology resources can assist with searching and filtering through data; however, every file will still need to be reviewed by a person at some point. It is likely that the process will also require the courts, prosecutors, or law-enforcement agencies to review their own files.

Finally, if the legislature decides to implement an expungement program that is not initiated by application, it is recommended that the process not require a certificate of expungement. The current expungement process requires a certificate of expungement, along with the expunged arrest record, mugshot, and fingerprints associated with the arrest or conviction, to be mailed to the individual qualifying for an expungement. If an application is not required, confirming an individual’s mailing address can be incredibly difficult or impossible. Mailing this type of sensitive information to an unconfirmed address would be reckless. This is why any expungement process is application driven, and the Department opposes legislation calling for “automatic” expungement at this time.

Second, it is the Department’s position that any decision regarding expungement should occur after adult-use cannabis is legalized and retail sales begin to assess both the advisability and scope of any expungement or sealing of court records. This is based upon two primary principles—the first, already discussed at length, is to promote the role that law-enforcement will continue to play after a cannabis-legalization bill passes into law and

⁷⁵ HRS § 706-622.5.

particularly during the transition period to a legal adult-use market. To expunge records prior to the date that conduct previously illegal under Hawai‘i law becomes legal undermines the public perception of a lawful transition to legalization. It could reasonably create a perception that cannabis crimes, whenever committed, will not be prosecuted because they will one day be expunged. To immediately expunge any cannabis crimes at this stage, prior to the effective date of legalization and before facts on the ground are known, is a position the Department opposes.

Representative Tarnas has heard our position on this matter and has called for the Department to work towards finding effective solutions to the issues of expungement and the sealing of records. Should a cannabis-legalization bill pass into law, the Department will begin efforts in 2025, in consultation with the Authority and the Judiciary, to examine these issues and assist in efforts to address the Legislature’s policy objectives.

E. Delayed Effective Date for the Legalization of Adult-Use Cannabis to January 1, 2026

The final draft bill contains a delayed effective date of eighteen months from the date the bill is signed into law—January 1, 2026—for the legalization of adult-use cannabis and the first legal retail sales to allow the Authority, law enforcement, licensees, and the public to prepare.⁷⁶

Regarding the length of the transition period, there is a diversity of opinion on what the best practice is. We have spoken to individuals who have called for legalization and legal retail sales on the day the bill is signed into law, and those who have noted the need for an extended transition period of many years.

We are persuaded, however, that the optimal transition period is 18 months from the date the bill is signed into law. This was approximately the transition period given to the Massachusetts Cannabis Control Commission, which opined that this provided sufficient time to adopt interim rules, staff and equip the Commission, accept social-equity applications and other licensing applications, allow all licensees to ramp up production to meet demand, educate the public about what is and is not allowed under the cannabis law and about the health risks associated with cannabis use, and put as much in order as possible prior to the first dispensaries opening their doors. It will also allow the Legislature to consider amendments to improve the legislation based upon the experience of government actors prior to legalization. While the Department would welcome a longer transition period, an 18-month transition period is acceptable to the Department,

⁷⁶ See Final Draft Bill Section 84, p. 315.

although it will require the Authority and other responsible government actors to act with the utmost speed.

We are also persuaded that legalizing cannabis prematurely when existing legal dispensaries are not able to meet demand, and regulators and law enforcement are not yet prepared, is the most clearcut road to failure for the program as a whole—it will cause the illicit market to proliferate to meet demand, destroy any sense of an orderly transition to legality, and promote a lawless “anything goes” mentality among the people of the state. It will also harm the social equity program before it has a chance to prove its value because by the time social equity licensees can open their doors, the pre-existing licensees may already have cornered the legal market.

F. Public Health Protections and Public Education Campaigns

The final draft bill implements extensive, well-funded public health protections, including mandatory public-education campaigns to inform the public about the new laws and the continuing risks to public health—especially to children—posed by cannabis and financial assistance for public health services such as addiction and substance abuse treatment.

The draft bill creates a public health and education special fund for education and substance abuse prevention and calls for initial seed money of \$5 million.⁷⁷ Part of this money shall be used on a comprehensive public health and education campaign regarding the legalization of cannabis and the impact of cannabis use on public health and public safety to begin no later than July 1, 2025 (i.e., six months prior to the date cannabis becomes legal pursuant to the terms of the Hawai‘i Cannabis Law).⁷⁸ This initial public health and education campaign is critical to the transition to legalization: to ensuring that the public is aware of the public-health risks associated with cannabis to all people, best practices for keeping cannabis out of the hands of children, information about what is and is not permitted under the Hawai‘i Cannabis Law, the dangers of driving while high and its consequences, and the potential penalties for not adhering to the law, among other things.

The draft bill also creates a cannabis public health and education grant program to assist substance-abuse programs and youth services, including for the creation or maintenance of youth recreational centers and services for housing.⁷⁹ Youth recreational centers may not only improve neighborhoods, but will also provide healthy recreational options for children.

⁷⁷ Final Draft Bill §§ A-14, A-87–89, Section 71, pp. , 49–50, 158–64, 311.

⁷⁸ *Id.* § A-87, p. 158.

⁷⁹ Final Draft Bill § A-88(b), pp. 159–62.

Substance-abuse treatment may include services for housing, residential treatment, out-patient treatment, counseling, and other related services.

The Hawai‘i Cannabis Law also provides substantial statutory protections for public health to ensure that cannabis sold in the legal market is safe and is not being pedaled to children. This includes mandatory laboratory testing for all products sold in the legal market, which includes testing for contaminants, pesticides, and potency—the purity of the product is one of the main selling points of the legal market, and adequate testing of cannabis must be a priority.⁸⁰ It also includes labeling requirements so that consumers are informed about what they are purchasing.⁸¹ Finally, there are substantial statutory advertising, marketing, and packaging provision intended to protect children.⁸²

V. THE DEPARTMENT’S POSITION ON THE FINAL DRAFT BILL

During the legislative session, any given testimony is generally categorized in one of three groups: testimony in support, testimony in opposition, and neutral comments. Despite the substantial work put into the final draft bill, the Department does *not support* the passage of the legalization of adult-use cannabis. But the Department will not *oppose* the passage of a bill, and will remain neutral on the question of its passage, so long as the bill contains the key elements identified in this section and does not include provisions antithetical to these elements, as it may be amended through the legislative process.

For the reasons set forth in Section III of this Report, including that cannabis remains illegal under federal law, is listed as a Schedule I substance under the Controlled Substance Act, and the public-safety and public-health concerns inherent in cannabis legalization, the Attorney General, as the chief legal officer and chief law enforcement officer of the State of Hawai‘i, cannot and does not support the passage of any bill that legalizes cannabis.

The Department of the Attorney General, however, will not oppose the final draft bill in its current form. That being said, the Department

⁸⁰ Final Draft Bill § A-52, pp. 104–06. The Department notes that under the Final Draft Bill, the Authority is responsible for adopting rules on product standards, including THC potency limits and limits on servings per package. *Id.* § A-55(a), p.109. The Department is deeply concerned about high-potency cannabis as a health risk, particularly with respect to children, but understands that complex potency regulations may be appropriate to service, for example, certain medical conditions. The Department, however, would support a legislative ceiling on cannabis-product potency that is in the interest of protecting public health.

⁸¹ Final Draft Bill § A-54, pp. 108–09.

⁸² Final Draft Bill §§ A-53, A-56, pp. 106–08, 110–13.

understands and fully respects the Legislature’s authority to make amendments to this bill, and it will not oppose the bill simply because it contains amendments.

While the Department cannot foresee every conceivable amendment to the bill, the Department initially notes that the Department will oppose any cannabis legalization bill that is not substantially based upon the final draft bill in structure and substance (i.e., the Department will oppose a cannabis-legalization bill primarily drafted by others). The Department further states that it will oppose any bill that does not include the following key elements:

- (1) The Hawai‘i Cannabis Law must provide a legal safe harbor from state and county criminal prosecution concerning activities relating to cannabis for those who strictly comply with the provisions of the Hawai‘i Cannabis Law.
- (2) The governing regulatory authority (i.e., the Hawai‘i Cannabis Authority) must be an independent, administratively attached agency that has regulatory authority over all aspects of the cannabis plant, which includes adult-use cannabis, medical cannabis, and hemp.
- (3) A statement that it is the intent of the Legislature to ensure that state and county law enforcement agencies work closely with the governing regulatory authority and vigorously investigate and prosecute illegal cannabis activities that fall outside of Hawai‘i Cannabis Law’s safe harbor protections and the statutory provision regarding county law enforcement and prosecution in § A-19.
- (4) A cannabis enforcement unit established within DLE (*see* §§ A-17 & -18) and funded by a portion of tax revenue.
- (5) Funding for statewide cannabis nuisance abatement from a portion of tax revenue (*see* § A-16).
- (6) A mandate that the governing regulatory authority make the protection of public health and public safety its highest priority.
- (7) Provisions and penalties regarding open containers of cannabis in cars and driving under the influence of cannabis must approximate those for open containers of alcohol and driving while drunk. This includes those found in part IV of the bill, and must include zero tolerance for driving under the influence

of cannabis for those under the age of 21 (except for those with a medical card) and an enforceable per se THC limit for those 21 and over (or those under 21 who hold a medical-cannabis card).

- (8) Substantial public health, education, and legal provisions regarding the prevention and treatment of the use of cannabis by those under the age of 21, including restrictions on packaging, marketing, and advertising relating to children.
- (9) A delayed effective date for the legalization of adult-use cannabis of January 1, 2026, at the earliest.
- (10) Funding for a substantial public-education campaign to be implemented prior to the legalization of adult-use cannabis.

The Department will oppose any bill that contains any of the following provisions:

- (1) A provision mandating the immediate or “automatic” expungement of cannabis crimes or sealing of court records. Notwithstanding this, and as set forth in Section IV.D.2, *supra*, the Department does not oppose expungement as a concept. Instead, decisions on expungement should be made after adult-use cannabis is legalized, the social impacts of legalization are clearer, and the mechanism to be used is determined to be both functionally possible and effective.
- (2) A provision allowing for the consideration of past convictions for cannabis crimes as a positive factor, or of constitutionally suspect classifications (i.e., race, sex) as factors, in licensing or decision-making. The Department believes that a focus on “disproportionately impacted areas,” as that term is defined in § A-3, will effectuate the goals of social-equity licensing without raising legal or law-enforcement concerns.
- (3) A provision that would prevent parole or probation from being revoked for the use of cannabis.
- (4) A provision that would prevent law enforcement from utilizing the odor of cannabis for any lawful purpose.

To reiterate, we cannot anticipate every possible amendment. To the extent that we have objections to specific amendments, the Department will endeavor to work with the Legislature to find a mutually acceptable solution.

VI. CONCLUDING REMARKS OF THE ATTORNEY GENERAL

The final draft bill presented to you today is not “the Department of the Attorney General’s cannabis bill.” It is the work product of attorneys at the Department of the Attorney General and reflects the Department’s judgment about how to mitigate as many of the serious risks to the public welfare as possible if the Legislature decides to legalize adult-use cannabis. Our work product is now in your hands—for you and your colleagues at the Legislature to use, modify, or disregard in your judgment as legislators.

Should this bill or a version of this bill be introduced at the legislative session, the Department of the Attorney General will participate as it normally does and will testify in accordance with the positions set forth in Section V, *supra*. But our involvement with any such bills will be deeper than that if you wish, and we will be available to work with you on amendments during the legislative session.

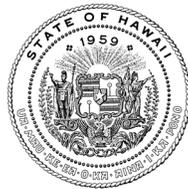
While the Department does not support the legalization of adult-use cannabis, I am proud of what we have presented here today. This is a reasonable, moderate bill that sought to balance a myriad of interests with significant known and unknown risks. It is the creation of highly skilled public servants. I would like to thank all of the personnel in the Department who participated in this laborious, time-intensive process. I would like to particularly thank Deputy Attorney General Andrew Goff, Deputy Attorney General Kotoba Kanazawa, and my Special Assistant Dave Day for their tireless efforts over the past year.

The Legislature represents the democratic will of the people of Hawai‘i. One of the Department of the Attorney General’s main priorities under my administration has been to improve the Department’s working relationship with the Legislature. This work demonstrates our true dedication to this prerogative.



ANNE LOPEZ

Attorney General of Hawai‘i



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON WAYS AND MEANS
AND COMMERCE AND CONSUMER PROTECTION
ON
SENATE BILL NO. 3335, S.D. 1

March 1, 2024
9:50 a.m.
Room 211 and Videoconference

RELATING TO CANNABIS

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 3335, S.D. 1, intends the following: 1) establishes the Hawai'i Cannabis Authority (HCA), Cannabis Control Board, and Cannabis Control Implementation Advisory Committee, all administratively attached to the Department of Commerce and Consumer Affairs (DCCA), to regulate and license all aspects of cannabis; 2) legalizes the sale and possession of cannabis for non-medical adult use beginning January 1, 2026; 3) establishes the Cannabis Regulation, Nuisance Abatement, and Law Enforcement Special Fund (CRSF) to be administered and expended by HCA, the Department of the Attorney General (AG), and the Department of Law Enforcement (LAW); 4) establishes the Cannabis Social Equity, Public Health and Education, and Public Safety Special Fund (CSESF) to be administered by HCA; 5) establishes the Cannabis Enforcement Unit in LAW; 6) establishes the Social Equity Program, Public Health and Education Grant Program and Public Safety Grant Program (grant programs) in HCA; 7) requires the Department of Taxation (TAX), starting January 1, 2026, to administer a cannabis tax

permit and collect 14% of the gross proceeds of sales from cannabis, excluding medical cannabis, and 4% of the gross proceeds of sales of medical cannabis, excluding wholesale, with allocations of 50% of revenues to each of the CRSF and CSESF;

8) specifies that the standard general excise tax shall not apply to the retail or wholesale sale of cannabis and medical cannabis; 9) transfers all appropriations, property, and other interests held by the Department of Agriculture (DOA) pertaining to the functions of HCA and the Department of Health's (DOH) Office of Cannabis Control and Regulation to HCA;

10) transfers all unexpended and unencumbered balances of the Industrial Hemp Special Fund, Medical Cannabis Registry and Regulation Special Fund, and Hawai'i Hemp Processing Special Fund with 50% allocations to each of the CRSF and CSESF; and

11) amends or repeals various parts of the HRS and other Acts pertaining to cannabis.

Furthermore, this bill appropriates the following for FY 25: 1) 23.00 full-time equivalent (FTE) positions, \$14,000,000 in general funds for deposit and \$10,000,000 in special fund ceiling for the CRSF for HCA; 2) \$19,000,000 in general funds for deposit and the corresponding special fund ceiling for the CSESF for the three grant programs in HCA; 3) \$5,000,000 in general funds for establishing a State Cannabis Testing Facility within HCA; 4) 10.00 FTE positions and \$1,190,000 in general funds for TAX; 5) 8.00 FTE positions and \$1,500,000 in special fund ceiling for the CRSF for AG; and 6) 17.00 FTE positions and \$2,500,000 in special fund ceiling for the CRSF for LAW. In total, this bill appropriates 10.00 FTE general-funded positions; 48.00 FTE special-funded positions; \$39,190,000 in general funds; and \$33,000,000 in special fund ceiling for FY 25 and provides an extended lapse date of June 30, 2026, for all appropriations.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should:

1) serve a need as demonstrated by the purpose, scope of work and an explanation why

the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 3335, S.D. 1, it is difficult to determine whether the proposed CRSF and CSESF will be self-sustaining.

Furthermore, B&F recommends the transfer of appropriations, positions, and other assets from DOA and DOH to DCCA's HCA, as required by Pages 290 to 293 of this bill and currently set for the bill's defective date of December 31, 2050, be effective no earlier than July 1, 2025, to allow B&F sufficient time to consult with the affected agencies and facilitate the transfer.

Additionally, B&F highly recommends the details of the budget transfer be specified in the budget worksheets and facilitated through the budget act, rather than in separate legislation, to avoid any ambiguity or misunderstanding in the budget details to be transferred.

Finally, B&F notes this bill will generate estimated tax revenues of \$4,400,000 for FY 26 and \$17,000,000 for FY 27, to be allocated at 50% each to the CRSF and the CSESF, based on TAX's projections. It is noted that other "sin" taxes usually allocate a portion of these taxes to the general fund.

B&F defers to DOA, AG, DCCA, DOH, LAW, and TAX on the programmatic merits of this bill.

Thank you for your consideration of our comments.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 03/01/2024

Time: 09:50 AM

Location: CR 211 & Videoconference

Committee: Senate Commerce and
Consumer Protection
Senate Ways and Means

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB 3335, SD1 RELATING TO CANNABIS.

Purpose of Bill: Establishes the Hawaii Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant. Establishes the Cannabis Control Implementation Advisory Committee. Beginning January 1, 2026, legalizes the personal adult use of cannabis. Establishes taxes for adult-use cannabis and medical cannabis sales. Transfers the personnel and assets of the Department of Health and assets of the Department of Agriculture to the Hawaii Cannabis Authority. Declares that the general fund expenditure ceiling is exceeded. Makes appropriations. Takes effect 12/31/2050. (SD1)

Department's Position:

The Hawaii State Department of Education (Department) respectfully provides comments on SB 3335, SD1, and wishes to register its strong concerns with the potential impacts this bill could have.

The Department has strong concerns regarding the negative impacts on youth resulting from the legalization of recreational cannabis for adults 21 and over, including unintended costs associated with increased accessibility and acceptance of cannabis use. Our comments focus on key concerns based on cited research, and summarizing the findings regarding the multifaceted costs, both fiscal and educational to the Department.

Legalizing adult recreational cannabis raises fears about youth access and acceptability. Research in the American Journal of Preventive Medicine (2020) links nonmedical cannabis legalization to increased cannabis and alcohol use among youth, potentially normalizing cannabis and lowering perceived risks, resulting in higher usage.

Higher usage leads to increased negative impact which are of utmost concern to the Department. According to research from the National Institute on Drug Abuse (NIDA, 2021), cannabis impairs brain development in adolescents and young adults under 25. The adolescent brain undergoes critical development until the mid 20s and cannabis use may harm cognition, memory, learning, and attention, all key skills for academic success and overall well-being. In addition, longitudinal study findings by Tarter et al. (2006) suggest a link between early and frequent cannabis use and lower educational attainment, hence jeopardizing future careers and financial prospects.

Moreover, the National Academies of Sciences, Engineering, and Medicine (2017) associates cannabis use with heightened anxiety, depression, and mental health issues in youths, raising concerns about potential long-term effects on overall life satisfaction. Finally, research in the American Journal of Public Health by Williams et al. (2020) indicates that cannabis legalization may widen racial disparities in cannabis arrests, negatively impacting minority communities and perpetuating cycles of disadvantage.

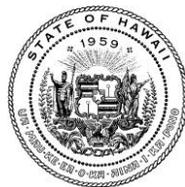
Therefore, if Hawaii legalizes adult recreational cannabis use, it must also invest in prevention and education initiatives. In order to mitigate negative impacts on our youth, the Department would need additional funding for prevention programs teaching the harm associated with cannabis use; expanded school counseling and mental health support; and comprehensive training to help educators identify signs of use and its impact on academic performance.

In conclusion, while legalization offers potential economic benefits, youth impacts and costs would be sizable and demand careful consideration. We must take steps to prevent unintended consequences of more permissive cannabis policies. Further, it is crucial to consider the broader societal costs associated with the harm to the youth of Hawaii.

Thank you for the opportunity to provide testimony on this measure.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 3335, S.D. 1, Relating to Cannabis.

BEFORE THE:

Senate Committees on Ways and Means and Commerce and Consumer Protection

DATE: Friday, March 1, 2024
TIME: 9:50 a.m.
LOCATION: State Capitol, Room 211

Chairs Dela Cruz and Keohokalole, Vice-Chairs Moriwaki and Fukunaga, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding the tax provisions in S.B. 3335, S.D. 1, which establishes the Hawaii Cannabis Authority and Cannabis Control Board; establishes laws for the cultivation, manufacture, sale, and personal adult-use of cannabis; amends or repeals existing laws relating to cannabis, including hemp; establishes taxes for adult-use cannabis sales; legalizes the possession of certain amounts of cannabis for individuals 21 years of age and over by January 1, 2026; and transfers the personnel and assets of the Office of Medical Cannabis Control and Regulation from the Department of Health to the Hawaii Cannabis Authority.

The Department appreciates the amendments of the Health and Human Services and Judiciary Committees to S.B. No. 3335, Proposed S.D.1, which clearly considered the Department's testimony regarding the administration of taxes on adult-use cannabis sales.

Part III of the bill, beginning on page 182, creates a new chapter B in title 14, Hawaii Revised Statutes (HRS), entitled "Hawaii Cannabis Tax Law." Under proposed

section B-2, persons engaged in the retail sale of cannabis, including retail sales of medical cannabis, must obtain a cannabis tax permit from the Department. Under proposed section B-3, retail sales of cannabis will be subject to a 14 percent tax on gross proceeds, and retail sales of medical cannabis subject to a 4 percent tax on gross sales.

Section 26 of the bill amends section 237-24.3, HRS, to exempt amounts received from the sales of cannabis and medical cannabis from the Hawaii general excise tax.

All revenues collected under the Hawaii Cannabis Tax Law shall be distributed as follows: 50 percent to the Cannabis Regulation Nuisance Abatement, and Law Enforcement Special Fund and 50 percent to the Cannabis Social Equity, Public Health and Education, and Public Safety Special Fund.

Sections 59 and 60 of the bill, on page 297, establish the following positions within the Department of Taxation:

1. Two auditors;
2. One cashier;
3. Three investigators;
4. Two tax information technicians; and
5. Two tax law change specialists.

The bill has a placeholder effective date of December 31, 2050 in section 79. However, Part III of the bill, including the Hawaii Cannabis Tax Law, has an effective date of January 1, 2026.

The Department requests that, if the measure is passed with a functional date, it takes effect no earlier than January 1, 2026. This would afford the Department sufficient time to make the necessary system and form changes and provide taxpayer education on the Hawaii Cannabis Tax Law.

The Department estimates the revenue impact as follows:

General Fund Impact (\$ millions)*

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
General Fund		-1.0	-2.5	-2.5	-2.5	-2.5

Special Fund (\$ millions)

Distribution of Special Funds	FY 2025	FY2026	FY 2027	FY2028	FY2029	FY2030
Cannabis Regulation Special Fund	50%	2.2	8.5	12.7	19.1	21.2
Cannabis Social Equity Special Fund	50%	2.2	8.5	12.7	19.1	21.2

Thank you for the opportunity to provide comments.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE
COMMITTEE ON WAYS AND MEANS
AND
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

FRIDAY, MARCH 1, 2024
9:50 AM
CONFERENCE ROOM 211 & VIDEOCONFERENCE

SENATE BILL NO. 3335 SD1
RELATING TO CANNABIS

Chairs Dela Cruz and Keohokalole, Vice Chairs Moriwaki and Fukunaga, and Members of the Committees:

Thank you for the opportunity to testify on SB 3335 SD1. The purposes of this bill are to establish the Hawaii Cannabis Authority and the Cannabis Control Board, laws for the cultivation, manufacture, sale, and personal adult-use of cannabis, and taxes for adult-use cannabis sales. The bill also amends or repeals existing laws relating to cannabis and hemp, legalizes the possession of certain amounts of cannabis for individuals twenty-one years of age and over, and facilitate the transfers of the personnel and assets of the Office of Medical Cannabis Control and Regulation of the Department of Health and assets of the Department of Agriculture to the Hawaii Cannabis Authority.

The Hawaii Department of Agriculture (HDOA) strongly supports the "one-plant" approach provided for in SB 3335 SD1. The HDOA also supports the inclusion of the provisions based on Act 263, Session Laws of Hawaii 2023 and the Agriculture Improvement Act of 2018, informally known as 2018 Farm Bill, within the new Hawaii Cannabis Authority, as those were included in response to concerns raised by the Hawaii Hemp Farmers Association. These provisions are intended to provide legal support to the hemp farmers and the hemp industry in Hawaii, particularly those in Section Part VIII.

HDOA supports the inclusion of provisions requiring hemp growers in Hawaii to comply with the USDA regulations regarding hemp production licensing in Section A-132 of SB 3335 SD1, and requiring compliance with the hemp cultivation buffer zones in Section A-132(b). This action ensures that no redundant regulations are imposed on the hemp farmers and clarifies that the USDA regulates hemp cultivation in Hawaii.

HDOA supports the language in SB 3335 SD1, which makes clear that industrial hemp will not be regulated like cannabinoid hemp. The bill clearly differentiates industrial hemp from cannabis, as one of the main concerns of hemp growers is preventing industrial hemp, which is not a Schedule I substance under the Controlled Substances Act, from being lumped in with cannabis. In this bill, it is not.

The HDOA believes that this bill provides substantial protection for hemp farmers and will support the hemp industry into the future, should the Legislature choose to legalize cannabis.

Thank you for the opportunity to testify on this measure.

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Ross Kagawa



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 27, 2024

**TESTIMONY OF ROSS KAGAWA
COUNCILMEMBER, KAUAI COUNTY COUNCIL**

ON

SB 3335, SD 1, RELATING TO CANNABIS

Senate Committee on Ways and Means

Senate Committee on Commerce and Consumer Protection

Friday, March 1, 2024

9:50 a.m.

Conference Room 211

Via Videoconference

Dear Chair Dela Cruz, Chair Keohokalole, and Members of the Committees:

Thank you for this opportunity to provide testimony in SUPPORT of SB 3335, SD 1, Relating to Cannabis. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support SB 3335, SD 1, which would establish the Hawai'i cannabis authority, cannabis control board, and cannabis control implementation advisory committee; establish laws for the cultivation, manufacture, sale, and personal adult use of cannabis; amend or repeal existing laws relating to cannabis, including hemp; establish taxes for adult-use cannabis sales; legalize the possession of certain amounts of cannabis for individuals twenty-one years of age and over beginning January 1, 2026; and transfer the personnel and assets of the Department of Health and assets of the Department of Agriculture to the Hawai'i cannabis authority.

SB 3335, SD 1 is a tool that would benefit the counties in increasing revenue from the established taxes and will also create more business opportunities for local businesses. Additionally, local law enforcement agencies would be able to focus on other important issues.

Thank you again for this opportunity to provide testimony in support of SB 3335, SD 1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ROSS KAGAWA
Councilmember, Kaua'i County Council

AAO:ss

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
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February 27, 2024

**TESTIMONY OF ADDISON BULOSAN
COUNCIL CHAIR, KAUAI COUNTY COUNCIL
ON**

SB 3335, SD 1, RELATING TO CANNABIS
Senate Committee on Ways and Means
Senate Committee on Commerce and Consumer Protection
Friday, March 1, 2024
9:50 a.m.
Conference Room 211
Via Videoconference

Dear Chair Dela Cruz, Chair Keohokalole, and Members of the Committees:

Thank you for this opportunity to provide testimony in SUPPORT of SB 3335, SD 1, Relating to Cannabis. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of SB 3335, SD 1, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of SB 3335, SD 1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

AAO:slr

**DEPARTMENT OF THE PROSECUTING ATTORNEY
KA 'OIHANA O KA LOIO HO'OPI'I
CITY AND COUNTY OF HONOLULU**

STEVEN S. ALM
PROSECUTING ATTORNEY
LOIO HO'OPI'I

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEB: <https://honoluluprosecutor.org/>

THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
HOPE MUA LOIO HO'OPI'I



**THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

**THE HONORABLE JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

**Thirty-Second State Legislature
Regular Session of 2024
State of Hawai`i**

March 1, 2024

RE: S.B. 3335, SD1; RELATING TO CANNABIS.

Chairs Dela Cruz and Keohokalole, Vice-Chairs, and members of the committees, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in **strong opposition** to S.B. 3335, SD1.

My name is Steve Alm, and I am the Prosecutor of the City and County of Honolulu.

The bill seeks to establish the Hawaii cannabis authority and the cannabis control board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant; legalize the possession of certain amounts of cannabis for individuals twenty-one years of age and over as of January 1, 2026; and establishes taxes for adult-use cannabis sales.

To begin with, some may believe legalizing commercial marijuana nationwide is a foregone conclusion. However, according to Smart Approaches to Marijuana (SAM), last year 26 states considered legalizing commercial marijuana either through legislation or a ballot measure. Of those 26, only five approved legalization. The majority, 21, did not approve. That is 81% of the states that considered legalizing commercial marijuana saying, “No!”

Legalizing commercial marijuana in Hawai`i would have dramatic impacts on the place we love. And we don’t need to guess what those impacts would be. Local experts have already issued stark warnings and we need only look at other states (e.g. Colorado with ten years of legalization) to see what awaits us if we take the consequential step of legalizing commercial marijuana.

First, marijuana legalization would seriously impact Hawaii's economic well-being. Tourism, Hawaii's No. 1 industry, would be negatively affected. Leaders in the Japanese visitor industry, including Tetsuya (Ted) Kubo, President and CEO of Japan Travel Bureau (JTB) Hawaii, have warned that if we legalize marijuana, Japanese tourists will stop coming to Hawai'i.

Second, the marijuana of today is not the marijuana of yesteryear, when it had 3% THC. Marijuana today has 20 – 40% THC with concentrates over 90%. It is a different drug entirely.

Third, there will be more marijuana usage. In 1992, 17.5 million Americans used marijuana. In 2021, that number had risen to 52.5 million.

Fourth, opening up State-approved marijuana stores will not eliminate the black market that has operated for decades. With more marijuana users overall, the black market will increase. And the black market is always cheaper.

Fifth, given that the black market will increase, there will be a greater chance of accidental use of fentanyl-laced marijuana.

Sixth, there will be an increase in fatal car collisions. In the Rocky Mountain area in 2013, 14.8% of drivers involved in traffic fatalities tested positive for marijuana. That number increased to 24.3% in 2020. In addition, 48.8% of teenage drivers who use marijuana repeated driving under the influence. Currently, HPD has no way to test for marijuana for impaired drivers.

Seventh, there will be an increase in mental health problems (including schizophrenia) and more hospital and emergency department admissions.

Eighth, there will be negative environmental impacts with increased marijuana cultivations including energy use, pesticide use, air pollution, land cover change, water pollution and water use (each adult marijuana plant uses 6 gallons of water per day).

Ninth, what kind of message will we be sending to our young people when we put a societal stamp of approval on using marijuana? That will give our keiki permission to use marijuana. Thirty percent of marijuana users have some form of marijuana use disorder. Use before the age of 18 increases the likelihood of marijuana use disorder by seven fold. We should be protecting our keiki's brains when they are most vulnerable, before the age of 25. While this may not have been as critical when marijuana had 3% THC, it is now a much more serious concern with today's much stronger marijuana.

Tenth, regardless of the type of regulatory system you establish or how much money you spend doing so, the fact remains that you would be legalizing for mass consumption a now very powerful drug. Labeling it "adult-use" or spending money on Public Service Announcements to try to deter our keiki from smoking marijuana is naïve at best, and in any case ineffective. We need only look at alcohol, tobacco, and vaping to see how unsuccessful society has been at restricting use to adults.

Eleventh, finally, and perhaps most importantly, the folks from Colorado, where there are now more commercial marijuana stores than Starbucks and McDonald's combined, have warned us that legalizing marijuana would change the character of Hawai'i forever. Let's not do that. Let's keep Hawai'i, Hawai'i and say no to legalizing commercial marijuana.

Thank you for this opportunity to testify on S.B. 3335, SD1.



LATE

Committee: Consumer Protection and Ways and Means
Hearing Date/Time: Friday, February 29, 2024 at 9:50am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i: COMMENTS on S.B. 3335 S.D.1 Relating to Cannabis**

Dear Chairs Dela Cruz and Keohokalole, Vice Chairs and Committee Members:

ACLU of Hawai'i submits comments on **S.B. 3335 S.D. 1**, which establishes the Hawai'i Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant and begins the legalization of personal adult use of cannabis on January 1, 2026.

We also support the comments and amendments submitted on behalf of the **Hawai'i Alliance for Cannabis Reform**.

Adult-Use Cannabis Legalization Will Reverse Prohibition Policies that Violates an Individual's Right to Bodily Autonomy and Privacy.

The ACLU of Hawai'i supports adult-use cannabis legalization based on the rights of individuals to bodily autonomy and privacy enshrined in our federal and Hawai'i Constitutions.

First, individuals have a right to bodily autonomy. This includes the decision to use (or refuse) alcohol, tobacco, Tylenol or cannabis, a plant with known medicinal properties since time immemorial.¹

Second, individuals in Hawai'i have the explicit right to privacy.² Individuals should be able to exercise their right to bodily autonomy, and use or carry cannabis on their

¹ Similarly, the ACLU of Hawai'i supports the rights of individuals to access reproductive care as a right to bodily autonomy, including but not limited to the abortion pill.

² The Hawai'i Constitution reads as follows: "The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right." Article I, section 6.

person, and within their houses and not be subject to unreasonable searches, seizures and invasions of privacy.³

Adult-Use Cannabis Legalization Must Include Social Equity and Reparative Justice Reforms to Address the Harms Resulting from Decades of Cannabis Prohibition.

The ACLU of Hawai'i strongly supports comprehensive equitable policies to legalize, tax, and regulate adult use of cannabis, in tandem with social equity and reparative reforms to redress the devastating effects of cannabis prohibition policies.

We acknowledge the many hours of research and work of the Department of the Attorney General in drafting this measure as a starting point for substantive policy discussions relating to cannabis legalization.

At this time, we offer comments, instead of full support, as the draft measure currently includes provisions that will likely increase criminal convictions and incarceration for conduct that does not jeopardize public safety.

Additionally, this draft falls short of the robust social equity and reparative justice reforms required to address the harms and collateral consequences of cannabis arrest and conviction records that last a lifetime.

Notably, these harms have disparately impacted Native Hawaiians. As reflected in [The Disparate Treatment of Native Hawaiians in the Criminal Justice System Report](#) conducted by the Office of Hawaiians Affairs and Justice Policy Institute, Native Hawaiians do not use drugs at drastically different rates from people of other races or ethnicities, but Native Hawaiians go to prison for drug offenses more often than people of other races or ethnicities.⁴

Accordingly, we offer comments and recommendations to achieve an adult-cannabis legalization regulatory framework driven by data, social equity, and restorative justice.⁵

Additionally, Article I, section 7 of the Hawai'i Constitution states: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches, seizures, and invasions of privacy shall not be violated."

⁴ https://www.oha.org/wp-content/uploads/2014/11/es_final_web_0.pdf See also, https://www.oha.org/wp-content/uploads/2014/11/factsheets_final_web_0.pdf

⁵ The ACLU of Hawai'i is a member of the Hawai'i Alliance for Cannabis Reform. We endorse the comments and recommendations outlined by the Hawai'i Alliance for Cannabis Reform relating to S.B. 3335 S.D.1.

CONCERNS RELATING TO THIS DRAFT MEASURE

The Proposed Measure Includes Numerous Unnecessary Provisions that Will Likely Result in Further Criminalization and Incarceration, Rather than Diversion from the Criminal Legal System.

As highlighted by the Department of Corrections and Rehabilitation's Monthly Population Reports, many of Hawai'i's jails and prisons are severely overcrowded.⁶ Many people are living in inhumane and unconstitutional conditions of confinement in our carceral facilities while separated from their loved ones, here in Hawai'i and in private for-profit prisons thousands of miles away.

Of note, many people are arrested and/or incarcerated due to the Failed War on Drugs, including the enforcement of cannabis prohibition policies.

1. Increased Law Enforcement – Per sec. 66, this bill would alarmingly ramp up cannabis enforcement. **Adding seventeen (17) full-time cannabis law enforcement positions (i.e. 3 supervisors, 11 investigators or detectives and three support staff) to legalize cannabis is unnecessary and will waste taxpayer dollars by criminalizing more people.**

- To our knowledge, states that have legalized cannabis have *not* ramped up law enforcement as part of its regulatory scheme.
- **Colorado's comprehensive 2021 Department of Justice report on legalization⁷**, starting at p. 19 notes the following:
 - The total number of marijuana arrests decreased by 68% between 2012 and 2019, from 13,225 to 4,290
 - Marijuana sales arrests decreased by 56%, while arrests for marijuana production increased slightly (+3%).” [Colorado was the first legal state in the nation, so you could expect more issues in that context given the massive demand from the other 48 states.]
 - Similarly, "The number of marijuana-related case filings declined 55% between 2012 and 2019, from 9,925 to 4,489 (Table 6)”
 - Regarding Illegal Cultivation on Public Lands, "The number of growing operations and plants seized shows no discernible trend"
- **Recommendation:** Eliminate the full-time law enforcement positions.

2. Strict Compliance Standard – Strict Compliance is too high a bar for criminal prosecution and will result in misdemeanor and felony penalties for innocuous conduct.

⁶ <https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-EOM-2023-12-31.pdf>

⁷ https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf

- **Recommendation:** A small variance from the law should be a civil matter, not criminal matter (section A-4, line 1, 3 and 8-12 etc.)
3. **Re-criminalizing Minors – As drafted, this bill will impose harsher penalties than the status quo. It will criminalize minors in possession of cannabis and impose excessive penalties for those providing cannabis to persons between the ages of 18-20.**
- This proposed law enforcement approach will disparately Native Hawaiian and Pacific Islander youth, and directly contravenes the ongoing criminal legal reforms within our juvenile criminal legal system.
 - It's important that states not continue to use cannabis laws to over-police youth and instead de-penalize youth cannabis offenses to prevent funneling more young people into the criminal justice system. States also must not replace marijuana prohibition with a system of civil fines and fees.
 - **Recommendation:** Offer assessments to minors cited with violations and offer treatment support if needed based on the assessments. This approach will direct funding to public education and services instead of bolstering enforcement.
4. **The per se and zero tolerance “DUI” limits will entangle sober drivers long after impairment wears off.** This proposed regulatory standard will criminalize someone for “driving under the influence” if they are not impaired and last used cannabis many hours or a day prior. **The vast majority of states — including the vast majority of legalization states — have not opted to set unscientific per se limits.**
- Michigan had a 5 ng/mL standard prior to legalization, which was likely indirectly repealed as part of legalization. The state’s then- anti-legalization GOP governor appointed a five-member commission “to research and recommend a scientifically supported threshold of Δ 9-THC bodily content to provide evidence for per se impaired driving.” The commission included the state police, a forensic toxicologist, and a professor with expertise in traffic safety. It concluded there is no scientifically supported Δ 9-THC threshold.⁸
 - **Recommendation:** rather than criminalizing sober drivers, we recommend investing in more DRE and ARIDE-trained officers and a

⁸ It explained the science and [found](#), “ Δ 9-THC can fail to detect impaired drivers (when blood levels are low and impairment is high). It can also inappropriately flag unimpaired drivers or chronic users whose blood levels are higher in general (see section on behavioral effects of Δ 9-THC) even when not impaired.”

robust public education campaign on the dangers and illegality of impaired driving.

Cannabis Legalization Must Include A State Initiated Process to Expunge Past Arrest and Convictions and Re-sentencing for Cannabis Related Offenses

Along with the harm of incarceration, cannabis related arrest and conviction records have long term negative ripple effects. Having a cannabis conviction on your record can make it hard to get a job, a credit card, or find housing for the rest of your life. These barriers have a ripple effect on families and their local communities and economies, disparately impacting Native Hawaiian and Pacific Islanders in Hawai'i.

- 1. According to a recent report by the Attorney General's office, there are currently over 50,000 arrests and 10,000 convictions currently in the system for low-level cannabis related offenses in Hawai'i.**⁹ Undoubtedly, the total number of persons affected by cannabis prohibitions policies in Hawai'i are significantly higher.
 - This is why clearing people's records of cannabis related arrests and convictions through a state-initiated process is a necessary addition to this legalization measure.
 - The current draft requires a report by late 2026 or early 2027 on "advisability of expunging or sealing low-level criminal offenses related to marijuana, a recommendation or sealing low level criminal offenses and records should be expunged or sealed, if any and the best mechanism for expunging and sealing records without causing undue burden on the judiciary, the department of the attorney general, or any administrative agency." This statutory language is extremely watered down and falls short of other state's cannabis legalization laws that include expungement.
 - **Recommendation:** Include a state-initiated expungement and re-sentencing process as outlined by the Last Prisoner Project (LPP). *In 2022, LPP presented [recommendations to Hawaii's Dual Use of Cannabis Task Force](#) for the creation of state-initiated record clearance and resentencing processes for those who continue to suffer from criminal convictions and sentences as a result of prohibition. LPP's recommendations were endorsed by the Task Force and codified in **SB669** which passed out of the Senate.*

⁹ "Report Regarding the Final Draft Bill Entitled 'Relating to Cannabis.' Hawaii State Department of the Attorney General, January, 2024: <https://ag.hawaii.gov/wp-content/uploads/2024/01/REPORT-REGARDING-THE-FINAL-DRAFT-BILL-ENTITLED-RELATING-TO-CANNABIS-PREPARED-BY-THE-DEPARTMENT-OF-THE-ATTORNEY-GENERAL-dated-January-5-2024.pdf>

2. Hawai'i's Adult Use Cannabis Legalization Regulatory Framework Must Appropriate at Least 60% of the Excise Tax Revenue to Robust Social Equity, Expungements and Community Reinvestment.

- The data shows that cannabis legalization is a racial justice issue, and states should approach it as such. The harms of cannabis criminalization inflicted upon Native Hawaiians and other under resourced racial communities cannot be undone. However, we can craft adult-use cannabis legalization policies that includes tax revenues dedicated to social equity, expungements and community.

The current SD1 draft improves upon November's draft in terms of funding for reparative justice and equity. A total of 60% of the excise tax revenue is allocated to regulation (35%), a new cannabis law enforcement special fund (7.5%), a public safety fund (10%),¹⁰ and a new nuisance abatement (7.5%). **However, only 25% of the excise tax revenue is directed to social equity or community reinvestment and only 15% is for public health and education. These figures are grossly inadequate.**

- **Recommendation:** At least 60% of the excise tax revenue should go to social equity, expungements and community reinvestment.

In closing, S.B. 3335 S.D.1 currently falls short of creating an adult use cannabis legalization framework that diverts people from our criminal legal system, and includes robust investments in social equity, expungement, and re-sentencing provisions. However, the proposed areas outlined above, along with the specific amendments offered by the Hawaii Alliance for Cannabis Reform will address our concerns and create a framework grounded in reparative justice.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

cshirota@acluhawaii.org

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522.5900
F: 808.522.5909
E: office@acluhawaii.org
www.acluhawaii.org

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

¹⁰ The public safety fund includes some important harm reduction uses, but it could also be used for equipment for cannabis enforcement.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, TOBACCO, MISCELLANEOUS, Legalize and Tax Adult-Use Cannabis

BILL NUMBER: SB 3335 SD 1

INTRODUCED BY: Senate Committees on Health and Human Services and Judiciary

EXECUTIVE SUMMARY: Establishes the Hawai'i Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant. Establishes the Cannabis Control Implementation Advisory Committee. Beginning January 1, 2026, legalizes the personal adult use of cannabis. Establishes taxes for adult-use cannabis and medical cannabis sales. Transfers the personnel and assets of the Department of Health and assets of the Department of Agriculture to the Hawai'i Cannabis Authority.

SYNOPSIS: As it relates to taxation:

Adds a new chapter to the HRS designated in the bill as Chapter B, Hawaii Cannabis Tax Law.

New section B-2 requires a retail seller of cannabis to obtain a permit from the Department of Taxation. Permits last for one year and cost \$25. Permits shall not be issued to a cannabis retailer that is not compliant with the tax filing and payment obligations under title 14.

New section B-3 imposes tax of 14% of the gross proceeds of retail sales of cannabis, not including medical cannabis. Imposes tax of 4% of the gross proceeds of retail sales of medical cannabis.

New section B-7 provides that proceeds of the tax are split between two different special funds that are created by the bill:

- (1) 50% to the cannabis regulation, nuisance abatement, and law enforcement special fund established by section A-18; and
- (2) 50% to the cannabis social equity, public health and education, and public safety special fund established by section A-19.

New section B-10 states that the tax imposed by this chapter, unless expressly prohibited, shall be in addition to any other tax imposed.

Amends section 231-8.5, HRS, to allow the Department of Taxation to require electronic filings of all returns made by taxpayers subject to chapter B.

Amends section 235-2.4, HRS, to provide that section 280E of the Internal Revenue Code, which disallows as a deduction any expenses associated with the illegal sale of drugs, is not operative in

Hawaii with respect to the cultivation, processing, and sale of cannabis by cannabis businesses licensed or permitted under chapter A (the Hawaii Cannabis Law added by the bill).

Amends section 237-24.3, HRS, to add a new exemption for amounts received from: (A) Sales of cannabis, whether made at retail or wholesale; (B) Sales of medical cannabis; and (C) Taxes on the retail sale of cannabis or sale of medical cannabis imposed by chapter B and passed on and collected by persons holding permits under that chapter.

Amends section 245-1, HRS, to exclude from the definition of “e-liquid” any cannabis, cannabis products, or cannabis accessories authorized under chapter A.

Makes conforming amendments.

EFFECTIVE DATE: December 31, 2050; provided that: (1) Sections A-51 through A-53, Hawaii Revised Statutes of section 2 of this Act shall take effect on January 1, 2026; and (2) Amendments made to section 291E-61, Hawaii Revised Statutes, by section 16 of this Act and 291E-61.5, Hawaii Revised Statutes, by section 17 of this Act shall not be repealed when those sections are reenacted on June 30, 2028.

STAFF COMMENTS:

The 1989 Tax Review Commission noted that use of special fund financing is a “departure from Hawaii’s sound fiscal policies and should be avoided.” It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

This bill creates two new special funds. One is to be administered by the new cannabis authority, and the other by the Department of Law Enforcement. We do not understand why the special funds are needed. The revenue brought in by government should be overseen by the legislature by way of the appropriations process. If the intent is for the levy on recreational cannabis sales to be self-adjusting to cover their own costs of enforcement, which is how DCCA is structured in theory, then the bill should be reworked to impose a user fee rather than a tax.

Need for New Tax Chapter

The bill creates a new tax chapter, chapter B, only to tax cannabis sales. It exempts retail sales of medical and recreational cannabis from the General Excise Tax Law. We believe that it would be far more efficient to delete the new tax chapter and attach any new and unique provisions, such as the permitting provisions, to the GET Law. That way, the machinery to report, audit, and collect the tax is already in place, there would be no need to re-invent any wheels, and the likelihood of inconsistencies would be lessened.

Digested: 2/27/2024



CATHOLIC CHARITIES HAWAI'I

COMMENTS for SB 3335 SD1: RELATING TO CANNABIS

TO: Senate Committees on Ways and Means, and Commerce and Consumer Protection
FROM: Rob Van Tassell, President and CEO, Catholic Charities Hawai'i
Hearing: Friday, 3/1/24; 9:50 AM; via Videoconference or Room 211

Chair Dela Cruz, Chair Keohokalole, Vice Chair Moriwaki, Vice Chair Fukunaga, and Members, Committees on Commerce and Consumer Protection, and Ways and Means:

Thank you for the opportunity to provide written **Comments on SB 3335 SD1**, which legalizes the personal adult use of cannabis as of January 1, 2026, establishes taxes, etc. I am Rob Van Tassell with Catholic Charities Hawai'i.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 75 years. CCH has programs serving elders, children, families, homeless and immigrants. Our mission is to provide services and advocacy to the most vulnerable of the people in Hawai'i.

Catholic Charities Hawai'i is concerned that this bill would create very negative impacts for many vulnerable populations. Affordable housing is in crisis now. All the federally funded housing must comply with federal rules which prohibit illegal substances, including cannabis. Increased use of recreational cannabis could have serious consequences. We are facing a homelessness crisis. Youth homelessness is of deep concern. A 2018 study found that daily marijuana use by young men substantially increased the probability of becoming homeless. SAMHA reports that about 1 in 10 people who use marijuana will be come addicted. **For youth under 18, addition rates increase to 1 in 6!** Legalizing recreational cannabis use can have significant health and societal costs.

Our state is already struggling with controlling the use of vaping by children under 18. The sad case of a Big Island 12 year-old hospitalized after reportedly vaping just prior to going unresponsive at school (Star -Advertiser 2/6/24) points to the dangers faced by children who may see vaping as "harmless". Use of cannabis is increasing across the board, perception of its harmful effects is decreasing especially among high schoolers. When teens use cannabis, Colorado has found that 48.8% of teen drivers report driving under the influence. Overall, Colorado reported that 1 in 4 road deaths involved cannabis (Colorado Division of Criminal Justice 2020). **The danger is increased since the average potency of marijuana flowers has increased about 5 times between 1995 to 2018. We also recognize that illegal forms of cannabis may be laced with other drugs such as fentanyl which is much stronger and dangerous.**

In this year of tight funding, with the Legislature focusing on Maui and other critical needs, we urge you to defer this bill which puts the health and well-being of many at risk. If you have any questions, please contact our Legislative Liaison, Betty Lou Larson at (808) 527-4813.





**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
MARCH 1, 2024
SB 3335 SD1 PROPOSED SD1 RELATING TO CANNABIS**

Good morning, Chair Dela Cruz and members of the Senate Committee on Ways & Means. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

We **STRONGLY OPPOSE** SB 3335 SD1. This measure establishes the Hawaii Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant; establishes the Cannabis Control Implementation Advisory Committee; beginning January 1, 2026, legalizes the personal adult use of cannabis; establishes taxes for adult-use cannabis and medical cannabis sales; transfers the personnel and assets of the Department of Health and assets of the Department of Agriculture to the Hawaii Cannabis Authority; declares that the general fund expenditure ceiling is exceeded; makes appropriations; and takes effect 12/31/2050.

Despite states like California, Oregon and New York legalizing marijuana, this drug continues to be illegal under federal law and is considered a controlled substance like fentanyl or meth.

It is our understanding that the tax revenue states bring in from legalized marijuana is less than 1% of the state budget as well as falling short of the expected revenue generated. Colorado has shown that \$4.50 is the cost for every \$1 of tax revenue they brought in from legalizing Marijuana.

We also wonder if Hawaii has the capacity, the monies, and the infrastructure to take on those who become addicted to Marijuana as we understand that Hawaii rehab facilities are currently at maximum levels. **Many retailers have a zero tolerance for substances like marijuana that can be detected in urine for up to 30 days.** We are concerned about the safety of not only our customers but our employees. Especially in the back of the house, **employees use equipment that if impaired could cause injury to themselves or others.** This includes the use of forklifts, bailers, compactors, company cars and more. We do not want to see anyone injured or injuring others. [Smart Approach to Marijuana](#) Study indicated **following legalization Emergency Room visits and admissions related to marijuana abuse in California is up 89%; Colorado marijuana-related hospitalizations per 100,000 since legalization have increased 148%; and 1 in 4 road deaths in Colorado involved Marijuana.**

While we understand that this measure is for recreational use, we also know that it will be more readily available, and employees could still come to work high by inhaling or ingesting it before their shift or on their break. [Smart Approach to Marijuana](#) Study indicated that **30% of marijuana users have some form of marijuana use disorder.** There are many health risks associated with marijuana use, including respiratory problems from smoking and potential negative impacts on mental health,

such as increased risk of psychosis or exacerbation of existing mental health conditions. It also could impair one's cognitive and motor functions, which can increase the risk of accidents and injuries. **Employees who use marijuana recreationally may experience decreased productivity, absenteeism, and increased workplace accidents.** This can be a concern for employers and the economy as a whole.

Hawaii continues to be dependent on tourism, especially from Japan. During a meeting, this past summer that the Honolulu Prosecutor put on, we heard from the **Japanese tour wholesalers that if Hawaii legalizes marijuana, Japanese visitors will find other destinations to visit and stop coming to Hawaii. And Hawaii is very dependent on our visitors from Japan.** This would have an enormous impact on retailers as well as the General Excise Tax – No Japanese Tourist = No Spending = Stores closing = loss of tax revenue.

Mahalo for this opportunity to testify.



Friday, March 1, 2024 at 9:50 am
Conference Room 211

Senate Committee on Ways and Means

To: Chair Donovan M. Dela Cruz
Vice Chair Sharon Y. Moriwaki

Senate Committee on Commerce and Consumer Protection

To: Chair Jarrett Keohokalole
Vice Chair Carol Fukunaga

From: Hilton R. Raethel
President and CEO
Healthcare Association of Hawaii

Re: **Submitting Comments**
SB 3335 SD 1, Relating to Cannabis

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 30,000 people statewide.

Thank you for the opportunity to submit **comments** on this measure. We are concerned with the potential negative impacts of the legalization of cannabis will have not only our public health, but also on underserved communities in our state. In speaking with healthcare partners in states that have legalized cannabis, there has been a consistent narrative that the commercialization of this substance has had a deleterious effect on communities where health disparities are already the most glaring.

We appreciate that there is an intention to consider public health, but we do not believe that there are enough protections, especially for minors, to ensure that prohibited access and problematic use are adequately addressed. Further, we understand the interest in raising revenues, but would suggest that the additional costs to public safety and public health may ultimately outweigh any tax benefit the state sees.

Thank you for considering our comments with concerns about the commercialization of cannabis.

SB-3335-SD-1

Submitted on: 2/27/2024 8:42:07 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Lisa Dau	Testifying for Keiki Injury Prevention Coalition	Oppose	Written Testimony Only

Comments:

Aloha,

Keiki Injury Prevention Coalition (KIPC) **OPPOSES SB 3335** Relating to Cannabis.

Thank you.

Lisa Dau, RN
Injury Prevention Coordinator, Representing KIPC



SB3335 SD1 Legalize Cannabis

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Friday Mar 1, 2024, 9:50 Room 211

Hawaii Substance Abuse Coalition Opposes SB335 SD1 with Recommendations:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment, prevention agencies and recovery-oriented services.

HSAC appreciates that a state-wide media campaign will occur Jan 2025, one year before legalization on Jan 2026.

Recommendations:

Parents need to be more informed about youth's marijuana use so they can have an impactful discussion per Dr. Volkow, the foremost authority on drug addiction:¹

Amend to add:

PART X: PUBLIC HEALTH AND EDUCATION

SA-151 Public health and education campaign: No later than July 1, 2025, January 1, 2025, the authority shall develop and implement a comprehensive public health and education campaign regarding the legalization of cannabis and the impact of cannabis use on public health and safety, including the health risks associated with cannabis and ways to protect children. Those risks to children include at least:

¹ National Institute of Drug Abuse: Director Dr. Volkow: A Message to Parents. August 25, 2021.
<https://nida.nih.gov/videos/dr-nora-volkow-message-to-parents>

- (1) **Better communications are needed between teenagers and parents to prevent impaired brain development that affects kid's learning ability as they transition into adulthood.**
- (2) **Youth's use is disrupting the neuro architecture of youth's more vulnerable brain in a way that can jeopardize, not just youth's cognitive abilities, but their emotions and ultimately their likelihood of succeeding, including the risk of becoming addicted or developing mental illnesses.**
- (3) **Warnings about rapid rise in youth vaping marijuana, which has a higher purity and much worse adverse effects.**
- (4) **Legalization is leading to changes in perception that the use of marijuana is not harmful that may lead some people that otherwise wouldn't consume marijuana to consume it.**
- (5) **Recognize that what may be okay for an adult may not be okay at all for an adolescent.**

The public health and education campaign shall also include education to the public about the Hawaii cannabis law, including the potential risks associated with patronizing unlicensed dispensary locations, or otherwise procuring cannabis through persons not authorized by the authority.

CDC warns how marijuana adversely impacts the youth by impairing brain development for decades because their brain is still in the development phase. Impaired are thinking, memory and learning as well as links to depression and social anxiety.²

Marijuana is the second most widely used intoxicant in adolescence, and teens who engage in heavy marijuana use often show disadvantages in neurocognitive performance, macrostructural and microstructural brain development, and alterations in brain functioning.³

HSAC urges the legislators to first pass an informational campaign to protect our youth as well as discuss the aspects of legalization for adults, which are not as harmful as it is to youth but should have adult health disclaimers.

More Recommendations:

² Centers for Disease Control and prevention: Marijuana and Youth: The Impact of Marijuana Use on Teen Health and Wellbeing. 2022 <https://www.cdc.gov/marijuana/featured-topics/marijuana-youth.html#:~:text=Marijuana%20use%20beginning%20in%20teen,and%20social%20anxiety%20in%20adults>.

³NIH: National Library of Medicine: Jacobus J, Tapert SF. Effects of cannabis on the adolescent brain. *Curr Pharm Des.* 2014;20(13):2186-93. doi: 10.2174/13816128113199990426. PMID: 23829363; PMCID: PMC3930618 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3930618/>

SA-3 Definitions: Debilitating medical condition means: (2) post-traumatic stress disorder. (Remove PTSD). Now that science is doing “valid” Clinical Trials, marijuana yields mixed results resulting in cautions concerning its efficacy.⁴

SA-5 Limitations: (5) (B) add to end of paragraph and substance use disorder treatment and clean and sober housing.

SA-45 Limitation: (2): add to end (H) and abstinent-based substance use disorder adult or adolescent residential treatment and intensive outpatient services. Treatment services are treating cannabis addiction in group sessions.

SA-53 Limitation (2): add to end (H) and abstinent-based substance use disorder residential treatment and intensive outpatient services. Treatment services are treating cannabis addiction in group sessions.

SA-83 (b) add: (10) “Cannabis’ intoxicating effects may be delayed up to 2 hours. Consumption of cannabis can cause impairments in judgement or coordination, please use caution. Cannabis overuse can lead to dependence and eventual addiction and may increase mental disorders such as depression anxiety, amotivational syndrome, and schizophrenia.”

SA-85 Advertising (12) (c,) amend to add what is highlighted: No person shall place or maintain, or cause to be placed or maintained, any sign or other advertisement for a business or product related to cannabis, in any form or through any medium whatsoever, within **seven hundred fifty feet of the real property comprising of a school, public park, or public housing project or complex** or substance use disorder residential treatment center.

HSAC applauds the legislature for ensuring language is in this bill to protect our kids given its danger in use for under-developed brains.

We appreciate the opportunity to provide testimony and are available for questions

⁴ NIH (National Institute of Health): National Library of Medicine: Journal of Psychiatry and Neuroscience: Abizaid A, Merali Z, Anisman H. Cannabis: A potential efficacious intervention for PTSD or simply snake oil? J Psychiatry Neurosci. 2019 Mar 1;44(2):75-78. doi: 10.1503/jpn.190021. PMID: 30810022; PMCID: PMC6397040. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6397040/#:~:text=Unfortunately%2C%20the%20available%20data%20showing,to%20cautions%20concerning%20its%20efficacy.>



Hawaii Cannabis Industry Association
Testimony
IN SUPPORT
SB3335 SD1, Relating To Cannabis

Aloha Chairs Senator Keohokalole and Dela Cruz,

Mahalo for the opportunity to testify in SUPPORT for SB3335 SD1, Relating to Cannabis.

The Hawaii Cannabis Industry Association (HICIA) supports SB3335 SD1 as it would consolidate various entities within Hawaii's cannabis industry including our members, the medical cannabis dispensary licensees, under a single regulatory umbrella. Under this regulatory model, greater efficiencies in government oversight can be achieved and redundancy can be avoided.

HICIA, however, believes there are two primary aspects of the measure that should be addressed:

1) Blank Out Appropriations for Thoughtful Consideration and Debate on Costs

Given current budget constraints arising from the need to address the tragedy of Maui wildfires, HICIA strongly urges the committees to reduce or blank out the appropriations requested under SB3335 SD1. Doing so would allow for a more thoughtful debate of the program's costs as the bill proceeds through the legislative process.

HICIA fully supports strong enforcement, regulatory oversight, and taxation of an adult-use cannabis industry. We believe, however, that these goals can be achieved with more efficient spending, lower up-front costs to the state, and Adult-Use Tax collections from preliminary sales.

SD3335 SD1 proposes one of the most ambitious and costly legalization programs to be implemented in the country. This is simply unnecessary and would be ineffective at the outset of a nascent cannabis legalization program. We ask that the committees zero out the budget apportionments so that further debate and measured discussion can occur to determine a more prudent approach to costs. HICIA believes that effective implementation can occur at a lower cost of approximately \$7 million in the first year.

Massachusetts established and launched its adult-use cannabis program with only an initial \$7.5 million appropriation. With a population of 7 million people (five times the size of Hawaii), they started the Massachusetts Cannabis Control Commission from scratch in 12-months without immediate support or staffing from existing agencies at a fraction of the cost proposed under SB3335 SD1.

In addition, the Department of Health's (DOH) Office of Medical Cannabis Control and Regulation (OMCCR) asserted in written testimony last session (March 1, 2023) that it could undertake oversight of an adult-use program with an additional \$5.3 million in annual funding for a public education campaign and additional staff - again a fraction of the cost currently proposed under SB3335 SD1.

Examples of inefficient or unnecessary spending in SB3335, SD1:

- SB3335 transfers staff and resources of the OMCCR to the new Authority. However, appropriations requested were not reduced in consideration of the offset costs, revenue, and benefits from utilizing existing OMCCR staff and funding, including:
 - 17 full-time employees in the OMCCR
 - \$3-4M annual operating budget appropriation
 - \$2M in annual revenue from licensing fees and patient registration fees (special fund)
 - \$2.8M in annual GET revenue from medical cannabis sales
- Upfront grants for social equity and other programs. These items should be appropriated in a future tranche after initial adult-use sales have launched and the new state cannabis tax collections are generated. Instead, focus initial appropriations under this measure on state staffing and resources, especially in law enforcement and public education. This can result in an up-front savings of \$10-20M.
- \$5M for a state laboratory. Hawaii already has a certified lab that conducts independent testing for Hawaii medical cannabis products. Establishing a state laboratory is simply unnecessary and should be removed.

2) Launch Sales Earlier to Avoid Illicit Market Proliferation and Generate Revenue

Currently, SB3335 SD1 would only allow adult-use cannabis licenses to be issued 18 months after passage. This delay would inevitably result in a proliferation of illicit market activity, no offset of initial appropriation with new tax revenue, and a significant loss in state revenue as has occurred in nearly all jurisdictions that have delayed legal sales after the passage of law.

Recommended Amendment:

Amend required delay in SB335 SD1 to allow for earlier sales to occur (suggested language):

“No later than 12-months after enactment, with permissible adult-use sales on an earlier interim basis for licensed entities under HRS 329-D”.

This amendment would significantly reduce the risk of Hawaii repeating the mistakes of other jurisdictions like New York and Ohio.

Resources

["Roadblocks and Red Tape: New York's Cannabis Effort at a Crossroads."](#) New York Times, June 6, 2023

["Adults can now legally possess and grow marijuana in Ohio — but there's nowhere to buy it."](#) PBS News Hour, December 7, 2023

["Ohio governor wants changes to looming recreational marijuana law to avoid 'black market,'"](#) NBC 4i, December 6, 2023

["Calling Cannabis Rollout a 'Disaster,' Hochul Blames Law for Rampant Illegal Sales."](#) The City, January 31, 2024

["New York Governor Blasts Marijuana Licensing 'Disaster' And Wishes Lawmakers Would 'Start Over With Legalization Law,'"](#) Marijuana Moment, January 31, 2024

CONCLUSION

SB3335 is one of the few measures proposed this session with the potential to generate new revenue for the state without imposing additional tax burdens on residents and existing businesses. In addition, the measure would finally establish regulatory oversight and greater public safety for the sale and use of cannabis.

Projected Tax Revenue

Roughly \$82M in new annual state tax revenue is projected to be achieved when Hawaii's adult-use market matures, resulting in a significant revenue stream for the state to address other critical needs.

More than \$35M in state tax revenue (GET+Adult-Use Tax) in the first year of adult-use sales can be generated immediately under interim sales to cover the full cost of regulatory, enforcement, and programmatic needs. Fiscally, legalization will provide a net tax benefit for Hawaii.

HICIA greatly appreciates the committee's consideration of the recommendations in our testimony. We strongly urge the committee to factor in both the budget constraints facing our state as well as the risks of illicit market proliferation with delayed legal sales as the bill continues through the legislative process.

Mahalo,

TY Cheng
Chairman, Hawaii Cannabis Industry Association



To: Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

To: Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Members of WAM & CPN Joint Committee

From: Jaclyn Moore, Pharm.D., Co-Founder & CEO Big Island Grown Dispensaries

Re: **Testimony in Support of SENATE BILL (SB)3335 SD1 RELATING TO CANNABIS**

Establishes the Hawai'i Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant. Beginning January 1, 2026, legalizes the personal adult use of cannabis. Establishes taxes for adult-use cannabis sales. Transfers the personnel and assets of the Department of Health and assets Department of Agriculture to the Hawai'i Cannabis Authority. Appropriates funds.

Aloha Chair Dela Cruz, Chair Keohokalole, and Members of the Joint Committee,

My name is Jaclyn Moore, co-founder and CEO of Big Island Grown, one of the state's eight medical cannabis dispensary licensees.

We stand in support of SB3335 and the proposed SD1. This measure was thoughtfully crafted by the Attorney General with proposed amendments from your committee.

At its core, this measure seeks to regulate Hawaii's cannabis industry, establish safeguards for the community, and establish a new tax on adult-use sales of cannabis to generate revenue for the state.

As we know, cannabis use has been prevalent in Hawaii for decades but it has been dominated by unregulated/illicit sales. For too long, this issue has been ignored. We laud the efforts of the legislature and the administration to finally tackle this issue head on.

At the same time, we are sensitive to the cost considerations that should be factored in considering this measure. To this point, we offer the following information:

- **\$32M Year One - Projected Tax Revenue:** *Within the first year under this measure, the state is projected to generate approximately \$32 million in tax revenue from GET, the new 10% cannabis tax, as well as income tax from the industry.*
- **\$80+M Year Four – Projected Tax Revenue:** *By year four, the industry has the potential to generate more than \$80 million in tax revenue for the state.*
- **Reduce Up-Font Costs:** *Massachusetts launched its adult-use cannabis program with roughly \$7M to serve a population of 7 million people, which is five times the size of Hawaii. Alaska also*

Lau Ola LLC, dba Big Island Grown Dispensaries
HILO WAIMEA KONA



established its program with roughly \$7M albeit with a population half the size of Hawaii. No matter how you slice it, the \$38M up-front appropriation requested under this bill would make Hawaii's program among the highest (if not the highest) in the country on a per capita basis.

- **Eliminate Unnecessary Spending, Stagger Spending to Coincide with Revenue Generation:** *Appropriations under this bill include \$5M for a state laboratory. This is unnecessary as an independent state-certified lab is already established and is currently testing all products under the state's Medical Cannabis program. In addition, the bill includes appropriations for numerous grants that would be better suited for funding once the state begins to capture tax revenue from the industry.*
- **Minimize Risk of Unregulated/Illicit Sales; Allow Legal Sales Early:** *Practically all jurisdictions that have delayed issuance of licenses and legal sales of cannabis have faced disastrous consequences of the proliferation of unregulated/illicit cannabis sales. The state should avoid this by establishing an earlier timeline for new licenses to be issued and allowing initial sales to begin through cannabis producers already regulated by the state.*

With further refinement, we believe the regulatory framework and tax regime for cannabis adult use proposed under SB3335 would help Hawaii achieve its policy goals. We encourage the committees to consider amendments submitted by the Hawaii Cannabis Industry Association (HICIA).

Thank you for the opportunity to testify,

Jaclyn L. Moore, Pharm.D.



Cultivation Sector Consulting, LLC

150 Mahiai Place

Makawao, HI 96768

TO: Senator Donovan M. Dela Cruz, Chair
Senator Sharon Moriwaki, Vice Chair
Committee on Ways & Means

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Committee on Commerce and Consumer Affairs

FR: Jennifer Martin, Member/Manager
Cultivation Sector Consulting, LLC

RE: **SB3335, SD1 RELATING TO CANNABIS.**

AMENDED TESTIMONY RELATING TO SB3335, SD1

DATE: Friday March 1, 2024

TIME: 9:50 VIA VIDEOCONFERENCE; Conference Room 211

Chair Dela Cruz, Vice Chair Moriwaki and members of the Committee of Ways & Means; and Chair Keohokalole, Vice Chair Fukunaga and members of the Committee on Commerce and Consumer Protection:

My name is Jennifer Martin, sole member and manager of Cultivation Sector Consulting, LLC. I have been active in the cannabis industry since 1996 and have been a consultant in Hawai'i, operating locally and internationally as a cannabis application and operations expert since 2017.

Cultivation Sector Consulting **supports** SB3335, SD1 which establishes the Hawai'i Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant.

Concerns Related to Persons Convicted of a Felony

We are opposed, however, to specific provisions which prohibit persons convicted of any felony from the following:

- Applying for a license (§A-72 Applicant criteria);
- Serving as an officer, director, manager or general partner of a business entity applying for a license (§A-72(c)(1)); and
- Working for a licensed business (§A-79(f) Licensed business operations).

If adopted, SB3335, SD1 would be one of the most conservative and punitive prohibitions in the nation for former felons. Currently, Massachusetts is the only state with a total ban for **all** prior felony convictions. The most common and reasonable prohibition provides for a 10-year lookback period, including Nevada and Washington. Several other states, such as Alaska, Oregon, New Jersey and New York, only have 3- to-5-year lookback periods.

A 10-year lookback period is particularly suitable because of the United States Department of Justice Statistics' research on recidivism (the rate at which prior felons commit additional offenses). The BJS's



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Makawao, HI 96768

data shows that the vast majority of repeat offenders will likely be rearrested and convicted within a 9-year period. This means that a 10-year lookback period would preclude those most likely to reoffend while providing licensing and employment opportunities for those rehabilitated persons who have stayed out of trouble.

Cultivation Sector respectfully submits background information to this Committee, including research, data and conclusions supporting the 10-year look-back period. In particular, we are attaching (1) a study by the Reason Foundation from 2018, which evaluated every state's recreational licensing prohibitions related to felonies; and (2) a summary of the Bureau of Justice Statistics Report, published May 2018, which analyzed the recidivism rate of prisoners from 2012-2017, showing that the vast majority of recidivism occurs in the first 3 years after the first offense, with less and less occurring over a 9-year period. Overall, these studies demonstrate that Hawai'i's suggested ban on persons convicted of felonies creates an unreasonably punitive effect on rehabilitated persons, so we support an amendment adding a maximum 10-year lookback provision to SB3335, SD1.

Recommendation: 10-Year Lookback Period for Persons Convicted of a Felony

We therefore recommend your respective Committees amend the above-referenced provisions to clearly state that persons convicted of a felony exceeding a 10-year period be permitted to apply for cannabis licenses, as well as manage and work for a licensed cannabis operator. Proposed amendments are included here with additions underlined and highlighted for reference:

SA-72 Applicant criteria. (a) An applicant for a license under this chapter shall meet each of the following criteria, if applicable.

(b) If the applicant is a natural person, the applicant shall establish at a minimum that the applicant:

- (1) Is at least twenty-one years of age;
- (2) Has been a legal resident of the State for no less than five years preceding the date of application;
- (3) Has a Hawaii tax identification number and is compliant with the tax laws of the State;
- (4) Has not been convicted of a felony; provided that a conviction:
 - (A) That is pardoned or expunged; or



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(B) Solely for a marijuana-related offense, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b) ; or

(C) resulting in any term of probation, incarceration or supervised release, was completed more than 10 years ago, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b) ,

shall not disqualify a person from applying for a license; and

(5) Has not had any license, permit, certificate, registration, or other government-issued authorization related to cannabis revoked in any jurisdiction.

(c) If the applicant is a business entity, the applying business entity shall establish at a minimum that:

(1) Every officer, director, manager, and general partner of the applying business entity or any person who has the power to direct the management, policies, and practices of the applying business entity:

(A) Is at least twenty-one years of age;

(B) Is a natural person who has been a legal resident of the State for no less than five years preceding the date of application;



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- (C) Has not been convicted of a felony;
provided that a conviction:
- (i) That is pardoned or expunged; or
 - (ii) Solely for a marijuana-related offense, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b) ; or
 - (iii) resulting in any term of probation, incarceration or supervised release, was completed more than 10 years ago, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b),
- shall not disqualify a person from applying for a license; and
- (D) Has not had any license, permit, certificate, registration, or other government-issued authorization related to cannabis revoked in any jurisdiction; and

(2) The applying business entity:



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- (A) Is controlled by a majority of the shares, membership interests, partnership interests, or other equity ownership interests that is held or owned by natural persons who are legal residents of the State or by business entities whose owners are all natural persons who are legal residents of the State;
- (B) Has been organized under the laws of the State;
- (C) Has a Hawaii tax identification number and is compliant with the tax laws of the State;
- (D) Has a department of commerce and consumer affairs business registration number and suffix; and
- (E) Has a federal employer identification number.

(d) An applicant shall disclose in or include with its application the names and addresses of the applicant and all persons having a direct or indirect financial interest in the applied-for license and the nature and extent of the financial interest held by each person and the nature and extent of any financial interest the



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person has in any other license applied for or issued under this chapter.

(e) An applicant shall complete all application forms prescribed by the authority fully and truthfully and comply with all information requests by the authority relating to the license application.

(f) A license shall be denied or revoked if an applicant knowingly or recklessly makes any false statement of material fact to the authority in applying for a license under this chapter.

(g) The board may adopt rules to require additional criteria for licensure for the purposes of protecting the public health and safety, promoting sustainability and agriculture, and encouraging the full participation in the regulated cannabis industry from disproportionately impacted areas.



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§A-79 Licensed business operations. (a) The board shall adopt rules to establish requirements for the operation of a licensed business.

(b) In addition to requirements established by any other provision of this chapter and rules adopted thereunder, a licensed business shall secure:

(1) Every entrance to the restricted areas of licensed premises so that access to restricted areas is restricted to employees and others permitted by law to access the restricted area; and

(2) Its inventory and equipment during and after operating hours to deter and prevent theft of cannabis.

(c) No licensed business shall cultivate, process, test, or store cannabis at any location other than within an area that is enclosed and secured in a manner that prevents access by persons not authorized to access the restricted area. A greenhouse or outdoor cannabis cultivation area shall have sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals, including perimeter security fencing designed to prevent unauthorized entry.

(d) No licensed business shall refuse employees or agents of the authority the right at any time of operation to inspect the entire licensed premises or to



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audit the books, papers, and records of the licensed business.

(e) No licensed business shall allow any person under twenty-one years of age to work for the licensed business.

(f) No licensed business shall allow any person that has been convicted of a felony to work for the licensed business; provided that a conviction:

(1) That is pardoned or expunged; or

(2) Solely for a marijuana-related offense, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b); or

(3) resulting in any term of probation, incarceration or supervised release, was completed more than 10 years ago, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b).

shall not disqualify a person from working for the licensed business.

(g) A licensed business shall:

(1) Register each employee with the authority; and

(2) Notify the authority within one working day if an employee ceases to be associated with the licensed business.

(h) A person under twenty-one years of age shall not enter a licensed business; provided that a medical



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cannabis patient who is eighteen years of age or older may enter a medical cannabis dispensary, retail cannabis store, or medical cannabis cooperative of which the patient is a member.

(i) A licensed business shall ensure that unauthorized persons under twenty-one years of age do not enter the licensed premises; provided that the board may adopt rules to allow a medical cannabis dispensary or retail cannabis store to use a controlled, indoor entry area in the medical cannabis dispensary or retail cannabis store to verify the identification and age of persons before allowing access beyond the entry area.

(j) No licensed business shall cultivate, process, distribute, dispense, or otherwise transact business with any products containing cannabis other than those that were cultivated, processed, distributed, and taxed in accordance with this chapter and chapter B.

We urge your support of SB3335, Proposed SD1 with a 10-year lookback amendment provision for persons convicted of a felony. Thank you for the opportunity to testify on this matter.

Sincerely,

/S/

Jennifer Martin
Cultivation Sector Consulting, LLC
150 Mahiai Pl.
Makawao, HI 96768
Jennifer@CultivationSector.com
877-757-7437



Cultivation Sector Consulting, LLC

150 Mahiai Place

Makawao, HI 96768



HAWAII' ALLIANCE FOR CANNABIS REFORM

Friday, March 1, 2024

Senate Bill 3335 SD1 Relating to Cannabis Testifying with Comments, asking for amendments

Aloha Chairs Dela Cruz and Keohokalole, Vice Chairs Moriwaki and Fukunaga, and Members of the Committees:

The Hawai'i Alliance for Cannabis Reform is providing comments on SB3335 SD1, which establishes the Hawaii Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs. It also establishes the Cannabis Control Implementation Advisory Committee and, beginning January 1, 2026, legalizes the personal use of cannabis, establishes taxes for adult-use cannabis and medical cannabis sales. Finally, the bill transfers the personnel and assets of the Departments of Health and Agriculture to the Hawaii Cannabis Authority and makes appropriations.

Cannabis prohibition has done a tremendous amount of harm — tearing families apart, marking tens of thousands of Hawai'i residents with criminal records that derail lives, and risking the health and safety of those buying and selling cannabis on the illicit market. We embrace legalization as a way to stop inflicting those harms, contribute to a diversified economy, and create an alternative approach rooted in equity and reparative justice.

We heartily support protecting health and safety as part of legalization. However, the AG-drafted bill's singular focus has resulted in an approach that is overly focused on law enforcement and re-criminalization, and that will continue to do life-changing damage to responsible cannabis consumers for behavior that endangers no one. We urge an approach to cannabis legalization that focuses far more on reinvesting in communities, reparative justice, and building an equitable and inclusive industry — and that avoids ramping up law enforcement and criminalizing innocuous behavior.

Member Organizations

Marijuana Policy Project • ACLU of Hawai'i • Drug Policy Forum of Hawai'i • Council for Native Hawaiian Advancement • Last Prisoner Project • Doctors for Drug Policy Reform • Hawai'i Innocence Project • Chamber of Sustainable Commerce • Cannabis Education Hawai'i

With this approach in mind, we respectfully offer and request a number of amendments to vastly improve the bill.

- 1. Strict Compliance Language.** Revise the language that only creates an exception to criminal codes if a person is acting in “strict compliance,” resulting in harsh penalties for small technical violations. The bill should remove criminal penalties for adults growing and possessing legal amounts, as other legal states do. It could impose modest, non-criminal penalties for technical violations.

Recommended changes, marked up from SD1:

§A-4 General exemptions. (a) Notwithstanding any law to the contrary, including part IV of chapter 329 and part IV of chapter 712, actions authorized pursuant to this chapter shall be lawful if done in [~~strict~~] compliance with the requirements of this chapter and any rules adopted thereunder.

(b) A person may assert [~~strict~~] compliance with this chapter or rules adopted thereunder as a [~~an affirmative~~] defense to any prosecution involving marijuana or marijuana concentrate, including under part IV of chapter 329 and part IV of chapter 712.

(c) Violations of [~~Actions that do not strictly comply with~~] the requirements of this chapter and any rules adopted thereunder shall be unlawful and subject to civil, criminal, or administrative procedures and penalties, or all of the above, as provided by law.

SECTION 39. Section 712-1249, Hawaii Revised Statutes, is amended to read as follows: "§712-1249 Promoting a detrimental drug in the third degree. (1) A person commits the offense of promoting a detrimental drug in the third degree if:

- (a) the person is under twenty-one years of age and knowingly possesses any marijuana;
- (b) the person is twenty-one years of age or older and knowingly possesses an amount of marijuana that exceeds the possession limit; or
- (c) the person knowingly possesses any Schedule V substance in any amount.

(2) Promoting a detrimental drug in the third degree [~~is~~] shall be a petty misdemeanor; provided that possession of three grams or less of marijuana by a person under twenty-one years of age [~~is~~] shall be a violation, ...

(3xx) As used in this section, “possession limit” means:

- (i) one ounce of cannabis flower and up to five grams of tetrahydrocannabinol contained within cannabis products; and
- (ii) within a person's private residence only, up to ten ounces of adult-use cannabis produced by their personal cultivation of cannabis; provided that no more than two pounds of cannabis in total, shall be stored at any private residence, regardless of the number of people residing there.

SECTION 79. This Act shall take effect on December 31, 2050; provided that:

(1) Sections A-51 through A-53, Hawaii Revised Statutes, of section 2 of this Act [~~and~~] part III of this Act, and Section 390 of part IV shall take effect on January 1, 2026;

If needed:

Section xx. **Failure to abide by restrictions on adult possession or use of cannabis.**

(1) A person commits the offense of failing to abide by restrictions on adults' possession or use of cannabis if the person is twenty-one years of age or older and is not in compliance with the requirements in §A-51.

(2) Failing to abide by restrictions on adults' possession of cannabis shall be a violation, punishable by a fine of up to \$130.

Section xx. **Failure to abide by restrictions on personal cultivation of cannabis.**

(1) A person commits the offense of failing to abide by restrictions on adults' personal cultivation of cannabis if the person is twenty-one years of age or older and is not in compliance with the requirements in §A-52.

(2) Failing to abide by restrictions on adults' personal cultivation of cannabis shall be a violation, punishable by a fine of up to \$750, or up to 40 hours of community service.

2. **Youth Criminalization.** SB 3335, SD 1 re-criminalizes minors in possession of cannabis and imposes excessive new penalties for providing cannabis to those 18-20. While we agree it should remain illegal to provide cannabis (other than medical cannabis), imposing even harsher penalties than the status quo is unreasonable.

Recommended changes, from SD1:

Delete sections 38, 40, and 41.

Modify section 39, §712-1249 to read:

Promoting a detrimental drug in the third degree.

"§712-1249 Promoting a detrimental drug in the third degree. (1) A person commits the offense of promoting a detrimental drug in the third degree if:

- (a) the person is under twenty-one years of age and knowingly possesses any marijuana;
- (b) the person is twenty-one years of age or older and knowingly possesses an amount of marijuana that exceeds the possession limit or
- (c) the person knowingly possesses any Schedule V substance in any amount.

(2) Promoting a detrimental drug in the third degree ~~is~~ shall be a petty misdemeanor; provided that possession of three grams or less of marijuana by a person under twenty-one years of age is shall be a violation, punishable by a fine of up to \$130.

(3) As used in this section, "possession limit" means:

- (i) one ounce of cannabis flower and up to five grams of adult-use cannabis products as calculated using information provided pursuant to section A-113(d); and
- (j) within a person's private residence only, up to ten ounces of adult-use cannabis produced by their personal cultivation of cannabis; provided that no more than two pounds of cannabis in total, shall be stored at any private residence, regardless of the number of people residing there.

3. **Open Containers.** Remove the broad open container law, which would jail individuals for up to 30 days and/or impose a fine of up to \$2,000 for a driver or passenger who possesses in the passenger area a cannabis package that has ever been opened, loose cannabis, or any pipe. This applies even to patients, who sometimes need emergency relief.

If an open container law must remain, SD 1 should at least be revised so:

- 1) the penalty is on par with the current penalty under decriminalization (\$130);
- 2) the penalty does not apply to passengers with cannabis on their person (some of those passengers will be in busses/shuttles/Lyfts/cabs where it would be difficult to impossible to store cannabis in a trunk);
- 3) passengers — many of whom will be medical patients — do not face jail time for taking a tincture or edible; and
- 4) it specifies some places where cannabis may be legally stored in cars, since some have no trunk and could be considered 100% passenger areas.

Recommended changes from SD1 if the open container provision is not deleted entirely:

SECTION 6. Chapter 291, Hawaii Revised Statutes, is amended by adding three new sections to part I to be appropriately designated and to read as follows:

"§291- Consuming ~~[or possessing]~~ marijuana or marijuana concentrate while operating or a passenger in a motor vehicle or moped. (a) No person shall consume, including through secondhand or passive smoking, any marijuana or marijuana concentrate while operating a motor vehicle or moped upon any public street, road, or highway.

~~(b) No person shall smoke or vaporize any marijuana or marijuana concentrate while a passenger in any motor vehicle or on any moped upon any public street, road, or highway. [No person shall possess within any passenger area of a motor vehicle or moped, while operating the motor vehicle or moped upon any public street, road, or highway, any bottle, can, package, wrapper, smoking device, cartridge, or other receptacle containing any marijuana or marijuana concentrate that has been opened, or a seal broken, or the contents of which have been partially removed, or loose marijuana or marijuana concentrate not in a container.]~~

(c) Any person violating this section shall be guilty of a petty misdemeanor and shall be fined no more than \$2,000 or imprisoned no more than thirty days, or both.

§291- Open container of ~~[Consuming or possessing]~~ marijuana or marijuana concentrate ~~[while a passenger]~~ in a motor vehicle or on a moped. (a) ~~[No person shall consume any marijuana or marijuana concentrate while a passenger in any motor vehicle or on any moped upon any public street, road, or highway.~~

~~-(b)]~~ No person shall possess within any passenger area of a motor vehicle or moped ~~[, while a passenger in the motor vehicle or on the moped]~~ being operated upon any public street, road, or highway, any bottle, can, package, wrapper, smoking device, cartridge, or other receptacle containing any marijuana or marijuana concentrate that has been

opened, or a seal broken, or the contents of which have been partially removed, or loose marijuana or marijuana concentrate not in a container.

(b) This section does not apply to marijuana, marijuana, concentrate, or a bottle, can, package, wrapper, smoking device, cartridge, or other receptacle containing any marijuana or marijuana concentrate that is:

(1) concealed on a passenger's person or in his personal property; or

(2) stored in a trunk, luggage compartment, console out of reach of the driver, or similar location out of reach of the driver.

(c) Any person violating this section shall be guilty of a violation [~~petty misdemeanor~~] and shall be fined no more than \$130 [~~\$2,000 or imprisoned no more than thirty days, or both~~].

4. **Per se DUI Provision.** Remove the outrageous and unscientific per se “driving under the influence” limit of 10 nanograms per milliliter of THC for adults and medical patients and any trace amount for those under 21. Due to significant variations among individuals in THC levels at times of impairment, particularly between regular consumers and novice users, this will criminalize patients and other sober drivers long after impairment wears off. It would also make it difficult to convict cannabis-impaired drivers testing below the threshold. Rather than criminalizing sober drivers, Hawai'i should invest in more DRE and ARIDE-trained officers. It should also have a robust public education campaign on the dangers and illegality of impaired driving.

The per se and the zero-tolerance provision are unjust, unscientific, and need to be removed.

Delete SD 1's Sections 7-17. Include funding for DRE and ARIDE training, plus public education on the dangers and illegality of impaired driving.

5. **Collateral Consequences.** SD 1 lacks protections to prevent cannabis consumers' lives from being ruined over cannabis. Worse, it removes existing protections for medical cannabis, legalizing discrimination against medical cannabis patients in housing, child custody, and education.

SD 1 needs language to prevent Hawai'i residents from:

- losing custody of their children for the responsible use of cannabis;
- losing state benefits for the responsible use of cannabis;
- losing professional or occupational licenses for the responsible use of cannabis;
- having parole or probation supervision revoked for cannabis; and
- being denied housing, employment, professional and occupational licensing, and government benefits based on past cannabis possession convictions.

It is also vital that the bill restores the original text of medical cannabis protections from §329-125.5. SD1 A-41 deletes, limits, or replaces them with new onerous restrictions that do not apply to other medicines.

At the end of SD 1's §A-51, add:

(e) No person shall be denied custody of, visitation with, or parenting time with a minor, and there shall be no presumption of neglect or child endangerment, for conduct allowed

under this chapter; provided that this subsection shall not apply if the person's conduct created a danger to the safety of the minor, as established by a preponderance of the evidence.

(f) Notwithstanding any other provision of law, unless there is a specific finding that the individual's use, cultivation, or possession of cannabis could create a danger to the individual or another person, it shall not be a violation of conditions of parole, probation, or pre-trial release to:

(1) engage in conduct allowed by this chapter; or

(2) test positive for cannabis, tetrahydrocannabinol, or any other cannabinoid or metabolite of cannabis.

(g) Except as provided in this section, neither the state nor any of its political subdivisions may impose any penalty or deny any benefit or entitlement for conduct permitted under this chapter or for the presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair, or other tissue or fluid of a person who is twenty-one years of age or older.

(h) No employer; professional or occupational licensing board; landlord; property manager; or state or local agency may take an adverse action against an individual for an arrest or conviction for cannabis possession before the effective date of this section.

Revise SD 1's § A-41 to restore protections and remove new restrictions, such as:

§A-41 Possession of cannabis for medical use. ...

~~(d) [All cannabis shall be stored in a sealed child-resistant and resealable packaging with original labels and not easily accessible to any person under the age of twenty-one unless that person is a medical cannabis patient.]~~ 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 cannabis 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 cannabis registry card or certificate and photo identification, to ensure that the qualifying patient or primary caregiver is validly registered.

~~(e) [All cannabis shall be transported in a sealed container, shall not be visible to the public, and shall not be removed from its sealed container or consumed or used in any way while in a public place or vehicle.]~~ No qualifying patient or primary caregiver under this part shall be denied custody of, visitation with, or parenting time with a minor, and there shall be no presumption of neglect or child endangerment, for conduct allowed under this part; provided that this subsection shall not apply if the qualifying patient's or primary caregiver's conduct created a danger to the safety of the minor, as established by a preponderance of the evidence.

~~(f) [The medical use of cannabis alone shall not disqualify a person from any needed medical procedure or treatment, including organ and tissue transplants, unless in the judgment of the health care provider the use of cannabis increases the risk for a bad~~

~~outcome from the procedure or treatment.] For the purposes of medical care, including organ transplants, a registered qualifying patient's use of cannabis in compliance with this part shall be considered the equivalent of the use of any other medication under the direction of a physician and shall not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.~~

6. **Expand and clarify expungement and resentencing.** Clarify and expand language for the creation of a state-initiated expungement and re-sentencing process. Justice is not simply achieved through legalization, but by also undoing the harms caused by the criminalization of cannabis. Last year, the Senate overwhelmingly passed SB 669, which included a specific process for automatic expungement. SD 1’s vague language includes no such process and is a significant step backwards on expungement. SB 669 originated in and was approved by the Senate and includes language from the Dual Use Cannabis Task Force Report’s recommendations.

See SB 669, SD 3, Section 3 §706, which includes;

(2) No later than December 31, 2025, the attorney general, in collaboration with the judiciary and county prosecuting attorneys, shall determine the offenses that meet the criteria for expungement set forth in subsection (1). The county prosecuting attorneys shall issue a written notice to persons with records that qualify for expungement under subsection (1). Once offenses have been identified, but no later than January 1, 2026, the attorney general (in cases of an arrest for or charge with but not a conviction of a crime) and the appropriate court of record (in cases of conviction and pursuant to procedures established by the judiciary) shall order the automatic expungement of the records relating to the arrest, criminal charge, or conviction, as appropriate.

(3) A person convicted for an offense under chapter 329, part IV of chapter 712, or any other offense, the basis of which is an act permitted by chapter A or decriminalized under Act____, Session Laws of Hawaii 2023, including the possession or distribution of marijuana, shall have the right to petition at any time and without limitation to the number of petitions a convicted person may file, with the appropriate court of record for review and adjustment of the sentence.

7. **Social Equity Licensing:** Mandate the issuance of a significant number of small and social equity licenses in the first licensing round. Based on extrapolations from a market demand study in Maryland and the small cultivation canopy limit in the bill, there should be at least 100 growers, 60 manufacturers, and 60 retail stores. At least half of each should be reserved for social equity applicants.

Add the following new section to SD 1, and make conforming changes as needed to rulemaking.

- (a) No later than 18 months after the effective date of this chapter, the authority shall make available applications for cannabis business licensure.
- (b) Each license shall be granted, issued a conditional approval, or denied within 120 days of its submission.
- (c) No later than 24 months after the effective date of this chapter, the authority shall issue no fewer than the following number of licenses:

- (1) 30 retail cannabis store licenses, at least 15 of which must be issued to social equity applicants;
 - (2) 100 cannabis cultivator licenses, at least 50 of which must be issued to social equity applicants; and
 - (3) 60 cannabis processor licenses, at least 30 of which must be issued to social equity applicants.
- (d) Applicants may apply for conditional approval if they have not purchased or leased the property where their cannabis business would be located. If the applicant is otherwise qualified for licensure, the authority shall provide conditional approval. Once the applicant provides the authority with a completed, supplemental application that includes the premises, the authority shall approve or reject the final application within 45 days.
- (e) No later than 48 months after the effective date of this chapter, and at least every year thereafter, the authority shall consider whether to increase the number of licenses of each type issued, with goals of avoiding an oversupply, avoiding an undersupply, providing reasonable prices and accessibility, and promoting small businesses, social equity operators, and individuals' transition from the legacy market to the regulated market.
- (f) The authority shall re-open the application period at least once every year if the number of outstanding licenses fall.

8. Remove the bar on anyone with most felony convictions from working at any cannabis business. This overbroad bar runs counter to the values of restorative justice and equity.

If the bar cannot be removed entirely, it should at least be limited to felonies with a close nexus to the work. In addition, very old convictions should not be barred.

Delete §A-79 (f)

~~§A-79 (f) No licensed business shall allow any person that has been convicted of a felony to work for the licensed business; provided that a conviction:~~

- ~~(1) That is pardoned or expunged; or~~
- ~~(2) Solely for a marijuana-related offense, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b), shall not disqualify a person from working for the licensed business.~~

If it cannot be deleted, it could be revised to:

- (f) The authority shall issue rules to prohibit individuals with a disqualifying felony conviction from working for a licensed cannabis business. The authority shall define as a disqualifying felony narrowly, and shall not include any offense:
- (1) That is pardoned or expunged;
 - (2) Where the sentence was completed at least 10 years prior; or
 - (3) Solely for a marijuana-related offense, unless the offense involved a minor, including the offense under section 712-1249.6, or a firearm, including the offense under section 134-7(b), shall not disqualify a person from working for the licensed business.

9. **Reallocate funding to focus on equity and justice.** Reduce or remove the excessive allocations to law enforcement and increase allocations to social equity and community reinvestment to at least 60% of the excise tax.

In SD 1, SB 3335's several distinct funds were combined into two funds. SD 1 allocated 50% of the excise tax revenue to social equity, public education, and public safety grants, allowing for the possibility that little or no funding will make it to equity. Non-equity funds (which include cannabis enforcement) should not be commingled with equity funds, allowing for funding to be siphoned off from reparative justice. In addition, several coalition members believe a significant amount of revenue should be reserved for the general fund to address the state's needs.

§A-19, replace with:

Cannabis social equity special fund; established. (a) There shall be created in the treasury of the State the cannabis social equity special fund to be administered and expended by the authority.

(b) The moneys in the cannabis social equity special fund shall be used, subject to appropriation, for the implementation and administration of the social equity program as provided in part IX.

(c) The following shall be deposited into the cannabis social equity special fund:

(1) The tax collected pursuant to section 237-13(9)(B);

(2) Appropriations made by the legislature to the special fund;

(3) Interest earned or accrued on moneys in the special fund; and

(4) Contributions, grants, endowments, or gifts in cash or otherwise from any source, including licensed businesses.

(d) Moneys on balance in the cannabis social equity special fund at the close of each fiscal year shall remain in the special fund and shall not lapse to the credit of the general fund.

§B-7 Disposition of revenues. The tax collected pursuant to this chapter shall be paid into the state treasury as a state realization to be kept and accounted for as provided by law; provided that revenues collected under this chapter shall be distributed in the following priority:

(1) Thirty-five [Fifty] per cent of the tax collected shall be deposited into the general fund; [cannabis regulation, nuisance abatement, and law enforcement special fund established by section A-18; and]

(2) [Fifty] Sixty per cent of the tax collected [shall be deposited into the cannabis social equity[, public health and education, and public safety] special fund established by section A-19;

(3) two and a half percent for grants to train and certify state and county law enforcement officers as drug recognition experts for detecting, identifying, and apprehending individuals operating a vehicle under the influence of an intoxicant or otherwise impaired; and

(4) two and a half percent for a public education campaign on the dangers of impaired driving.

10. Law Enforcement Staffing Largesse. Remove the 17 new cannabis law enforcement positions and remove or dramatically reduce the eight new cannabis nuisance AG-positions. Remove related appropriations. Legalization should *reduce* the amount of cannabis-related law enforcement by moving most cannabis-related conduct to the legal market, not increase it. Other states have not included this degree of increase in cannabis-related law enforcement as part of legalization.

Strike sections 57, 58, 61, and 62.

11. Cannabis Odor as Pretext for Searches. Add protections to clarify that the odor of cannabis, on its own, and possession of a legal amount does not establish probable cause for a warrantless search.

[new section] Odor and personal possession of cannabis not grounds for a search.

(a) Except as provided in this section, the odor of cannabis or burnt cannabis, or the possession of a quantity of cannabis that the officer does not have probable cause to believe exceeds the possession limit, shall not constitute in part or in whole probable cause or reasonable suspicion and shall not be used as a basis to support any stop or search of a person, a property, or a motor vehicle.

(b) Nothing in this section prevents a law enforcement official from conducting a test for impairment based in part on the odor of recently burnt cannabis if the law enforcement official would otherwise be permitted to do so under law.

(c) As used in this section, “possession limit” means:

(1) one ounce of cannabis flower and up to five grams of tetrahydrocannabinol contained within adult-use cannabis products; and

(2) within a person's private residence only, up to ten ounces of adult-use cannabis produced by their personal cultivation of cannabis; provided that no more than two pounds of cannabis in total, shall be stored at any private residence, regardless of the number of people residing there.

12. Paraphernalia Law Exemption. Add provisions legalizing the possession and distribution of cannabis paraphernalia.

[new section] Section xx. Cannabis paraphernalia authorized.

(a) Notwithstanding any other provision of law, it is not unlawful and shall not be an offense under Hawai'i law or the law of any political subdivision of Hawai'i or be a basis for seizure or forfeiture of assets under Hawai'i law for persons twenty-one years of age or older to manufacture, possess, possess with intent to distribute, or purchase cannabis paraphernalia, or to distribute or sell cannabis paraphernalia to a person who is twenty-one years of age or older.

(b) Except as provided in this section, a person who is 21 years of age or older is authorized to manufacture, possess, and purchase cannabis accessories, and to distribute or sell cannabis accessories to a person who is twenty-one years of age or older. This section is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of

the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this chapter to manufacture, possess, or distribute cannabis accessories.

13.Storage. Remove the requirement that cannabis must always be stored in a sealed container, which applies even if adults live alone with no minors in the household. Remove the new requirement requiring the same for medical cannabis patients.

~~Strike §A-51 [(b) All adult-use cannabis shall be stored in a sealed child-resistant and resealable packaging with original labels and not easily accessible to any person under the age of twenty-one.]~~

If this is not stricken, reducing the penalty to a maximum \$130 civil fine (per the strict compliance section) is vital to avoid harsh criminal penalties for innocuous conduct, including by adults who live alone.

Strike SD 1's §A-41 (d-e)

§A-41

(d) All cannabis shall be stored in a sealed child-resistant and resealable packaging with original labels and not easily accessible to any person under the age of twenty-one unless that person is a medical cannabis patient.

14. Consumption Restrictions. Remove the ban on any consumption of cannabis in a public place or a vehicle, which would apply even to those using cannabis medicinally in a parked vehicle. Imposing a civil fine for public smoking would be more appropriate.

Strike SD 1's §A-51 (c)

~~(c) [All adult-use cannabis shall be transported in a sealed container, shall not be visible to the public, and shall not be removed from its sealed container or consumed or used in any way while in a public place or vehicle.]~~

Strike SD 1's §A-41 (e)

§A-41

~~(e) All cannabis shall be transported in a sealed container, shall not be visible to the public, and shall not be removed from its sealed container or consumed or used in any way while in a public place or vehicle.~~

The following could be added instead to address public smoking:

Section xx. Public smoking prohibited, penalty.

(a) It is unlawful to smoke cannabis in a public place.

(b) It is unlawful to smoke cannabis in a location where tobacco smoking is prohibited pursuant to HRS Chapter 328].

(c) A person who violates this section is guilty of a violation punishable by a fine of up to \$130 or up to 10 hours of community service.

15. Cannabis Authority Composition. Replace the unpaid, part-time board, and instead empower an agency head and flesh out the advisory board. Appointments should be divided between the governor, Senate president, and speaker. To ensure they are committed to their mission, the executive director, chief officers, and appointees to the board must not have previously opposed legalization. In addition, law enforcement and former law enforcement should not be on the board if there is a board.

Recommended changes. Remove all references to the board (A-12). Reassign duties to the executive director. Revise the advisory board section as follows:

§A-11 Hawaii cannabis authority; established. (a) There shall be established the Hawaii cannabis authority, which shall be a public body corporate and politic and an instrumentality and agency of the State for the purpose of implementing this chapter. ~~[The authority shall be governed by the cannabis control board.]~~ The authority shall be placed within the department of commerce and consumer affairs for administrative purposes only. The department of commerce and consumer affairs shall not direct or exert authority over the day-to-day operations or functions of the authority.

(b) The authority shall exercise its authority ~~[, other than powers and duties specifically granted to the board,]~~ by and through the executive director. The executive director shall be appointed by the governor with the advice and consent of the Senate [board without regard to chapter 76 or section 26-35(a)(4)] and serve at the pleasure of the governor [board]. The executive director shall have expertise and training in the field of cannabis regulation or public health administration.

(c) At a minimum, the staff of the authority shall consist of one full-time executive secretary to the executive director, one full-time chief financial officer, one full-time chief equity officer, one full-time general counsel, one full-time chief public health and environmental officer, one full-time chief technology officer, and one full-time chief compliance officer, each of whom shall be exempt from chapter 76 and section 26-35(a)(4) and serve at the pleasure of the executive director.

(d) The executive director, chief financial officer, chief equity officer, general counsel, chief public health and environmental officer, chief technology officer, and chief compliance officer must support the mission of legalizing and regulating cannabis and must not have publicly opposed the legalization and regulation of cannabis since at least 2019.

§A-14 Cannabis control implementation advisory committee; members; organization. (a) There shall be established the cannabis control implementation advisory committee that shall advise and assist the board in developing or revising proposed laws and rules to carry out and effectuate the purposes of this chapter. The cannabis control implementation advisory committee shall be placed within the department of commerce and consumer affairs for administrative purposes only.

(b) The cannabis control implementation advisory committee shall consist of fifteen members, with five members to be appointed by each the governor, the Senate president, and the speaker. Members of the board must support the mission of legalizing and regulating cannabis. Members shall include: one expert in public health;

one physician who is knowledgeable about the risks and benefits of cannabis; at least one registered medical cannabis patient; at least one individual who represents cannabis consumers; four individuals with backgrounds in the cannabis industry, at least one of whom has a background in each cannabis cultivation, cannabis retailing, cannabis product manufacturing, and cannabis testing, and at least two of whom qualify as social equity applicants; at least one individual with background in civil rights advocacy; at least one individual with background security; one individual with expertise in environmental sustainability; one attorney with experience in cannabis policy or providing legal services related to cannabis; and an attorney designated by the office of the Attorney General to advise the taskforce.

(c) Members of the cannabis control implementation advisory committee shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(d) A majority of the members of the cannabis control implementation advisory committee present and voting shall constitute a quorum to conduct business, and the concurrence of a majority of all members present shall be necessary to make any action of the committee valid.

(e) No member of the cannabis control implementation advisory committee shall be subject to chapter 84 solely because of the member's service on the committee.

(f) The cannabis control implementation advisory committee shall be dissolved on December 31, 2025.

Mahalo for the opportunity to testify and for consideration of these proposed amendments. We must ensure the legalization of cannabis is rooted in justice and equity. Not an overly punitive approach which amplifies law enforcement.

ACLU of Hawai'i
Carrie Ann Shirota
Policy Director

Drug Policy Forum of Hawai'i
Nikos Leverenz
President

Marijuana Policy Project
Karen O'Keefe
Director of State Policies

On behalf of the entire Hawai'i Coalition for Cannabis Reform



HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Comments on SB3335 – Relating to Cannabis
Senate Committees on Ways and Means and Commerce and Consumer Protection
Friday, March 1, 2024

To the members of the committees on Ways and Means and Commerce and Consumer Protection:

Thank you for the opportunity to submit **COMMENTS on SB3335**, which would create and regulate an adult-use cannabis market in the state of Hawaii. We encourage the legislature to consider amending this proposal to include a process for a state-initiated, automatic expungement of records for those with cannabis related convictions, as well as increasing the investment of cannabis tax revenue into social equity programs and the general fund.

The legalization of an adult-use cannabis market can serve as a catalyst for economic growth and increased state revenue. States that have legalized cannabis have seen substantial tax revenues, which can be channeled into critical areas such as education, healthcare, and a robust social equity licensing program. According to projections from the Department of Taxation, tax revenue from adult-use cannabis sales could reach between \$35-55 million, provided the price per ounce remains in the \$225-\$275 range.¹ Revenues could be even higher if prices fall below that range, according to the report.

The legalization of adult use cannabis presents a significant opportunity to correct past injustices and promote social equity. We applaud the legislature's effort to include an expungement process in the language of SD1. According to the Attorney General's report on the bill, there are currently over 50,000 arrests and 10,000 convictions currently in the system for low-level cannabis related offenses.² Thousands of individuals in our state have suffered long-term consequences due to minor

¹ Colby, Seth "Getting Too High?: Levels of taxation and potential public revenue from a legalized cannabis market in Hawaii," Department of Taxation, August 2022:

<https://health.hawaii.gov/medicalcannabis/files/2022/08/CANNABIS-TAX-PIG-REPORT-FINAL.pdf>

² "Report Regarding the Final Draft Bill Entitled 'Relating to Cannabis.' Hawaii State Department of the Attorney General, January, 2024: <https://ag.hawaii.gov/wp-content/uploads/2024/01/REPORT-REGARDING-THE-FINAL-DRAFT-BILL-ENTITLED-RELATING-TO-CANNABIS-PREPARED-BY-THE-DEPARTMENT-OF-THE-ATTORNEY-GENERAL-dated-January-5-2024.pdf>



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

cannabis-related offenses, impacting their employment, housing, and educational opportunities. According to a study by the Brennan Center for Justice, people convicted of a misdemeanor can have their earnings decrease by 16% on average.³ By including expungement provisions in the legalization framework, Hawaii can begin to mend the harm caused by these convictions, offering a renewed chance at increased economic mobility for thousands of Hawaii's residents.

As written, people with previous cannabis related convictions would still need to petition to the state for expungement. **We urge the legislature to consider amending the language to include a state-initiated process that would automatically expunge the records of those with low-level cannabis related convictions.** Doing so would provide rapid relief to those who struggle to access economic, housing, and educational opportunities due to prior criminal convictions. Language for initiating this process can be found in SB2689.

We also applaud the bill's inclusion of a social equity program. A robust social equity licensing program has the potential to broaden economic opportunity for the most disadvantaged communities in our state and a majority of tax revenue should be dedicated to these efforts. **We urge the legislature to adopt an amendment dedicating 60% of cannabis tax revenues to these efforts to ensure the social equity provisions are well resourced and achieve their intended goals.**

The state also has the potential to capture revenue for critical services like education and infrastructure by dedicating a significant portion of the remaining tax revenues to the general fund. As written, no revenue is dedicated to the general fund, which limits the legislature's ability to capture new revenue from a legalized adult-use market.

Including a state-initiated expungement provision and increasing revenues for a robust social equity program will ensure that an adult-use cannabis market will broaden economic opportunity for those most heavily impacted by cannabis prohibition, while increasing economic growth for the state as whole.

³ "Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality." Brennan Center for Justice, September 2020: <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>



Statement from Frank Stiefel
Senior Policy Associate
Last Prisoner Project

RE: Senate Bill 3335, SD1, Does Not Prioritize Retroactive Relief for Those Criminalized for Cannabis

February 28, 2024

Dear Members of the Committees on Ways and Means and Commerce and Consumer Protection,

When a state legalizes adult-use cannabis, it is acknowledging that public interest has turned against the continued criminalization of cannabis. However, simply repealing the prohibition of cannabis is insufficient: millions of individuals across the U.S. still bear the lifelong burden of having a cannabis record, and tens of thousands are actively serving sentences for cannabis-related convictions. Thankfully, the inclusion of criminal justice policies has become commonplace for states that have sought to legalize adult-use cannabis. Since 2018, 13 of the 14 states that have legalized cannabis have included record clearance policies, and since 2021, they have all been state-initiated. While resentencing policies have been slower to take hold, they are also growing in importance and have been included in more than half of the legalization bills since 2020.

The Last Prisoner Project (LPP) has worked diligently over the past two years to present evidence-based policies that will ensure that retroactive relief is provided for those who have been criminalized during the War on Drugs. In 2022, LPP presented [recommendations to Hawaii's Dual Use of Cannabis Task Force](#) for the creation of state-initiated record clearance and resentencing processes for those who continue to suffer from criminal convictions and sentences as a result of prohibition. LPP's recommendations were endorsed by the Task Force and were codified in SB 375, SB 669 and HB 237 during the 2023 legislative session. Additionally, LPP was named in [Concurrent Resolution No. 51/House Resolution No. 53](#), which urged Governor Green to initiate a clemency program for individuals who are still under supervision for a cannabis conviction.

As technical assistance providers, we have read, advised, and informed expungement and sentence modification statutes across the country. We understand that proposing any state-initiated process represents no small undertaking and requires a reasonable amount of

time to develop the necessary technological infrastructure and business processes in order to ensure a system is implemented with fidelity. However, any bill that seeks to legalize adult-use cannabis must be focused on providing retroactive relief for the thousands of individuals who have been intimidated, arrested, and even thrown into prison for cannabis. The push to legalize adult-use cannabis represents an opportunity to right the wrongs that have been committed during the War on Drugs, particularly against people of color, including Native Hawaiians and Pacific Islanders.

If SB 3335, SD1 can contemplate the creation of 17 new law enforcement positions, and an entirely new market and regulatory structure, then surely Hawai'i can also dedicate the necessary resources to addressing and repairing the harm caused by decades of cannabis prohibition. We would ask that committee members insert language from SB 669, SD 2 that was passed by the Senate last year and outlined the creation of a state-initiated record clearance process for individuals with cannabis records.

We thank you for your consideration of this urgent matter.

About Last Prisoner Project

The Last Prisoner Project, 501(c)(3), is a national nonpartisan, nonprofit organization focused on the intersection of cannabis and criminal justice reform. Through policy campaigns, direct intervention, and advocacy, LPP's team of policy experts works to redress the past and continuing harms of unjust cannabis laws. We are committed to offering our technical expertise to ensure a successful and justice-informed pathway to cannabis legalization in Hawai'i.



Testimony in Opposition to SB3335 SD1 - Relating to Cannabis

Hearing on Friday, March 1, 2024 at 9:50 am
Conference Room 211, Hawaii State Capitol

To: Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Fr: Alan Shinn
Hawaii SAM
1130 N. Nimitz Hwy, Suite A259
Honolulu, HI 96817

Thank you for the opportunity to provide testimony in opposition to SB3335 SD1 – Relating to Cannabis, which legalizes the personal adult use of cannabis beginning 1/01/26. In addition, it establishes the Hawaii Cannabis Authority and Cannabis Control Board to regulate all aspects of cannabis, establishes taxes for adult cannabis sales, makes appropriations, among other things.

The burden for supporting commercialized marijuana in Hawaii would be on taxpayers. This is unacceptable. Here are some reasons this will happen. The bill's overall plan to create an extensive regulatory and enforcement bureaucratic structure for commercial marijuana is grandiose without adequate tax revenues to fund it. In 2022, 79% of medical use marijuana sales were from the illegal market in Hawaii with estimated total revenues of about \$50 million. Price differential between black market marijuana and dispensary sold marijuana was the biggest factor for lagging legal medical marijuana sales (Hawaii Tax Working Group of the Dual Use of Cannabis Task Force, August 2022). The same market dynamics would be in play for highly regulated commercial marijuana with expensive marijuana pitted against much cheaper product on the black market.

Almost every state that legalized marijuana came up short on initial revenue targets. In Massachusetts, the first year of tax revenue from marijuana sales was less than half of the anticipated \$63M (Politico, 2019). Even as marijuana markets grow, research shows tax revenues quickly taper off (Pew Trusts, 2019). Finally, the cost for each dollar brought in by commercialized marijuana tax revenue in Colorado cost the state \$4.50 in increased social and health costs, such as emergency room care, DUI accidents, injuries and deaths, law enforcement, substance use and mental health treatment, (Centennial Institute, 2018).

Regarding consumer protection, SB3335 SD1 gives too much authority to the Cannabis Control Board, without providing guidance on such things as setting THC potency caps, advertising and marketing, and more. The CCB is modeled after the Massachusetts CCB, which is proving to be dysfunctional and overly influenced by the marijuana industry. This could also happen in Hawaii without putting into place firm checks and balances.

Thank you for the opportunity to submit testimony in opposition to SB3335.

**SAM Hawaii is an affiliate of Smart Approaches to Marijuana (SAM), a national alliance of organizations and individuals dedicated to a health-first approach to marijuana policy. SAM seeks a middle road between incarceration and legalization. Our commonsense, third-way approach to marijuana policy is based on reputable science and sound principles of public health and safe*



Akamai Cannabis Consulting

3615 Harding Ave, Suite 304
Honolulu, HI 96816

TESTIMONY ON SENATE BILL 3335 SD1
RELATING TO CANNABIS

By
Clifton Otto, MD

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
and

Senate Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

DECISION MAKING

Friday, March 1, 2024; 9:50 AM
State Capitol, Room 211 & Videoconference

Thank you for the opportunity to provide COMMENTS on this measure.

[CDC data](#) shows that about 20% of adults in the United States suffer from chronic pain.

The population in Hawaii is about 1.4 million, of which about 1.1 million are adults.

$1,100,000 \times 0.2 = 220,000$ potential medical cannabis patients from pain alone.

We don't need recreational legalization if we improve and expand our medical cannabis program, as the Governor has [suggested](#).

Please delay moving forward with adult use in Hawaii until cannabis is removed from the federal Controlled Substances Act entirely, and in the meantime expand our medical program using [SB3278](#) as a template, to include getting a federal [exemption](#) for our registered patients, which would open the door for dispensaries to become legal [suppliers](#) of cannabis to patients under state and federal law.

February 28, 2024

Re: SB3335 SD1

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

The Coalition for a Drug-Free Hawaii opposes SB3335 SD1

Aloha Chairs and Vice Chairs, my name is Greg Tjapkes, and I am the Executive Director of the Coalition for a Drug-Free Hawaii (CDFH), as a drug abuse prevention youth-serving agency we **STRONGLY OPPOSE SB3335 SD1**

Two factors that lead to increased youth use are availability and perception of harm. As cannabis is increasingly normalized and viewed as ‘medicine’, it is perceived as becoming less harmful, when in fact, with increased THC potency, it is become much more harmful – especially to the developing brain of adolescents and young adults.

THC potency should be limited. As you know, THC potency has increased from 3% in the 1970s, to over 25% today for cannabis flower, and concentrates can reach 95%+ potency.¹ Legalizing cannabis without THC limits poses a grave danger to our keiki and young people with increased emergency department visits for cannabis hyperemesis syndrome and cannabis induced psychosis.

Of special interest to the Ways and Means Committee: **Costs will outweigh underwhelming Revenue Projections.** In October 2023 the Kansas City Federal Reserve published a study of the economic benefits and social costs in states that have legalized Cannabis.² They find:

- **Moderate economic gains:**
 - average state income grew by 3 percent,
 - house prices by 6 percent, and
 - population by 2 percent.
- **However, Double digit percent increases in social costs:**
 - substance use disorders increasing by 17%,
 - chronic homelessness increased 35%,
 - and arrests increased 13 %

¹ Cannabis Policy: Public Health and Safety Issues and Recommendations. Caucus on International Narcotics Control, United States Senate, March 3, 2021, Washington, D.C. Report, <https://www.drugcaucus.senate.gov/sites/default/files/02%20March%202021%20-%20Cannabis%20Policy%20Report%20-%20Final.pdf>.

² <https://www.kansascityfed.org/research/research-working-papers/economic-benefits-and-social-costs-of-legalizing-recreational-marijuana/>

The Committee on Commerce and Consumer Protection should be aware of these concerns:

- **Harms to Mothers and Children**
 - **Pregnancy:** “No amount of marijuana use during pregnancy or adolescence is known to be safe.” - Dr. Jerome Adams, U.S. Surgeon General, 2019
 - **Pediatric poisonings:** Calls to poison control centers about kids 5 and under consuming edibles containing THC rose 1375% from 2017 to 2021.³
- **Youth Use, Mental Health, and Suicide**
 - **Cannabis Use Disorder (CUD):** Marijuana is the #1 drug **in Hawaii** for adolescent substance abuse treatment⁴ with 76% of those seeking help for CUD.
 - **Psychosis and Suicidal ideation:** Frequency and higher THC potency are associated with psychosis, suicidality, reshaping of brain matter, and addiction⁵
 - **Vaping Marijuana:** 12.5% of **Hawaii teens** report vaping marijuana⁶
- **Increased Drugged Driving Deaths**
 - THC positivity among fatally injured drivers in Hawaii increased nearly threefold, from 5.5% in 1993-2000, to 16.3% in 2011-2015.⁷
 - Marijuana is involved in more than 1 in 4 road deaths in Colorado.⁸

This bill will benefit very few, cost us dearly, has the potential to harm many, and damage the children, families, and character of the Aloha State.

Please vote no on **SB3335 SD1**.

Thank you,

Greg Tjapkes
Executive Director
Coalition for a Drug-Free Hawaii

³ <https://www.nbcnews.com/health/health-news/reports-young-children-accidentally-eating-marijuana-edibles-soar-rcna63501>

⁴ ADAD Report to the Legislature 2024, p. 36

⁵ Cinnamon Bidwell et al., 2018; Di Forti et al., 2019; Fischer et al., 2017; Pierre et al., 2016.

⁶ 2019-2020 Hawai'i Student Alcohol, Tobacco and Other Drug Use (ATOD) Survey, p. 38

⁷ Motor vehicle crash fatalities and undercompensated care associated with legalization of marijuana. Susan Steinemann, MD, Daniel Galanis, PhD, Tiffany Nguyen, and Walter Biffl, MD, Honolulu, Hawaii

⁸ Rocky Mountain High Intensity Drug Trafficking Area. (2019). The legalization of marijuana in Colorado: The impact. <https://rmhidta.org/files/D2DF/FINAL-Volume6.pdf>.

Jeffrey Hong
CEO
Techmana LLC



2/28/2024

To: Senator Jarrett Keohokalole, Chair of the Senate Committee on Commerce and Consumer Protection
Senator Donovan Dela Cruz, Chair Senate Committee on Ways & Means

Chair Keohokalole, Chair Dela Cruz, and Members of the Joint Committees.

My name is Jeff Hong I am the CEO of Techmana LLC. Techmana is a Hawai'i based software development and cybersecurity company. I testify in strong support of **SB3335 SD1** I have seen the detrimental effects on the failed war on drugs in general and cannabis in particular. I have additional professional perspectives as Board Chair of Hawaiian Ethos and as Chair of the Honolulu Liquor Commission. I testify only in a personal capacity.

Working in the technology industry, I have had colleagues removed from employment or afraid to apply for employment because of their cannabis use. This policy makes us less competitive with jurisdictions that have eliminated the criminalization of cannabis.

The expungement provision of this bill are vital to addressing the harms of our failed past policies. Under our current liquor laws HRS 281-45, a felony disqualifies an applicant from ownership in any business that serves alcohol; boat, store, bar, club, or restaurant. This prevents a significant slice of our citizens from creating small businesses in our hospitality focused economy. In previous testimony (HB1595), the law enforcement community raised objections to the complexity and cost to implement a state-initiated expungement process. Our State's current IT systems are inadequate to automate the process and the criminal records are inadequately encoded for automation. The revenue raised by this bill provide an opportunity to fund upgrading our antiquated systems and provide relief to those affected.

We have seen the failures of prohibition with both alcohol and cannabis. Part of our thriving hospitality industry is due to a sensible regulatory scheme of post prohibition alcohol. It has

taken decades of constant tuning of liquor laws to balance minimizing the harms of alcohol while allowing people to choose to drink.

This bill is far from perfect, but it is a good start to remove the harms caused by cannabis prohibition and to start a new local industry.

Mahalo for the opportunity to testify.

Sincerely,

Jeffrey Hong



HawaiianEthos

Date: February 28, 2024

To: Senator Jarrett Keohokalole, Chair of Committee on Commerce and Consumer Protection
Senator Donovan Dela Cruz, Chair of Committee on Ways and Means

Fr: Noah Phillips - Hawaiian Ethos

Re: Testimony **In Support of Senate Bill (SB) 3335**

RELATING TO CANNABIS Establishes the Hawai'i Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant. Beginning January 1, 2026, legalizes the personal adult use of cannabis. Establishes taxes for adult-use cannabis sales. Transfers the personnel and assets of the Department of Health and assets Department of Agriculture to the Hawai'i Cannabis Authority. Appropriates funds.

Dear Chair, Vice-Chair, and Members of the committees:

Hawaiian Ethos **supports SB3335** as an important bill for the establishment of the State's Adult Use Cannabis Program. Hawaiian Ethos is a vertically integrated licensed dispensary operating in the State of Hawai'i since 2018, with three retail locations in the Hilo, Kona, and Waimea areas on the Island of Hawai'i and is the only provider of completely clean, solventless medical cannabis products in the State of Hawai'i.

We **strongly support** the decriminalization of cannabis in Hawai'i. As an existing medical cannabis dispensary on Hawai'i Island, we have seen first-hand the benefits that responsible cannabis use can provide to patients. We believe the responsible, personal use of cannabis should not be illegal. The harms inflicted upon individuals and communities from the prohibition of cannabis needs to end.

A successful and community-inclusive implementation of a legal adult use cannabis system has the potential to create a long-term sustainable economic industry for Hawaii, a place renowned for its quality of local-grown flower. We urge the legislature to view Hawaii's established cannabis industries holistically, understanding that a partitioned and fractured marketplace is not in the best interest of any local stakeholders. If implemented well, legalization of cannabis could create a new agriculturally oriented market that both the state and its community members can benefit from for future generations.

Thank you for the opportunity to testify.

Noah Phillips, on Behalf of Hawaiian Ethos



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII
SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION
and WAYS AND MEANS

MARCH 1, 2024

SB 3335, SD1, RELATING TO CANNABIS

POSITION: COMMENTS

The Democratic Party of Hawai'i provides the following **comments** on SB 3335, SD1, relating to cannabis. In 2016, delegates to the Democratic Party of Hawai'i's state convention passed a resolution (EDU 2016-05) supporting the legalization of adult-use recreational cannabis to generate revenue for public services, such as education.

It is high time that Hawai'i stopped criminalizing people for ingesting a plant, **but this bill needs significant work before moving forward**. While cannabis remains illegal under federal law, where it is classified as a Schedule I substance, the facts about cannabis consumption are clear. To begin, cannabis has a lower organic toxicity and addictive risk than alcohol, along with fewer correlating incidents of influence-related accidents and violence. More than half of all traffic fatalities in Hawai'i involve alcohol, yet no one seriously discusses the possibility of prohibition because of path dependence. In other words, alcohol is ingrained in our culture in a way that cannabis consumption is not, despite the former being more dangerous, statistically speaking, than the latter.

Similarly, cannabis abuse and dependence afflicts approximately 1.7 percent of the U.S. population, while alcohol abuse afflicts roughly 7.5 percent—over four times as many individuals. Cannabis is also not conclusively linked to an increase in violent behavior. Rather, reports supposedly linking cannabis to violent crimes typically rely on information gathered by the Office of National Drug Control Policy, which, in turn, relies on source material that a) does not account for drug-trafficking and dispositional or psychological disorders; and b) fails to account for levels of deviancy (increased usage beyond average consumption rates). A starker statistical correlation exists between increased alcohol consumption and violent crime, including child and intimate partner abuse, yet, again, no one is introducing, much less considering the merits of, limiting the personal consumption of alcohol.

Additionally, only 30 percent of frequent (every other day or more) cannabis users report symptoms suggesting dependence, in contrast to nearly 70 percent for nicotine and 88 percent for harder drugs, like cocaine, calling into question legal opinions asserting that cannabis and hard drugs can be readily correlated to one another. If we do not criminalize overconsumption of the more dangerous drug of alcohol, in and of itself, why, once more, do we unduly criminalize cannabis consumption, particularly in small amounts?

Legalizing recreational cannabis is an issue of restorative justice. As the visitor industry reaps record profits and supports expanding the local prison-industrial complex, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, suffer the pangs of a biased criminal in-justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and, importantly for this measure, harsher drug-related punishments than other ethnic groups, including for cannabis possession. **We appreciate that expungement provisions have been contained in this measure. This must be included in any justice-oriented legalization program enacted for our state.**

Legalizing recreational cannabis could generate at least \$81.7 million in tax revenue annually for our state according to a study published by the Hawai'i Cannabis Industry Association and would produce substantial additional criminal justice savings that could be spent delivering a quality public education to our keiki, building 21st Century school facilities, and disrupting the school-to-prison pipeline. Even a more conservative \$50 million revenue estimate produced by the Hawai'i Department of Taxation is enough to “stand up” a local cannabis industry. Many states have established well-regulated recreational cannabis industries for less than \$5 million.

As we struggle to fix our state's overcrowded prisons, we must enact systemic solutions that promote social justice and help to alleviate Hawai'i's mass incarceration problem. If implemented sensibly, cannabis legalization could lead to the most comprehensive mass expungement program ever seen on our shores, with people who have been incarcerated for cannabis infractions having their criminal records expunged and being released from the legal constraints that have unjustly impeded their ability to attain financial security and, in many cases, stolen their basic freedom.

Social equity must form the heart of any forward-thinking cannabis legalization program. Our society's most marginalized people should be first in line to participate in the cannabis industry that we are seeking to grow. Agricultural and business practices should be based on regenerative, sustainable, and indigenous cultivation methods to ensure that cannabis operations uplift the needs and values of Hawai'i residents, not the profits of multistate corporations. **This measure fails to center social equity, however, and instead relies on a draconian law enforcement paradigm that would undermine any sound and sensible legalization effort.**

There are numerous problems with this measure that weaken its impact and undercut its purpose, including the following:

- The bill creates an unscientific DUI law by criminalizing adults for 10 nanograms per milliliter of THC in their system, an amount that can remain long after impairment wears off;
- The proposal imposes up to 30 days in jail for anyone who possesses a cannabis package that has ever been opened, loose cannabis, or any pipe in the passenger area of a vehicle;
- The measure prohibits consuming cannabis in any public place or a vehicle;

- The proposal provides that penalties are only removed for those who are in “strict compliance” with the law, such that a minor violation, such as cannabis plants being visible to neighbors, could result in jail time;
- The bill re-criminalizes possession of up to three grams of cannabis for those under 21, imposing a petty misdemeanor, which carries up to 30 days in jail and/or a fine of up to \$1,000;
- The bill fails to include non-discrimination protections for consumers related to child custody, state benefits, occupational licensing, and parole/probation revocation;
- The measure weakens existing law providing that medical use of cannabis doesn’t disqualify a patient from an organ transplant or other needed medical care;
- The bill creates a new cannabis law enforcement unit, with 17 new law enforcement positions, and establishes eight positions in a drug nuisance abatement unit in the AG’s office, which will only serve to increase cannabis violations—notably, the bill does not provide funding for mental health or drug rehabilitation programs or other initiatives that prevent addiction, such as after-school programs; and
- The proposal only provides \$10 million for social equity programming, at best, which is far less than what is needed to uplift racial and geographic communities that have been disproportionately harmed by the racially discriminatory war on cannabis.

The Democratic Party of Hawai’i Strongly urges your committee to address these issues before advancing SB 3335. We must legalize cannabis in a manner that is responsible, just, and equitable for our island home.

Mahalo nui loa,

Kris Coffield

Co-Chair, Legislative Committee
(808) 679-7454
kriscoffield@gmail.com

Abby Simmons

Co-Chair, Legislative Committee
(808) 352-6818
abbyalana808@gmail.com



Submitted Online: Thursday, February 29, 2024

TO: Senate Committee on Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice-Chair

Senate Committee on Ways & Means
Senator Donovan Dela Cruz, Chair
Senator Sharon Moriwaki, Vice-Chair

FROM: Eva Andrade, President

RE: Opposition to SB3335 SD 1 Relating to Cannabis

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii. As such, we have serious concerns about this bill and its ultimate ramifications on the wider community – especially concerning our keiki. Although we leave the discussion as to the regulatory functions and applicability of its passage to the experts, establishing legal recreational marijuana is a serious and dangerous policy change for our community.

Marijuana use will increase, not decrease with legalization. According to Jonathan P. Caulkins, “The Real Dangers of Marijuana,” (2019) “[o]ne could speculate that legalization might make marijuana abuse and dependence less common, because generally healthy people will start to use occasionally, and that influx could dilute the proportion who abuse or are dependent. But one could just as easily speculate that legalization will bring more marketing, more potent products (like "dabs"), or products that are more pleasant to use (like "vaping" pens), any of which could increase the risk that experimenting could progress to problematic use. This is all speculation, of course. But what can be said empirically is that, within the context of aggregate use in the United States at this time, the best available data suggest that marijuana creates abuse and dependence at higher rates than alcohol.”ⁱ

Let’s fix the vaping problem in Hawaii before we create a situation that may very well be exacerbated by legalized commercial marijuana. Despite the legislature's diligent efforts to address the vaping epidemic, significant challenges remain. The high rates of youth in Hawai'i engaging with illegal substances, despite stricter regulations, raise critical concerns. It prompts us to question the effectiveness of these measures and whether marijuana will also attract their attention and usage. Marijuana concentrates are already being used in vaping devices and even the DEA has recognizedⁱⁱ that the marijuana used in vaping contains a higher concentration. Because marijuana is a performance-degrading drug, school-aged keiki who access it will most certainly be put at a disadvantage.

The bill will legalize edible marijuana products and that will detrimentally affect our keiki. The use of edible products is another way that our youth could access marijuana and that will be a huge unintended consequence regardless of packaging requirements. According to Smart Approaches to Marijuanaⁱⁱⁱ, youth drug use has risen in every state that has legalized recreational marijuana.^{iv} The American Academy of Pediatrics has reported that “[t]here has been a consistent increase in pediatric edible cannabis exposures over the past 5 years, with the potential for significant toxicity.”^v

Legalization and the perceived societal acceptance are detrimental to the overall safety and well-being of our keiki. The legalization of commercial marijuana will significantly influence our keiki's perception of its consumption. Family dynamics play a crucial role, acting as both safeguards and potential risks in the context of adolescent substance use. There are numerous accounts of young people accessing illegal substances through adults within their familial circles. Often, these adults facilitate easy access to marijuana ostensibly acquired for "medicinal" purposes. The shift towards legalizing recreational marijuana is likely to exacerbate this issue, further complicating the landscape of substance access and use among adolescents. By legalizing recreational marijuana, we are implicitly communicating to our youth that its use is not associated with significant risks. This action may convey a perception of safety and acceptability regarding its consumption, potentially influencing young people's attitudes towards its dangers.

Marijuana may impair judgment, motor function, and reaction time. Studies have found a direct relationship between blood THC concentration and impaired driving abilities. According to the Conference of National State Legislatures, "[t]esting for drug impairment is problematic due to the limitations of drug-detecting technology and the lack of an agreed-upon limit to determine impairment. The nationally recognized level of impairment for drunken driving is .08 g/mL blood alcohol concentration. But there is no similar national standard for drugged driving."^{vi}

The bottom line is that by legalizing the recreational use of marijuana, we believe it will affect adolescents' use by increasing its availability through social connections, by creating a message within social norms that show marijuana use as a normal thing, and by reinforcing beliefs that marijuana use is not harmful. If marijuana possession and use is no longer a punishable offense it will be more readily available, as users of marijuana will no longer be deterred by fear of punishment. Surely Hawai'i deserves better than that!

Mahalo for the opportunity to submit testimony in opposition.

ⁱ Caulkins, J. P. (n.d.). *The Real Dangers of Marijuana*. National Affairs. Retrieved February 10, 2023, from <https://www.nationalaffairs.com/publications/detail/the-real-dangers-of-marijuana>

ⁱⁱ (2019, May 8). *Vaping and Marijuana Concentrates*. DEA.gov. Retrieved February 10, 2023, from https://www.dea.gov/sites/default/files/2019-10/VapingMarijuana_Brochure_2019_508.pdf

ⁱⁱⁱ Smart Approaches to Marijuana (n.d.). *2020 Impact Report*. Learnaboutsam.org. Retrieved February 13, 2023, from <https://learnaboutsam.org/wp-content/uploads/2020/12/2020-Impact-Report1.pdf>

^{iv} (n.d.). *SAM Frequently Asked Questions*. SAM Smart Approaches to Marijuana. Retrieved February 10, 2023, from <https://learnaboutsam.org/faq/#sam19>

^v <https://publications.aap.org/pediatrics/article/151/2/e2022057761/190427/Pediatric-Edible-Cannabis-Exposures-and-Acute?autologincheck=redirected> [accessed 02/04/24]

^{vi} National Conference of State Legislators (2022, November 11). *Drugged Driving | Marijuana-Impaired Driving*. NCSL. Retrieved February 10, 2023, from <https://www.ncsl.org/transportation/drugged-driving-marijuana-impaired-driving>



Senate Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Hearing Date: Friday, March 1, 2024

ACS CAN COMMENTS and Urge Clarification on SB 3335 SD1: RELATING TO CANNABIS.

Cynthia Au, Government Relations Director – Hawaii Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to **COMMENTS and urges clarification** on **SB 3335 SD1: RELATING TO CANNABIS**. American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support fact-based policy and legislative solutions designed to eliminate cancer as a major health problem. We support all efforts to invest in comprehensive policies that would strengthen the health infrastructure in Hawaii to prevent youth from starting to use tobacco and help adults already addicted to tobacco to quit.

ACS CAN remains concerned about reducing smoking including the use of e-cigarettes and reducing exposure to secondhand smoke. Expanding the use of cannabis only heightens these concerns and we encourage the legislature to ensure cannabis laws do not undermine effective tobacco control laws and further health disparities.

ACS CAN opposes smoking or aerosolization of any form of cannabis. Recent history from our tobacco control work has shown how creating different terms and definitions is a strategic move by Big Tobacco to ensure certain products are regulated or taxed differently or escape regulation and taxation all together. ***ACS CAN requests clarification that smoking, including the use of e-***

cigarettes, of any and all cannabis or cannabis derived products, whether natural or synthetic, is prohibited in all workplaces and public places. This includes prohibiting indoor smoking associated with permits for special events and social consumption.

ACS CAN is pleased to see the fund for cannabis social equity, public health education and public safety fund. *We urge the state be required to collect baseline data and monitor the ongoing impact of cannabis on the use of tobacco and other substances including alcohol, opioids and tracking psychosis and other behavioral health conditions. We also urge the state be required to collect data on how engaging “disproportionately impacted area(s)” in the cannabis industry impacts health equity, including the impact of cannabis use, sales and all cannabis business locations in these areas as well as ensure equitable enforcement.*

ACS CAN opposes the changes to the e-liquid definition to exempt cannabis, cannabis products or cannabis accessories. This creates a major loophole for companies to mix cannabis with tobacco or nicotine to avoid tobacco control laws. The only exemption ACS CAN supports in this definition is one for drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as defined in the Federal Food, Drug, and Cosmetic Act.

To date, four THC-based drugs have been approved by the U.S. Food and Drug Administration (FDA) for the treatment of nausea, and several other similar drugs are being tested in clinical trials.ⁱ None of the FDA-approved drugs require the smoking or aerosolizing of the drug.

ACS CAN also recommends prohibiting any cannabis retail stores from selling tobacco products, including e-cigarettes that contain tobacco or nicotine whether natural or synthetic. ACS CAN also recommends requiring all cannabis and hemp businesses to be located at least 1000 feet from schools and other child focused areas and extending the advertising prohibition from 750 feet to 1000 feet.

Health Effects:

Marijuana smoke, like tobacco smoke, is a lung irritant and can pose significant risks to people who use and to those near use. Individuals who use marijuana may also experience other adverse effects, such as altered senses, changes in mood, and impaired cognitive and motor functions in the short-term; to impacts on breathing, brain development and the potential for addiction and risk of other drug or alcohol use in the long-term. Use of marijuana during pregnancy can have an impact on offspring before and after birth.ⁱⁱ

The most common way marijuana is used by adults is by smoking.ⁱⁱⁱ Among youth, the aerosolization of marijuana through e-cigarettes increased prior to the pandemic. In 2019, 3.9 percent of 8th graders, 12.6 percent of 10th graders, and 14.0 percent of 12th graders were

current users (defined as use in the past 30 days).^{iv} The 2023 levels remain substantial, with the percentage of youth using marijuana in the last year at 29% in 12th grade, 18% in 10th grade, and 8% in 8th grade.^v

Marijuana smoking affects lung function including inflammation of the large airways, increased airway resistance, and lung hyperinflation.^{vi} Marijuana smoke contains the same fine particulate matter found in tobacco smoke that can cause heart attacks.^{vii} Individuals under the age of 45 who frequently smoke marijuana (defined as 4 or more times in the past 30 days) are almost twice as likely as those who don't smoke marijuana to have a heart attack.^{viii} Marijuana smoke contains many of the cancer-causing substances found in tobacco smoke and has been shown to cause testicular cancer. The presence of cancer-causing substances is cause for concern and more research is needed to assess the impact of exposure to marijuana smoke on other types of cancer.^{ix}

Cigarette dependence is significantly higher among individuals with daily marijuana use compared with those with non-daily or no marijuana use. Increasing marijuana use among people who smoke cigarettes can be a barrier to smoking cessation with adverse public health implications for tobacco control.^x

ACS CAN supports prohibiting smoking or aerosolizing of marijuana and other cannabinoids in public places because the cancer-causing substances found in marijuana smoke pose numerous health hazards to the individual using and others in their presence. Secondhand marijuana smoke can pass THC, with people exposed feeling a psychoactive effect.^{xi} This can be especially dangerous for children who are exposed. Allowing the smoking or aerosolizing of marijuana in public places also undermines the effectiveness of 100% smoke-free laws.

Thank you again for the opportunity to provide comment. Should you have any questions, please do not hesitate to contact Government Relations Director Cynthia Au at 808.460.6109, or Cynthia.Au@Cancer.org.

ⁱ FDA. FDA and Cannabis: Research and Drug Approval Process. February 24, 2023. <https://www.fda.gov/news-events/public-health-focus/fda-and-cannabis-research-and-drug-approval-process>.

ⁱⁱ National Institute on Drug Abuse; National Institutes of Health; U.S. Department of Health and Human Services. Marijuana Drug Facts. December 2019. <https://www.drugabuse.gov/publications/drugfacts/marijuana>.

ⁱⁱⁱ Schauer GL, Njai R, Grant-Lenzy AM. Modes of marijuana use - smoking, vaping, eating, and dabbing: Results from the 2016 BRFSS in 12 States. *Drug Alcohol Depend.* 2020 Apr 1;209:107900. doi: 10.1016/j.drugalcdep.2020.107900. Epub 2020 Feb 6. PMID: 32061947.

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- ^{iv} Miech, R. A., Patrick, M. E., O'Malley, P. M., Johnston, L. D., & Bachman, J. G. (2020). Trends in Reported Marijuana Vaping Among US Adolescents, 2017-2019. *JAMA*, 323(5), 475–476. <https://doi.org/10.1001/jama.2019.20185>
- ^v Miech, R. A., Johnston, L. D., Patrick, M. E., O'Malley, P. M., & Bachman, J. G. (2023). Monitoring the Future national survey results on drug use, 1975–2023: Secondary school students. Monitoring the Future Monograph Series. Ann Arbor, MI: Institute for Social Research, University of Michigan. Available at <https://monitoringthefuture.org/results/annual-reports>
- ^{vi} Gracie, K., & Hancox, R. J. (2021). Cannabis Use Disorder And The Lungs. *Addiction*, 116(1), 182-190.
- ^{vii} Brook, R.D., Rajagopalan, S., Pope, C.A., 3rd, Brook, J.R., Bhatnagar, A., Diez-Roux, A.V., Holguin, F., Hong, Y., Luepker, R.V., Mittleman, M.A., Peters, A., Siscovick, D., Smith, S.C., Jr., Whitsel, L., and Kaufman, J.D. (2010). Particulate matter air pollution and cardiovascular disease: An update to the scientific statement from the American Heart Association. *Circulation* 121: 2331-78.
- ^{viii} Ladha KS, Mistry N, Wijeyesundera DN, et al. Recent cannabis use and myocardial infarction in young adults: a cross-sectional study. *CMAJ* September 2021: 193 (35) E1377-E1384; <https://doi.org/10.1503/cmaj.202392>.
- ^{ix} Ghasemiesfe, M., Barrow, B., Leonard, S., Keyhani, S., & Korenstein, D. (2019). Association Between Marijuana Use And Risk Of Cancer: A Systematic Review And Meta-Analysis. *JAMA Network Open*, 2(11), E1916318-E1916318.
- ^x Weinberger AH, Dierker L, Zhu J, Levin J, Goodwin RD. Cigarette dependence is more prevalent and increasing among US adolescents and adults who use cannabis, 2002-2019. *Tobacco Control*. Published Online First: 23 November 2021. Doi: 10.1136/tobaccocontrol-2021-056723.
- ^{xi} CDC. Marijuana FAQs. Accessed February 11, 2022: <https://www.cdc.gov/marijuana/faqs.htm>



TESTIMONY ON SENATE BILL SB 3335

BY OAHU CANNABIS FARM
ALLIANCE(OCFA)

Thank you for the opportunity to provide COMMENTS on this measure. OCFA opposes this bill based on these points. We have also spoken to many Massachusetts small businesses and local farmers and gained knowledge of why the program in Massachusetts is a failure.

- These are direct quotes from the Massachusetts adult-use bill. The residents of Hawaii have had no input at all in forming this bill. This is a cut-and-paste bill that was developed by the AG in less than 4 months.

" (4) Procedures and policies to promote and encourage full participation in the regulated cannabis industry by people from disproportionately impacted areas;" Also, (22) Procedures and policies, in consultation with the department of agriculture, to promote and encourage full participation in the regulated cannabis industry by farmers and agricultural businesses with emphasis on promoting small farms, diversified agriculture, and indigenous farming practices;

- Social Equity participants and the program have been taken advantage of by large corporations in Massachusetts.
- Legacy growers and small farmers and businesses cannot afford to participate in the program because of the high costs and over-regulation.
- Six of the ten Large Multistate operators are established in Massachusetts and control most of the market.
- This bill shows that the legacy market will be enforced by "new law enforcement teams" and will affect thousands of legacy growers already established in Hawaii, who cannot afford the licensing.
- State legislators and the Attorney general ignored developing a people-based working group to develop the bill and only contacted regulators instead of industry

professionals to ask what regulations work. OCFA sent out many emails to the AG and were ignored.

- The newly established regulatory group will continue down the same path, with no local presence, but instead a board chosen by legislation. The Cannabis Control Commission (CCC) is embroiled in major investigations and this model should be further investigated according to the outcomes.

OFCA believes in building a robust medical program for the legacy growers of Hawaii with laws and regulations that support the local people. SB2619, "The Medical Cannabis Act of 2024," is sitting in the legislation and provides a clear path to a fair regulatory model. Once this model is established it will provide an easy path to adult use if the bill should choose this path.

Please stand behind the residents of Hawaii and develop a program that provides healthy communities and jobs. This bill is not that path.

Mahalo'
Jason Hanley
President. Oahu Cannabis Farm Alliance



HIPHI Board

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Dina Shek, JD
Medical-Legal Partnership
For Children in Hawai'i

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John A. Burns School of Medicine,
Native Hawaiian Research Office

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community-Based Research &
Evaluation

Community Health
Worker Initiatives

COVID-19 Response

Environmental Health

Hawai'i Drug & Alcohol-Free
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective/Healthy Aging &
Community Living

Public Health Workforce
Development

Date: February 29, 2024

To: Senator Donovan M. Dela Cruz, Chair
Senator Sharon Moriwaki, Vice Chair
Members of the Senate Committee on Ways & Means

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce & Consumer
Protection

Re: Comments on SB3335 SD1, Relating to Cannabis

Mtg: Friday, March 1, 2024 at 9:50 AM

Hawai'i Public Health Institute¹ is offering **Comments on SB3335 SD1**, which would establish a non-medicinal adult-use cannabis program as well as create a regulatory board within the Department of Commerce and Consumer Protection (DCCA) to oversee and regulate all aspects of the cannabis plant. Furthermore, it creates a tax for sales of non-medicinal use cannabis.

We appreciate the opportunity to provide comments regarding the creation of a non-medicinal cannabis program. As this is a complex and multi-faceted issue, with implications for public health, social justice, and the economy, our comments will focus on the public health aspects of this measure.

Concerns of legalization extend beyond minimum public health protections.

First and foremost, we believe there must be minimum public health protections included in any type of non-medicinal cannabis program. These protections include , but aren't limited to minimum age restrictions, protections from secondhand smoke, and regulations on retailers. *However, the legalization of non-medicinal cannabis may normalize its use, potentially leading to increased public health risks.*

While HIPHI has serious public health concerns about the *legalization* of non-medicinal cannabis, we support the *decriminalization* of cannabis possession, recognizing the

disproportionate impact of drug use charges and the criminal justice system on Native Hawaiians and other communities of color.ⁱⁱ

Public health concerns of cannabis use, especially among youth.

From a public health perspective, we strongly recommend the oversight of this public health issue to be in the Department of Health (DOH) as they are equipped with the public health knowledge, expertise, and experience with regulating medical cannabis to create regulatory structures that follow best-practice public health guidelines. The DOH's primary focus on health will ensure that the health and safety of the community are at the forefront of regulations of non-medicinal adult-use cannabis. For this reason, we strongly recommend that the "Department" overseeing the proposed Cannabis Program be the Department of Health.

Even without legalization, Hawai'i youth are increasingly impacted by cannabis use. According to Hawai'i Department of Health Alcohol & Drug Abuse Division (DOH ADAD), 64% of adolescents who were admitted to the emergency room with a substance event were caused primarily by cannabis in FY 2019-2020.ⁱⁱⁱ By FY 2022-2023, 76.2% of those admissions were caused primarily by cannabis. Normalizing its use through legalization may exacerbate this issue.^{iv}

The increase in emergency room visits is not the only impact on youth. Cannabis use during adolescence and young adulthood may harm the developing brain.^{v,vi} Current evidence supports, at minimum, a strong association of cannabis use with the onset of psychiatric disorders, with adolescents particularly vulnerable to harm.^{vii}

Cannabis use has been linked to a range of mental health problems, such as depression and social anxiety. People who use cannabis are more likely to develop temporary psychosis (not knowing what is real, hallucinations, and paranoia) and long-lasting mental disorders, including schizophrenia (a type of mental illness where people might see or hear things that aren't there). The association between cannabis and schizophrenia is stronger in people who start using cannabis at an earlier age and use cannabis more frequently.^{viii} Given Hawai'i's existing mental health crisis, additional resources would be necessary to meet the increased demand for services.

Furthermore, any policy must address limitations on the number of retail outlets and their allowable locations. The higher density of retail stores results in areas of higher consumption.^{ix} This reality disproportionately affects the communities in which retail stores are located. Incentivizing specific locations over others will have detrimental impacts on the people living, working, and going to school in that community. Incentivizing retailers to choose one location over another is inherently inequitable.

Lessons learned from states with legalized adult-use cannabis.

In places where the legalization of adult-use cannabis was enacted, there have been significant increases in pediatric exposures with increased calls to poison control centers and emergency room visits. There are increases in traffic crashes and deaths and more

cannabis present in those who attempted suicide. After a decade in Colorado, traffic deaths where drivers tested positive for cannabis increased by 138% vs. All other traffic deaths increased by 29%.^x

In Colorado, where non-medicinal cannabis has been legal for a decade, use has increased substantially by both youth and adults. Yet, treatment for cannabis use for all ages decreased by 34% from 2013 to 2020.^{xi} People feel there is no problem if they are using something legal. This behavior reflects the use of tobacco products as they first came to market. Finally, the percentage of suicide incidents in which toxicology results were positive for cannabis has increased from 14% to 29% in 2020.^{xii}

Additionally, tax revenue from cannabis sales has also proven to be minimal relative to state budgets, raising questions about its ability to adequately fund public health initiatives.^{xiii} Non-medicinal cannabis tax revenue has trended downward, which could impact the sustainability of the programs being funded through that money.

We thank this committee for creating the opportunity to have meaningful public conversations about the implications of legalizing non-medicinal cannabis. We urge careful consideration of the public health implications and thank the committee for considering our comments on SB3335 SD1.

Mahalo,



Peggy Mierzwa
Director of Policy & Advocacy
Hawai'i Public Health Institute

ⁱ Hawai'i Public Health Institute (HIPHI) is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ https://www.oha.org/wp-content/uploads/2014/11/es_final_web_0.pdf

ⁱⁱⁱ Hawai'i Department of Health. (2024). (rep.). *Report to the Thirtieth Legislature, State of Hawai'i 2024* (Annual Report FY 2022-2023, Ser. Department of Health, Alcohol and Drug Abuse Division, pp. 36–36). Honolulu, HI.]

^{iv} cid

^v National Academies of Sciences Engineering and Medicine, "The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research," Washington, DC, 2017.

^{vi} Batalla A, Bhattacharyya S, Yücel M, Fusar-Poli P, Crippa JA, Nogué S, Torrens M, Pujol J, Farré M, Martin-Santos R. Structural and functional imaging studies in chronic cannabis users: a systematic review of adolescent and adult findings. *PLoS One*. 2013;8(2):e55821.

^{vii} <https://www.psychiatry.org/getattachment/12aa44f8-016e-4f8c-8b92-d3fb11a7155f/Position-Cannabis-as-Medicine.pdf>

^{viii} <https://www.cdc.gov/marijuana/health-effects/teens.html>

^{ix} Caulkins, J., Kilmer, B., Kleiman, M., MacCoun, R., Midgette, G., Oglesby, P., . . . Reuter, P. (2015, January 16). Insights for Vermont and other states CONSIDERING marijuana legalization. Retrieved February 15, 2021, from https://www.rand.org/pubs/research_reports/RR864.html

^x <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8672945/>

^{xi} cid

^{xii} cid

^{xiii} <https://www.taxpolicycenter.org/taxvox/cannabis-tax-revenue-down-some-states-and-maybe-thats-okay>

RE: SB3335 SD1; Hearing Friday March 1, 2024

Aloha Honorable Committee Members,

We appreciate the opportunity to testify for SB3335 SD1.

The Cannabis Society of Hawai'i would like to provide comments on this bill.

Hawai'i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.

SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into the community safely, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, houseless outreach, outpatient treatment, and housing assistance.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully integrate into society by accessing the same rights and services as anybody else.

For many that use cannabis medically but do not have a medical card due to any number of reasons, the access to medicine is vital. There are roughly about 30-40k registered patients. We estimate that the number of participants that will benefit from adult-use access far exceeds that number especially for those that do not grow or have a caretaker.

Medical patients could benefit from higher quality products at a lower price point with additional licensing and services like cultivation, manufacturing, transportation, security, compliance, lounges, and reinvestment into the community.

Without the CLAIM ACT that would allow insurance to help offset costs of the medical cannabis license visit, application fee and medicine, patients rely on non-limited licensing to bring down the cost of medicine and to provide innovative products.

Thank you,

Cannabis Society of Hawai'i // cannabissocietyofhawaii@gmail.com

SB-3335-SD-1

Submitted on: 2/29/2024 9:49:27 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Roger Christie	Testifying for THC Ministry	Support	Written Testimony Only

Comments:

Aloha. **"Legalize it!"** Bob Marley would approve of the concept, but object to the freedom-denying, cumbersome, costly details of SB3335. I agree. Let's make it simple and enhance individual rights with Cannabis; it's long overdue and right on time.

I object to prohibition and I support individual rights, the personal, constitutional right to privacy and freedom enhancing proposals. You should, too. It's your oath of office and your promise to your constituents.

Although there is much to admire about our new, Hawaii County Police Chief Ben, I object to his letter of opposition on this bill. By omission he falsified the provable record and twisted facts to suit his authoritarian position. Similar to the lies that started World War II, the war in Vietnam, the war in Iraq and the war on terror, the war on "marijuana" began and has been maintained with ignorance, malace and lies. Chief Ben knows better because I literally hand delivered this evidence to him.

Judge and former U.S. Attorney Ed Kubo is quoted as saying, "We're not proud of it. But crystal methamphetamine is our gift to the nation. It started here."

How did the epidemic of meth, "ice", crime and violence start here and continue to this day? The "marijuana eradication program", or Green Harvest and Counter Cannabis was and remains is the proven cause. Chief Ben omitted that important fact. He also omitted the fact that the voters of Hawaii County approved the Lowest Law Enforcement Priority of Cannabis Ordinance, or "Peaceful Sky" ballot initiative by a majority in 2008. It denies any funding to police and prosecutors for investigating, arresting and/or prosecuting the cultivation and possession of 24 Cannabis plants or less in private, at home by adults. Growing 24 Cannabis plants or less is a long time misdemeanor and my recommendation for the allowable amount in this bill.

Chief Ben omitted the fact that all humans have a God-given endocannabinoid system that requires some cannabinoids for homeostasis. All Mother's milk naturally contains cannabinoids for newborn nutrition. There is no criminal intent in wanting Cannabis; it's a biological desire. To criminalize it is evil and counterproductive.

Prohibition causes crime and violence and inflated police budgets. Ask your grandparents about alcohol prohibition. It's a form of population replacement that penalizes mostly low budget locals and fills jails and prisons (in Hawai'i and Arizona!) with well meaning citizens.

In 120 days or less the good people of Hawai'i could have a world famous, multi-million dollar Cannabis harvest for health, wealth, happiness, holiness and sustainability by ending prohibition and respecting the natural, medical and religious right to Cannabis.

Roger Christie for The Hawai'i Cannabis THC Ministry

Hilo

**Hawaii
Legislative
Council
Members**

Joell Edwards
Wainiha Country
Market
Hanalei

Russell Ruderman
Island Naturals
Hilo/Kona

Dr. Andrew Johnson
Niko Niko Family
Dentistry
Honolulu

Robert H. Pahia
Hawaii Taro Farm
Wailuku

Maile Meyer
Na Mea Hawaii
Honolulu

Tina Wildberger
Kihei Ice
Kihei

L. Malu Shizue Miki
Abundant Life
Natural Foods
Hilo

Kim Coco Iwamoto
Enlightened Energy
Honolulu

Chamber of
Sustainable
Commerce
P.O. Box 22394
Honolulu, HI
96823



Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
Committee on Ways & Means

Sen. Jarrett Keohokalole, Chair
Sen. Carol Fukunaga, Vice-Chair
Comm. on Commerce & Consumer Protection

Friday, March 1, 2024
9:50 AM, Room 211 or via Videoconference

RE: **SB3335 SD1** Responsible Adult Use Cannabis - **Support ONLY w/Amendments**

Dear Chairs Dela Cruz & Keohokalole, Vice Chairs Moriwaki & Fukunaga and Members of both Committees,

The Chamber of Sustainable Commerce represents over 100 small businesses across the State that strive for a triple bottom line: people, planet and prosperity; we know Hawaii can strengthen its economy without hurting workers, consumers, communities or the environment. This is why we would support SB3335 only with the following amendments:

- All the proposed changes contained within the testimony submitted by the Hawaii Alliance for Cannabis Reform that will ensure a regulatory system with robust social equity and expungement provisions.
- Ensure cannabis cultivation subsidizes the high costs of growing food in Hawaii by issuing commercial growing permits for non-medical cannabis first to farmers who are already growing produce for local consumption: for example, if an acre of non-medical cannabis results in \$1M profit a year, the farmer can use those profits to underwrite the costs of labor, land and water to grow produce on 9 acres of land for in-state consumption. As more grow permits are issued maintain the requisite ratio of cannabis to produce for local consumption.
- Allow local produce farmers, with permits to grow non-medical cannabis, to build and cite small, non-permanent dwellings for farmers close to their crops, including on state ag land; these non-permanent dwellings should have hygienically maintained toilets and potable water in appropriate proximity.
- Allow non-commercial "care growers", individuals and cooperatives, to continue growing cannabis for patients who do not have the ability to grow their own medicine and allow them to be reimbursed for related expenditures.

We agree with the statements made by Governor Green on Hawaii News Now on February 6, 2024:

"I don't think the sky would fall, honestly, if marijuana were legalized. . . . I also have some thoughts that marijuana might blunt the effect, if you will, of people on these heavy drugs, these horrible drugs. . . . People are far less violent. They are much hungrier, but they—aside from the snacking and stealing Cheetos—will probably do less harm."



LATE

Marijuana Policy Project
P.O. Box 21824 • Washington, DC 20009
202-462-5747 • www.mpp.org

February 29, 2024

SB 3335, SD1 Comments

Re: Strongly urging amendments to SB 3335, SD1, and urging passage if it is amended

Aloha Chairs Keohokalole and Dela Cruz, Vice Chairs Fukunaga and Moriwaki, and distinguished members of the Commerce and Consumer Protection and Ways and Means Committees.

My name is Karen O’Keefe. I am the director of state policies for the Marijuana Policy Project (MPP), the largest cannabis policy reform organization in the nation. I am an attorney who has worked on cannabis policy at MPP since 2003. MPP has played a leading role in most of the major cannabis policy reforms over the past two decades, including 15 adult-use legalization laws. For the past year, I have had the pleasure of working with a coalition of Hawai’i advocates as part of the Hawai’i Alliance for Cannabis Reform.

I am writing to urge you to amend and then pass SB 3335, SD1. While cannabis legalization is an essential criminal justice reform, SB 3335, SD1 takes an overly punitive approach and fails to include a sufficient commitment to equity. Alarming, the bill could result in *more* people being ensnared in the criminal justice system for cannabis instead of less.

Legalization is a Fiscal Boon, But SD1 Includes Excessive Appropriations

Most relevant to the Ways and Means Committee, the excessive appropriations and earmarks for law enforcement should be removed, and other appropriations should be significantly reduced. While we strongly support funding for social equity, it would also be prudent to also dedicate a significant amount of cannabis tax proceeds to the general fund to allow it to assist with Hawaii’s pressing fiscal needs.

Other legalization states have been able to implement cannabis legalization on a rapid timeline and with a fraction of the costs envisioned by SB 3335, SD 1. A few years ago, MPP compiled a report on administrative costs and revenue that demonstrated the relatively small outlay needed to regulate adult-use cannabis, and that the expenses are a fraction of total revenues.¹ It notes “states annual regulatory costs have been as low as \$1.8 million (in Alaska). Those states with the most rapid implementation — Arizona, Illinois, Nevada, and Oregon — began legal sales in a matter of months, allowing for very rapid generation of revenue.” and “Revenues generated from application and licensing fees alone are upwards of \$15 million (in Illinois) and \$13.1 million in Oregon.”

¹ See: <https://www.mpp.org/issues/legalization/financial-information-on-states-with-adult-use-legalization/>

Nevada's legalization law was enacted in November 2016 and the first adult-use sales were in July 2017. Our report noted in fiscal year 2017-18, Nevada's actual program costs were \$3.2 million, which included the costs for administering both the medical and adult-use programs. In the last six months of 2017, Nevada (population 3.1 million) collected \$43 million in adult-use taxes.²

If short-term fiscal pressures are a concern, one option is to allow existing dispensaries to convert to dual-use (to also serve adults) before other licensing and to pay a significant fee, which could be paid in installments. Those fees and initial tax revenue can be devoted to regulatory costs and assisting social equity applicants. Maryland, Illinois, and Connecticut took a similar approach.

Under SD 1 (§B-3), cannabis would be subject to a 14% retail excise tax and – I believe – standard GET taxes, for a total of 18% (see §B-10). MPP publishes another report showing each states' cannabis tax revenue by year, their tax rate, and their population, which you may find useful to get an idea of the amount of tax revenue the state can expect.³ Oregon has a 17% retail tax and a population of 4.2 million. Oregon's annual tax revenue began at \$68 million in its first full year, and is currently around \$150 million per year. Adjusted to Hawaii's population, that would conservatively be around \$50 million per year. This is a conservative figure, due to Hawaii's far larger tourism industry.

After some remarks on legalization and rebuttals to some prohibitionists' claims, I will return to more details about revisions that are needed to SB 3335, SD1.

I. Hawai'i should legalize and regulate cannabis for adults, with a focus on equity and justice.

I urge you to listen to Hawai'i voters⁴ and legalize and regulate cannabis for adults 21 and older. Cannabis is safer than alcohol,⁵ tobacco,⁶ and some medications.⁷ Adults should not be penalized for using a less harmful substance.

² See: <https://www.mpp.org/issues/legalization/cannabis-tax-revenue-states-regulate-cannabis-adult-use/>

³ <https://www.mpp.org/issues/legalization/cannabis-tax-revenue-states-regulate-cannabis-adult-use/>

⁴ Although it is no longer visible to the public without a fee, as of mid-2023, Civiqs polling found 73% of Hawaii residents support legalization.

⁵ See: <https://www.mpp.org/special/marijuana-is-safer/> The chronic health effects of alcohol are responsible for more than 80,000 U.S. deaths per year, while cannabis has not been shown to increase all-cause mortality. (CDC, Annual Average for United States 2015-2019 Alcohol-Attributable Deaths Due to Excessive Alcohol Use, Muhuri PK, Gfroerer JC. Mortality associated with illegal drug use among adults in the United States. American Journal of Drug and Alcohol Abuse. 2011;37(3):155-164

⁶ Tobacco is responsible for more than 480,000 U.S. deaths per year, while cannabis is not known to increase all-cause mortality and has not been shown to cause lung cancer. "Health Effects of Cigarette Smoking," CDC; , Muhuri PK, Gfroerer JC. Mortality associated with illegal drug use among adults in the United States. American Journal of Drug and Alcohol Abuse. 2011;37(3):155-164

⁷ While prescription opiates cause 15,000 deaths per year, suspected cases of fatal cannabis overdoses are vanishingly rare. "Drug Overdose Death Rates," National Institute on Drug Abuse, accessed Feb. 11, 2024.

Like our country's "Noble Experiment" with alcohol prohibition a century ago, cannabis prohibition has been a harmful failure. It tears apart families, stigmatizes individuals with life-altering criminal records, and results in hundreds of traumatic arrests every year. Cannabis prohibition also drives sales underground, putting everyone involved at risk. On the illicit market, buyers and sellers alike are vulnerable to robbery and attacks. In an underground economy, workers face exploitation and abuse.

To what end? Despite more than eight decades of cannabis prohibition, half of Americans have used cannabis.⁸ Those whose lives were derailed by arrests and criminal records are arbitrary at best. Worse, the data shows who is arrested and prosecuted is marked by racial disparities.⁹

Legalization dramatically reduces the number of arrests and convictions.¹⁰ Only legalization allows for control to protect workers and the environment and to foster public health and safety. Only in the context of legalization can the state require lab testing and move most sales into regulated establishments that check IDs.

More than half of Americans already live in the 24 states and 3 U.S. territories where cannabis is legal. The first of these laws have been in effect for over a decade, and support has increased, not decreased. That's because voters see the sky hasn't fallen.

Cannabis legalization increases freedom, generates economic activity and taxes, allows for health and safety protections, and reduces hypocrisy. It is time for Hawaii's cannabis policy to join the 21st century.

II. Many prohibitionists' claims are untethered to reality.

In their attempt to derail legalization, opponents have made several claims that are not backed up by the data. In reality:

- **Teen cannabis use has dropped since legalization in legal states.**

Many opponents' claims are premised on the idea that youth cannabis use will increase post-legalization. In all U.S. states and territories, legalization only applies to adults 21 and older.

⁸ Justin McCarthy, "Fully Half of Americans Have Tried Marijuana," Gallup, August 10, 2023.

⁹ American Civil Liberties Union (ACLU), "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform," 2020. Available at <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/persons-arrested>.

¹⁰ See: "Impacts of Marijuana Legalization in Colorado," Colorado Department of Public Safety Division of Criminal Justice Office of Research and Statistics July 2021; Gunadi C, Shi Y. Association of Recreational Cannabis Legalization With Cannabis Possession Arrest Rates in the US. JAMA Netw Open. 2022 Dec 1;5(12):e2244922. doi: 10.1001/jamanetworkopen.2022.44922. PMID: 36469319; PMCID: PMC9855298.

A decade of before-and-after data has shown that adolescents' marijuana use has not increased in legal states.¹¹ As National Institute on Drug Abuse Director Nora Volkow testified at a March 23, 2022, Senate Health, Education, Labor, & Pensions Committee hearing, "in the United States, legalization by some states of marijuana has not been associated with an increase in adolescents' marijuana use."

Since then, more recent CDC data came out showing teen use has *decreased* in almost all legal states.¹²

- **There has not been an increase in psychosis in legal states.**

There may be some mental health risks related to cannabis use, particularly for those predisposed to psychiatric disorders.¹³ However, *legalization* does not appear to have any negative impact. Research shows that "compared with no legalization policy, states with legalization policies experienced no statistically significant increase in rates of psychosis-related diagnoses or prescribed antipsychotics."¹⁴

Education, product labeling, and sensible regulations — not handcuffs, jail cells, and driving cannabis underground — are the most compassionate and productive ways to address cannabis' risks. Patients are much more likely to have an honest conversation with their physicians in the context of legalization, allowing their medical providers the opportunity to counsel patients.

- **Tourism from Japan is up post-legalization.**

Honolulu prosecutor Steve Alm claimed "Japanese tourists will stop coming to Hawaii. Full stop."¹⁵ This is not rooted in any data and is in fact contrary to the data.

Visit California data shows trips from Japan went *up*, not down, post-legalization.¹⁶ There were 537,000 visits from Japan to California in 2015, the year before legalization. That increased to 555,000 in 2019. (Beginning in 2020, tourism crashed due to COVID.)

- **Fatal crashes are down in legalization states.**

¹¹ See: Anderson, Mark D., et al. "Association of Marijuana Legalization With Marijuana Use Among US High School Students, 1993-2019", September 2021.

¹² For the most recent data, see: <https://www.mpp.org/issues/legalization/teen-marijuana-use-does-not-increase/>

¹³ <https://www.cnn.com/2024/02/08/opinions/marijuana-cannabis-psychosis-nathan-grinspoon>

¹⁴ Elser H, Humphreys K, Kiang MV, et al. State Cannabis Legalization and Psychosis-Related Health Care Utilization. *JAMA Netw Open.* 2023;6(1):e2252689. doi:10.1001/jamanetworkopen.2022.52689

¹⁵ <https://www.staradvertiser.com/2023/10/08/editorial/island-voices/column-legalizing-marijuana-will-cause-harm/>

¹⁶ Available at <https://industry.visitcalifornia.com/research/travel-forecast> (international market forecasts, unhide columns C-L)

Opponents claim road safety will decrease with legalization. Many claims rely on a few studies indicating more drivers testing positive for cannabis post-legalization, ignoring the lack of baseline data, that testing positive for THC does not mean a person is impaired or has used cannabis recently, and the fact that legalization is coupled with an increase in reporting and in trained drug recognition experts.

There have been contradictory studies on whether legalization *correlates* (which is very different from causation) with increased crashes. Almost all of the studies cherry-pick an incomplete number of states. If you examine before-and-after data of *all* the FARS data in legalization states, you will see a decrease (as a whole) in road fatalities post-legalization.¹⁷

Those who would ignore DUI laws post-legalization are already doing so.

III. SB 3335 needs significant revisions to foster equity and avoid creating Prohibition 2.0.

While MPP strongly supports legalization, SB 3335, SD1 requires significant revisions to avoid going backwards by re-criminalizing innocuous conduct and excessively ramping up cannabis enforcement. Legalization should be rooted in equity and restorative justice, not an excessively punitive approach.

Under current Hawai'i law, possession of up to three grams is a civil offense.¹⁸ SB 3335, SD1 would go backwards, imposing possible jail time and criminal convictions for conduct that is currently a civil violation.

SB 3335, SD1 creates an over-broad open container law and requires "strict compliance" for exceptions from harsh criminal penalties. It re-criminalizes those under 21 who possess cannabis and criminalizes sober drivers — including medical patients — for modest amounts of THC long after impairment wears off. It may actually result in *more* cannabis consumers getting criminal convictions and jail time for conduct that does not put anyone in danger. These troubling provisions must be removed.

A. The per se and zero tolerance "DUI" limits must go. They will ensnare sober drivers long after impairment wears off.

SD 1 changes SB 3335's "per se" limit for DUI from five nanograms of THC per milliliter of blood to 10 nanograms (Sections 7-10). While this is a higher threshold than the introduced bill, it remains unscientific and will ensnare sober drivers, many of whom are patients. It will also make it more difficult to obtain a conviction for those below that threshold.¹⁹ For those under 21, SD 1 has a zero tolerance level, which deems young adults

¹⁷ <https://www.nhtsa.gov/research-data/fatality-analysis-reporting-system-fars>

¹⁸ H.R.S. 712-1249 (2)

¹⁹ See, "THC per se laws don't work and are not needed" <https://wesavelives.org/thc-per-se-laws-dont-work-and-are-not-needed-theres-a-better-way/> (discusses Colorado data)

impaired drivers for having trace amounts of THC in their system, which can occur *days* or even over a week after last using cannabis.²⁰

The per se and the zero tolerance provision are unjust and need to be removed.

As a study by AAA Foundation for Traffic Safety found, “All of the candidate THC concentration thresholds examined [which included 10 ng/mL] would have misclassified a substantial number of driver as impaired who did not demonstrate impairment on the SFST, and would have misclassified a substantial number of drivers as unimpaired who did demonstrate impairment on the SFST.”²¹

Similarly, an expert commission in Michigan concluded there is no scientifically supported $\Delta 9$ -THC threshold,²² “ $\Delta 9$ -THC can fail to detect impaired drivers (when blood levels are low and impairment is high). It can also inappropriately flag unimpaired drivers or chronic users whose blood levels are higher in general (see section on behavioral effects of $\Delta 9$ -THC) even when not impaired.”

Per se laws are all the more unfair because it is impossible for individuals to know if they are above or below the threshold and can legally drive. Those who imbibe alcohol can use simple calculations to determine if they are legal to drive based on weight, the number of drinks, and time passed²³ or they can buy their own BAC tests for \$40.²⁴ There is no such calculation or affordable and reusable test for blood THC levels. And even if there were, THC levels can increase after abstinence, including after exercise.²⁵

Rather than criminalizing sober drivers, Hawai'i should invest in more DRE and ARIDE-trained officers. SD 1 allows some public safety grants to be used for those purposes, but has no guaranteed funding for them. It should also create a robust public education campaign on the dangers and illegality of impaired driving.

B. The expungement section should be expanded and clarified to: require a specific authority to expunge cannabis-related convictions by a specific deadline; clearly include state-initiated re-sentencing; prevent discrimination, and require criminal records databases to remove expunged convictions.

²⁰ Yuan Wei Peng, Ediriweera Desapriya, Herbert Chan, Jeffrey R Brubacher, “Residual blood THC levels in frequent cannabis users after over four hours of abstinence: A systematic review.”, *Drug and Alcohol Dependence*, Volume 216, 2020, 108177, ISSN 0376-8716, www.sciencedirect.com/science/article/abs/pii/S0376871620303422

²¹ “An Evaluation of Data from Drivers Arrested for Driving Under the Influence in Relation to Per se Limits for Cannabis,” AAA Foundation for Traffic Safety, May 2016

²² “Report from the Impaired Driving Safety Commission,” March 2019.

²³ <https://www.calculator.net/bac-calculator.html>

²⁴ See: https://www.amazon.com/BACtrack-Keychain-Breathalyzer-Portable-Keyring/dp/B00LV0U27U/ref=zg_bs_g_15992781_d_sccl_3/144-4587621-0847464?psc=1

²⁵ See: David Rudoj, “New Study Shows THC Levels Often Spike Well into Periods of Abstinence,” Jan 9, 2012 <https://rudoilaw.com/new-study-shows-thc-levels-often-spike-well-into-periods-of-abstinence/>

We were glad to see SD 1 include expungement language, rather than a weak study that was in the introduced version of the bill. (§A-63) However, the language needs significant revisions to have more than a minimal impact.

Criminal records trigger thousands of collateral consequences that make it difficult to get housing, employment, and jobs.²⁶ One survey found that 92% percent of employers report using criminal record checks on some or all applicants.²⁷ These barriers to legally making ends meet increase the likelihood that people will turn to the underground economy. Fifty-five percent of people with records report difficulties attaining a job, maintaining employment, or making a living.²⁸ A lifetime of stigma and collateral consequences is unduly harsh and inappropriate for cannabis, particularly in the context of legalization.

While it is encouraging to see expungement language added, it falls short of many recent legalization states. The bill needs to be modified to be clearly state-initiated, with clear obligations on state actors and deadlines. This is essential because few eligible individuals complete petition-based expungement,²⁹ which is costly and cumbersome. The Attorney General's office indicates there are over 50,000 cannabis possession arrest records in Hawai'i.³⁰

SD 1 is ambiguous regarding what offenses qualify for expungement and re-sentencing. It provides that arrest and criminal records for an offense "the basis of which is an act permitted ... or decriminalized" by the law "including the possession or distribution of marijuana, shall be ordered to be expunged in accordance with the provisions of this section." The bill is internally contradictory about distribution. It says "including ... distribution." But it also says it applies to conduct legalized or decriminalized by the law, in which only state-licensed sales are allowed. There is a real possibility distribution, cultivation of over the limit, and possession of over the limit will be excluded absent clarification.

All cannabis convictions should be subject to a state-initiated review. All possession charges should be automatically expunged, and other offenses should be either automatically expunged or should be expunged via a state-initiated process absent some compelling reason why doing so is not in the interests of justice.

²⁶ See: Jamiles Lartey, "How Criminal Records Hold Back Millions of People," *The Marshall Project*, April 1, 2023.

²⁷ Society for Human Resources Management Background Checking: Conducting Criminal Background Checks, slide 3 (Jan. 22, 2010) https://www.slideshare.net/shrm/background-check-criminal?from=share_email

²⁸ Alliance for Justice national survey of people with records: <https://asj.allianceforsafetyandjustice.org/wp-content/uploads/2023/05/2023-05-15-2023-TimeDoneSurvey-Full.pdf>

²⁹ J.J. Prescott and Sonja B. Starr, "Expungement of Criminal Convictions: An Empirical Study," University of Michigan Law School, 2020. (Finding, "[A]mong those legally eligible for expungement, just 6.5% obtain it within five years of eligibility.")

³⁰ "Report Regarding The Final Draft Bill Entitled "Relating to Cannabis," Prepared by the Department of the Attorney General"

SB 3335 should also create a state-initiated and rapid process to consider the release of all individuals in jail or under supervision for cannabis offenses. There should be a presumption of relief.

To more comprehensively prevent lives from being ruined for prior records, the bill should prohibit landlords and employers from inquiring about and discriminating against applicants and workers for cannabis offenses. Some applicants will not realize they can deny having had a conviction and will “check the box,” some employers may check criminal records database that will not have been updated (especially if the law does not mandate updates), and some Hawai’i residents may have convictions during visits to or while living in other jurisdictions. The law should provide:

- 1) employers, licensing boards, landlords, and state agencies cannot ask about or take a negative action based on prior cannabis use; and
- 2) employers, licensing boards, landlords, and state agencies cannot ask about or take a negative action based on prior cannabis-related activity that has been expunged or that would be expunged were it committed in Hawai’i.

Finally, SB 3335 should also require criminal records databases to remove expunged convictions. Most employers and property managers find out about criminal convictions not from government databases directly, but from their party criminal history screening services. To ensure expunged convictions do not continue to haunt individuals, SB 3335 should mandate that screening services remove all expunged convictions from the next update. You could draw from Indiana Code § 35-38-9-12 or Virginia Code § 19.2-392.16 for language.

C. SD 1 includes alarming re-criminalization and a “strict compliance” standard. Those must be removed to avoid creating prohibition 2.0.

Any technical violation should carry a modest civil penalty, not jail time.

- **The “open container” language re-criminalizes conduct that is currently punishable by a \$130 fine. It must be removed or revised.**

SB 3335 and SD 1 impose up to 30 days in jail and/or a fine of up to \$2,000 for a driver or passenger who possesses in the passenger area a cannabis package that has *ever* been opened or its seal broken, loose cannabis, or any pipe. (Section 6, "§291) This is extreme.

Unlike alcohol, cannabis is a medicine for many, making this broad prohibition particularly inappropriate. Hawai’i does not criminalize containers that have ever been opened of any other medicine. Patients need to carry their medicine with them and may need to use their medicine in a parked car when they arrive at their destination due to restrictions on where they can use it, including schools, medical facilities, and daycare. Moreover, a container of cannabis edibles and flower often has 10 or more servings which patients and consumers

use over many days or weeks. This is not the case for bottles of alcohol or cans of beer, which are often consumed in one sitting.

If there must be an open container law, it needs to:

- exempt medical cannabis,
 - impose a violation/fine no greater than the current penalty (\$130),
 - specify where cannabis can be legally stored in a vehicle with no trunk/where the entire vehicle is a passenger area, and
 - exempt public transportation, rideshare passengers, taxis, limos, busses/shuttles, and areas of RVs other than the drivers' area.
- **The “strict compliance” standard and failure to repeal criminal laws will result in misdemeanor and felony penalties for innocuous conduct.**

Numerous provisions of SB 3335, SD 1 prohibit relatively innocuous conduct. This includes:

- requiring cannabis to be stored in “sealed child-resistant and resealable packaging with original labels,” (§A-51(4))
- requiring cannabis to be cultivated out of public view (§A-42 (d)), and
- prohibiting cannabis use — even by non-smoked means — in a public or a parked car, even if it is by a patient (§A-41 (e)).

Most of those activities should not be prohibited at all. If they are prohibited, punishments should be modest civil fines, not criminal matters carrying serious jail time.

Alarmingly, SD 1 keeps criminal laws against possession and cultivation of cannabis on the books — even for adults — and only exempts those in “strict compliance.” (§A-4 and throughout) It provides only an “affirmative defense” and says “Actions that do not strictly comply with the requirements of this chapter and any rules adopted thereunder shall be unlawful and subject to civil, criminal, or administrative procedures and penalties, or all of the above, as provided by law.” (§A-4 (c))

SB 3335 should be revised to remove criminal penalties for adults who grow or possess up to the possession limit. Then, it should impose modest civil fines and/or community service for narrowly-crafted technical violations and activities like public smoking. This is what other states do.

Here are a few examples of the extreme, punitive nature of SD 1:

- A couple with arthritis who live alone store their 10 ounces of cannabis in a glass jar they can open instead of “sealed child-resistant and resealable packaging with original labels.” If they call 9-1-1 for help after a fall and their cannabis is discovered, they would face a misdemeanor conviction, up to a year in jail, and/or a fine of up to \$2,000.

- An adult who grows cannabis that is slightly visible through a window, or who violates whatever technical rules regulators impose, would face felony penalties.

- **The bill would criminalize and jail minors in possession.**

While we have no objection to continue prohibiting the possession of cannabis by those under 21 to use cannabis (other than medical cannabis), SD 1 *increases* penalties to impose up to 30 days in jail and a criminal record for simple possession by those 18-20. (Section 39, §712-1249 (2)) The current penalty is a \$130 civil fine. This *re*-criminalization is unacceptable.

A conviction, jail time, and even probation requirements can have a devastating impact. Probation meetings can be an insurmountable obstacle to those lacking transportation or with a conflict with their school or jobs. While SD 1 provides these convictions are expungable, the public defender and Innocence Project testified in House Judiciary about how few people avail themselves of this onerous process. The conviction should not be imposed in the first place. A civil fine is far more reasonable.

These penalties need to be removed.

- **The amount allocated to law enforcement and regulation is excessive, as is the creation of 25 new law enforcement positions. The amount dedicated to reparative justice and equity is too low and commingled with enforcement.**

Cannabis regulation and enforcement should be covered by licensing fees, as is the case in many states. Yet, SD 1 allocates 50% of excise taxes to a “cannabis regulation, nuisance abatement, and law enforcement special fund” on top of application and licensing fees. (Section 26, §237-13 (9)(A)) That percentage should be eliminated or dramatically decreased to allow funds for the general fund and to increase social equity funding.

We are alarmed that the bill would create 25 new enforcement positions, zero of which are tasked with state-initiated expungement and release. The bill creates 17 new FTE staff positions in the enforcement unit plus eight FTE positions in the AG’s drug nuisance abatement unit. (Section 61, 63) There should be *less*, not more cannabis enforcement post-legalization.

D. **SB 3335, SD 1 lacks common protections to prevent cannabis consumers’ lives from being ruined.** They need to be added.

Adult-use states are increasingly including provisions to ensure lives are not ruined for the responsible use of cannabis. Protections from the following should be added to the bill to prevent individuals from:

- losing custody of their children for the responsible use of cannabis;
- losing state benefits for the responsible use of cannabis;
- losing professional or occupational licenses for responsibly using cannabis;
- having parole or probation revoked for using or testing positive for cannabis, absent an individualized finding that cannabis use would be a risk for that individual and a condition of parole based on that individualized finding;
- being fired or not hired — at least from a state or local government job — for using cannabis off-hours, and
- being stopped and searched on the basis of the odor of cannabis or possession within the legal limit. Once cannabis is legal, its odor (real or imagined) should not be grounds for a violation of privacy that is otherwise protected by the Fourth Amendment. Traffic searches disproportionately target people of color despite them being less likely to have contraband.³¹

E. The bill should not put an unpaid, part-time board in charge of cannabis regulation.

People should get paid fairly for their work, especially for such important work to regulate a large industry. Having unpaid part-time workers make major decisions by committee — including rules, licensing, and hiring the executive director — will likely lead to delay, bad decision-making, a lack of accountability, and other issues. One cannot expect the same time commitment and mastery of issues of volunteers who have other full-time jobs.

The AG's report notes Massachusetts as an inspiration. However, Massachusetts does not attempt to have an unpaid board for such a weighty task. Massachusetts' commissioners are paid six-figure salaries for their work.³² In addition, Massachusetts' commission has been plagued by controversy and serious allegations, leading to the resignation of the former chair.³³

SD 1 reduced by one the number of possible board members, requiring only four. This would add a new complication as it would likely require 3-1 or 4-0 votes to approve anything. If there must be a board, the number of members should be odd.

It is also vital that any board be composed of people with appropriate backgrounds and who are committed to the mandate of their work. No prohibitionists should be charged with overseeing legalization, or it will be a recipe for obstruction and delay.

³¹ Magnus Lofstrom, Joseph Hayes, Brandon Martin, and Deepak Premkumar, with research support from Alexandria Gumbs, "Racial Disparities in Law Enforcement Stops," October 2021.

³² https://www.masslive.com/news/2017/08/marijuana_in_massachusetts_her_2.html

³³ <https://www.nbcboston.com/news/local/mass-cannabis-control-commission-leadership-fight/3209350/>

F. The social equity section provisions need to be strengthened, both related to allocations and licensing.

In SD 1, the funds that were in SB 3335 are combined into two funds. Fifty percent of the revenue will be allocated to social equity, public education, *and* public safety grants. This creates the risk that *none* of the excise tax will actually be allocated to equity. At least 60% of the excise revenue should go to social equity and reparative justice.

While many of the possible public safety grants' areas have a focus that is rooted in reparative justice and uplifting communities, the possible uses of the public safety fund include: "grants to state and county law enforcement agencies for equipment and training to assist with investigating and prosecuting illegal activities related to cannabis" and "grants for the effective enforcement and prosecution of violations of the nuisance abatement laws."

Any grants that are not harm reduction oriented should be removed from the public safety grants program and should instead be taken from the funds directed to law enforcement and regulation.

The bill should also spell out a minimum threshold of licenses to be issued to equity applicants and ensure that licensing happens in a timely manner. We are also concerned an individual can be a social equity applicant if they simply have 51% of employees currently living in a disproportionately impacted area. This should be eliminated as it will dilute ownership by members of impacted communities. As a practical matter, applicants do not yet have employees and employment composition will change a lot during the length of licensure.

G. Additional areas of concern

In addition to the previously listed issues, we are concerned about these provisions:

- The bill should not prohibit possession of cannabis at universities and similar locations. (§A-5 (4))
- Processors and retailers should not be required to separate medical cannabis and adult-use cannabis, except for medical-only products, such as those with higher THC limits. (§ A-17 (14))
 - Often the same product is used by both patients and consumers — many of whom use cannabis as an over-the-counter medicine. There's no good policy reason to separate the products out before retail sales. Requiring it could lead to shortages if predictions aren't 100% accurate of how much patients vs. adult-use consumers will consume.
- The bill weakens the provision providing the medical use of cannabis doesn't disqualify a patient from an organ transplant or other needed medical care. (§A-41 (f)) It allows a provider to deny necessary care if they think it increases the risk of a bad outcome, even if their judgement is not the

scientific consensus, and even if the patient would still be better off with the procedure. This needs to revert to the original language.

- SB 3335 allows the board to come up with restrictions on medical home cultivation, which appears to be a new provision not in existing law (§A-42 (f)) That should be removed.
- Other than pardoned and expunged convictions, and most cannabis convictions, it bars anyone with a felony from working at any cannabis business. This is at the very least overbroad. (§A-79 (f))
- There should be a clear deadline for licensing new businesses, and a floor for a reasonable number of new licenses, with a focus on small businesses.
- Bans cannabis and hemp products "intended to be introduced via non-oral routes of entry to the body ..." "external topical application to the skin or hair." This would ban products that are currently providing relief, including suppositories and products for menopausal (and other) folks with vaginal dryness. (§A-84 (c), §A-134 (e))
- Classifies distributing marijuana concentrates to someone from 18-21 as "promoting a harmful drug in the first degree." (Section 38). The current age for this extremely harsh penalty, and for all other harmful drugs, is 18. This appears to apply even if both the parties are under 21, and even if the recipient is the same age or older than the person sharing or if the parties are spouses. This is harsher than the penalty for far more dangerous drugs.
- Classifies distributing marijuana to someone from 18-21 as "promoting a harmful drug in the second degree." (Section 40.) The current age is 18.
- As with the above, this appears to apply even if both the parties are under 21, and even if the recipient is the same age or older than the person sharing or if the parties are spouses. This is harsher than the penalty for far more dangerous drugs.
- Sec 78 should be deleted. It nullifies any section that would jeopardize federal funding. If the federal government were to threaten funding, the legislature should evaluate whether to change the law to keep funding, or to stick to its guns.

Please don't hesitate to reach out if I can answer any questions or if you would like any draft language.

Mahalo for your time and consideration,



Karen O'Keefe
Director of State Policies

202-905-2012
kokeefe@mpp.org



LATE

**Testimony of Mufi Hannemann, President & CEO
Hawai'i Lodging & Tourism Association**

**Senate Committees on Commerce and Consumer Protection/Ways and Means (CPN/WAM)
SB3335 SD1 PROPOSED, RELATING TO CANNABIS
Friday, March 1, 2024
Position: OPPOSE**

Chair Keohokalole, Chair Dela Cruz, and members of the Committees,

On behalf of the Hawai'i Lodging & Tourism Association, the oldest and largest private sector tourism organization in the state, we express our opposition towards **SB3335 SD1 PROPOSED, RELATING TO CANNABIS**. This bill would establish the Hawai'i Cannabis Authority and Cannabis Control Board within the DCCA, establish the Cannabis Control Implementation Advisory Committee, and legalize the personal adult use of cannabis.

The Hawai'i Lodging & Tourism Association – the state's largest and oldest private sector visitor industry organization representing more than 50,000 hotel rooms and nearly 40,000 lodging workers – has always been committed to supporting the success of Hawai'i's top sector that generates a significant amount of economic revenue and jobs for the people of our state.

Legalizing cannabis poses significant risks for tourism, particularly deterring visitors from regions such as Asia; this would come at an inopportune time as we are still trying to recover traveler numbers from this key international market. In Japan particularly, marijuana possession carries severe penalties, and is a great concern for this population. Major industry stakeholders have warned our sector of potential consequences should marijuana become recreationally legalized, that would jeopardize Hawai'i's reputation – which was built over decades – as a safe and pristine destination for Japanese travelers. The association of cannabis with tourism could harm revenue and disrupt the local economy in this respect.

Within our industry, ripple effects could include hotels needing to adapt their policies to accommodate cannabis users, transportation services facing new regulations regarding cannabis consumption, and event organizers having to navigate complex legal frameworks.

Legalization also brings regulatory challenges, particularly concerning consumption laws, advertising restrictions, and public safety concerns – we are aware that all of our state's counties' law enforcement departments are opposed to this measure at this time.

For these reasons, we respectfully oppose SB3335 SD1 PROPOSED.

Mahalo for the opportunity to offer our testimony.

Dedicated to safe, responsible, humane and effective drug policies since 1993

COMMENTS ON SB 3335, SD 1

TO: Chair Keohokalole, Vice-Chair Fukunaga, & CPN Committee Members
Chair Dela Cruz, Vice Chair Moriwaki, & WAM Committee Members

FROM: Nikos Leverenz, Board President

DATE: March 1, 2024 (9:50 AM)

On behalf of Drug Policy Forum of Hawai'i (DPFH), I am writing to offer comments on SB 3335, SD 1, which would establish the Hawai'i Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs, legalizes personal adult use of cannabis, and establishes taxes for adult-use cannabis sales.

Along with other members of the [Hawai'i Alliance for Cannabis Reform](#) (HACR), DPFH has ongoing concerns stemming from the current vehicle before your committees. With other HACR members, we urge an approach to cannabis legalization that avoids increased criminalization and instead focuses on building an equitable and inclusive industry in every county, reinvests in communities, and provides reparative justice.

The Recent Experience of New Mexico

In terms of the costs of implementing a prospective cannabis control authority and bringing a functional, broad based adult-use market, the recent experience of New Mexico can shed light on the significant upside potential of adult use legalization.

For perspective, New Mexico borders two other adult-use states with a population of 2.1 million and a GDP of \$96.5 billion. Its visitor spending was less than half that of Hawai'i in 2023 (\$8 billion v. \$20 billion).

[Per New Mexico's Department of Finance and Administration](#), the costs of the Cannabis Control Division of the Regulation & Licensing Department were \$3.1 million in FY23 and \$3.5 million in FY24, with a recommendation of \$2.3 million in FY25.

[In April 2023, New Mexico Governor Michelle Lujan Grisham noted the successes of the first full year of adult use cannabis](#), including "more than \$27 million in cannabis excise taxes [to] the state general fund and to local communities." Further, "In just one year, hundreds of millions of dollars in

economic activity has been generated in communities across the state, the number of businesses continues to increase, and thousands of New Mexicans are employed by this new industry.”

*Ongoing Concerns Grounded in Framework’s Non-Recognition of Cannabis Prohibition’s Harms
and Provisions Providing for Continued Criminalization*

As the legislature moves forward in its deliberations, it should carefully consider and include measures to ensure a meaningful level of participation in the adult-use cannabis market for those who have been marginalized and criminalized through cannabis prohibition and the larger drug war. Those who have been harmed by decades of prohibition should have their cannabis-related arrest and conviction records cleared. Last year, [Missouri expunged almost 100,000 marijuana convictions](#).

Additionally, cannabis tax revenues can and should provide for science-based, harm reduction-focused educational materials to inform consumer choices, in contrast the Department of Health’s ongoing nonfeasance in promulgating educational materials related to medical cannabis

The regulatory body that is charged with rulemaking and oversight powers should be free of undue influence of large-scale commercial interests, political favoritism, and continued resistance to a functional adult-use cannabis economic sector.

As such, [similar to a provision in current statute relating to the composition of liquor commissions](#), whatever regulatory authority that oversees the adult-use cannabis market should not be (1) an elected officer of state or county government; (2) a candidate for election; or (3) has connections with organizations or associations, public or private, that are currently or have been advocates for cannabis prohibition, including the criminalization of cannabis paraphernalia, dating back to the Controlled Substances Act of 1970.

HRS 281-11(b) provides, in part, that “no person shall be a member of any commission or board who [is] identified or connected with, any organization or association which advocates prohibition...” That should also be the case for adult-use cannabis.

Current executive departmental oversight of the state’s hemp and medical cannabis sectors are clear ongoing demonstrations of how regulators have been less than accommodating in the cultivation of workable, forward-looking business climate that can generate jobs, economic activity, and tax revenues.

In addition to these concerns, while DPFH supports the general statutory framework provided by this bill, other concerns include, but are not limited to:

- **Youth Criminalization.** The bill re-criminalizes minors in possession and imposes excessive penalties for providing cannabis to those 18-20. While we certainly agree it should remain illegal to provide cannabis (other than medical cannabis), imposing even harsher penalties than the status quo is unreasonable.

- **Cannabis Odor as Pretext for Searches.** Add protections to clarify that the odor of cannabis, on its own, does not establish probable cause for a warrantless search.
- **Per se DUI Provision.** Remove the outrageous and unscientific per se “driving under the influence” limit of 10 nanograms per milliliter of THC for adults and medical patients, and any trace amount for those under 21. Due to significant variations among individuals in THC levels at times of impairment, particularly between regular consumers and novice users, this will criminalize patients and other sober drivers long after impairment wears off. It would also make it difficult to convict cannabis-impaired drivers testing below the threshold. Rather than criminalizing sober drivers, Hawai'i should invest in more DRE and ARIDE-trained officers. It should also have a robust public education campaign on the dangers and illegality of impaired driving.
- **Open Containers.** Remove the broad open container law, which would jail individuals for up to 30 days and/or impose a fine of up to \$2,000 for a driver or passenger who possesses in the passenger area a cannabis package that has ever been opened, loose cannabis, or any pipe.
- **Storage.** Remove the requirement that cannabis to always be stored in a sealed container, which applies even if adults live alone with no minors in the household.
- **Consumption Restrictions.** Remove the ban on any consumption of cannabis in a public place or a vehicle, which would apply even to those using cannabis medicinally in a parked vehicle. Imposing a civil fine for public smoking would be more appropriate.
- **Paraphernalia Law Exemption.** Add provisions legalizing the possession and distribution of cannabis paraphernalia.
- **Collateral Consequences.** Add protections to prevent cannabis consumers' lives from being ruined, by including protections to prevent Hawai'i residents from:
 - losing custody of their children for the responsible use of cannabis
 - losing state benefits for the responsible use of cannabis
 - losing professional or occupational licenses for the responsible use of cannabis
 - having parole or probation supervision revoked for cannabis

Cultivating Economic Opportunities & Better Serving Community Needs

The experiences of states that have legalized adult-use cannabis have raised varied challenges in operating a functional intrastate market that adequately meets the demands of medical cannabis patients and those choosing to enjoy responsible adult use. Excessive regulation and burdensome taxation are among those challenges to be avoided.

A variety of cannabis businesses, including those related to craft cannabis and cannabis tourism, in every county can help ensure that economic opportunities are available to many rural communities. It should continually re-evaluate its policies and endeavor to prepare Hawai'i's emerging cannabis economic sector for prospective participation in a national and global cannabis marketplace.

Last December, I co-authored [an opinion-editorial in *Honolulu Civil Beat*](#) with Maui County Councilmember Keani Rawlins-Fernandez and Rep. Jeanne Kapela where we underscored the promotion of meaningful equity throughout the cannabis sector, including production, manufacture, transportation, and sale.

This may include the broad provision of licenses, as is the case with industrial hemp, but fees and regulations must be in amount that allows rigorous participation in a functional commercial market by rural farmers and small businesses in every county in Hawai'i. Even with federal and state authorization, current participants in this state's anemic industrial hemp market have been stymied by poor regulations and untoward bureaucratic resistance from executive departments.

Similarly, current participants in the vertically-integrated medical cannabis sector have had their operations subject to such resistance, bolstered by the lethargy of policymakers that cannot, for example, facilitate the provision science-based educational materials, employment protections for medical cannabis patients, or access to tinctures and edibles by those in hospice facilities.

As we wrote, "Building a more prosperous, sustainable, and equitable economy in this state should include fair, active, and continuous participation for those living in rural areas of every county. *Cannabis grown by Hawaiian hands on Hawaiian lands should be a key component of that grand effort.*" (emphasis added) We also note that Maine and other states are encouraging a [craft cannabis industry](#) that champions smaller-scale farms.

While DPFH supports using tax revenues to facilitate the costs of administration, it recognizes that tax revenues should mainly accrue to the general fund. As noted in the *Civil Beat* op-ed, revenues from cannabis sales can be used "to improve the health and well-being of those from rural communities and other under-resourced populations, including behavioral health services, homelessness prevention, and youth programming."

Acknowledging the Human Wreckage of Prohibition & Charting a New Course Forward

[The current regime of cannabis prohibition, like the larger drug war, compounds the harm of extensive involvement in the criminal legal system by Native Hawaiians](#) and other residents from under resourced communities that are significantly impacted by social determinants of health.

[Long term arrest data](#) indicates that Native Hawaiians are disproportionately impacted by overcriminalization of cannabis in every county. [A misdemeanor conviction features many "collateral consequences" that impact an individual's ability to obtain employment, housing, and education.](#) Adult-use cannabis legalization will curb the negative impact of our state's drug law enforcement on those from Native Hawaiian and under resourced communities.

Ongoing cannabis prohibition needlessly raises the overall year-to-year costs of Hawai'i's criminal legal system, where terms of probation or parole are lengthened apart from a more calibrated determination of safety risks to the community. Prolonged periods of probation or parole increase the likelihood of a return to jail or prison at great cost to state taxpayers, which has not been mentioned in public deliberations over a new billion-dollar jail facility on O'ahu.

Again, while cannabis use is not entirely devoid of individual health risks, its use does not produce the injury, illness, and death resulting from regular or problematic use of alcohol or tobacco, two widely used licit substances that are not included in the federal Controlled Substances Act.

DPFH also strongly supports treatment upon request for those with diagnosed substance use disorders. As noted by the American Public Health Association:

Public health approaches offer effective, evidence-based responses, but some of the most effective interventions are not currently allowed in the United States owing to outdated drug laws, attitudes, and stigma. Substance misuse treatment is too often unavailable or unaffordable for the people who want it. A criminal justice response, including requiring arrest to access health services, is ineffective and leads to other public health problems. (Policy Statement, "[Defining and Implementing a Public Health Response to Drug Use and Misuse.](#)")

Mahalo for the opportunity to provide testimony.

[New Mexico cannabis industry marks one year, more than \\$300 million in adult-use sales](#)
Apr 3, 2023 | Press Releases

Gov. Michelle Lujan Grisham today announced that the state saw \$300 million in adult-use cannabis sales in its first year, which began in April 2022.

In one year, ***the state has issued around 2,000 cannabis licenses across New Mexico, including 633 cannabis retailers, 351 producers, 415 micro producers, and 507 manufacturers.***

"In just one year, hundreds of millions of dollars in economic activity has been generated in communities across the state, the number of businesses continues to increase, and thousands of New Mexicans are employed by this new industry," said Gov. Lujan Grisham. "I'm excited to see what the future holds as we continue to develop an innovative and safe adult-use cannabis industry."

Monthly sales have remained consistent throughout the last year, with March 2023 marking the highest adult-use sales at \$32.3 million. ***As of March 2023, more than \$27 million in cannabis excise taxes has gone to the state general fund and to local communities.*** To date, the state has recorded more than 10 million transactions. More data on sales and licenses can be found [here](#).

Albuquerque, Las Cruces, and Santa Fe saw the largest number of sales in the first year. Smaller communities, including Clovis, Farmington, and Ruidoso, each saw more than \$7 million in adult-use sales. Towns near the Texas border were also positively impacted by the cannabis industry. Sunland Park recorded \$19.4 million in adult-use sales.

“From the governor’s signing of the legislation, to standing up the Cannabis Control Division and rolling out this new industry, the New Mexico cannabis industry has shown great promise,” said Regulation and Licensing Department Superintendent Linda Trujillo. “We’re looking forward to even more growth in year two.”

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LATE

TO: CPN Chair Keohokalole, Vice-Chair Fukunaga, Committee Members McKelvey, Richards and Awa WAM Chair Dela Cruz, Vice-Chair Moriwaki, Committee Members Henry J.C. Aquino, DeCoite, Troy N. Hashimoto, Inouye, Kanuha, Kidani, Mercado Kim, Lee, Wakai, Shimabukuro, Fevella
FROM: Robert Bence, Certified Organic, Diversified, Generational Hemp Farmer and Cannabis Advocate, Hawai'i Sustainable Farms, Kula, Maui, HI 96790
RE: Strong **Opposition** to SB 3335

DATE: 2/29/24

Aloha Senators,

After being diagnosed with a previously undiscovered random birth defect, that caused a stroke followed by brain surgery that led to learning to walk and talk again, developed conditions that I treat with certified organic hemp previously known only as cannabis. A legal definition that means a lot and should not be commingled with adult use cannabis which this bill is also bad at regulating. I support cannabis as much or more than anyone; however, this bill is so terrible as a lover of cannabis, the plant that saved my life and could save Maui, I can't support SB3335. The fact I find myself opposing the bill, along with prohibitionist, is a sign this is a bad bill that will only cause more harm to cannabis while destroying the hemp industry.

SB3335 is a death blow to hemp, after last year we finally got rules that would make hemp farming somewhat more feasible and this year you're already proposing throwing that hard work out for a regulatory bureaucracy that has been hostile to hemp, failed at cannabis regulation and communication. **The legal definition of hemp already bans what the HDOH/AG claims are loopholes. The advice of CANNRA that THCA was legal is incorrect and they shouldn't be leading the HDOH/AG/Leg if that is the case (SEE Works Cited below testimony 1&2).**

The local hemp industry has apparently only one bad actor that the HDOH already identified and currently has the power to go after for selling THCA which is illegal. The synthetic cannabinoids are also

illegal and not practical in Hawai'i. No local hemp farmers growing the quantities that would make that practical. Anyone could just get the mailed like the majority of illegal cannabis for that matter, also mailed directly to their house with no problem. Comes from states where it is more economical. The imported price for illegal cannabis imports is less than the export price of legal Hawai'i hemp so it makes no sense to do.

The HDOH/Law enforcement already have the power to enforce the illegal imports on smoke shop shelves etc but they don't. Mail and smuggling, like alcohol prohibition, shows that as long as demand is here and no local supply, or as proposed an over regulated local supply, only local farmers will suffer, be they hemp or cannabis. Only locals would be negatively impacted. Hawai'i hemp farmers go above and beyond not only following the law but working to protect outdoor medical cannabis from hemp pollen.

Hemp is a keystone to our farm's agroforestry conservation plan as part of alley cropping and multistory planting practices with ultra high density planting of several different trees including grafted avocados, mango and endemic forests in this area before human contact. Rotational grazing and cover crop rotations of sunnhemp rolled and crimped followed by hemp makes it a great companion plant for the no-till crop and livestock rotations that can be done from tractor allowing more production, despite my severe disability. We can grow local houses.

The benefits of hemp as a food and a myriad of other uses from soil remediation to advanced nano particles of hemp graphene superconductors from animal bedding to housing from fresh juice to solvent-less extracts to seed breeding and microgreens... the market potential and environmental benefit list would go on for countless pages. **Hempcrete is especially important after the fires here and including hemp with adult use cannabis would negatively impact our ability to maintain vital financial services and certifications that do not like states commingling legal and illegal cannabis.** Hawaii hemp farmers shouldn't be left behind after finally being allowed to grow. SB3335, is proposing to regulate local farmers out of business it is not acceptable.

Hemp farmers were left out of shaping this bill and we should have been consulted because we are the only federally legal cannabis farmers and some of the very few actually reading this 198 page 2.54 pound proposed bill. Providing free advice that is more accurate than CANNRA.

Simple solution: Let everyone over 21 grow 10 plants per person and sell to other adults with GE tax, let people start cannabis businesses that are small enough to discourage multi-state-operators. Treat consumption like the far more dangerous tobacco and tax sales like the far more dangerous alcohol. Every state has failed this simple way to keep it local, it always leads to big corporations like TrueLeaf having the only social equity license in Alabama (4).

Give established medical patients the same head start proposing for the 8 dispensary licenses. Increase the medical card limit to 99 plants of any size as allowed by current county Ag zoning rules. Allow patients to sell at farmers markets. Separate federally legal cannabis which currently is not only hemp but also federally legal cannabis for federal research allowed to be grown and sold Mahalo to Senator Schatz work on and President Biden signing the Medicinal Marijuana and Cannabinol Research Expansion Act (3). The state should allocate funds to UH CTAHR and UH JABSOM to develop a research project that includes disabled patients growing there own medicine with testing and distribution of federal legal research cannabis to other patients or researchers. This could regain Hawai'i's long lost leadership role in medical cannabis.

After the fires walking distance to my farm and taking Lele, we need the economic benefit of adult use cannabis, medical cannabis and hemp in a way explained in my testimony not as proposed by the AG, HDOH and CANNRA in SB3335.

Mahalo

Robert Bence
Certified Organic Hemp Farmer



Works Cited

1. In June 2023, the DEA acknowledged THCA when expanding the USDA-required post-decarboxylation testing requirement, writing, “Congress has directed that, when determining whether a substance constitutes hemp, delta-9 THC concentration is to be tested ‘using post-decarboxylation or other similarly reliable methods.’ 7 USC § 1639p(a)(2)(A)(ii); 7 USC § 1639q(a)(2)(B).” Both of these cited code sections apply to the “production” – that is, the growing – of hemp, not hemp that has already been harvested or products containing hemp derivatives. Thus, by the plain language of the relevant federal statute, the post-decarboxylation test does not apply to post-production hemp. In other words, hemp being grown must have a total THC (THCA + THC) concentration of 0.3% or less^[2] in order to be harvested.

It also seems clear that Congress intended these legal distinctions to control the legal hemp versus marijuana markets in the United States. Indeed, not only Congress but also the [DEA](#)^[3] and [federal courts](#) interpreting relevant federal laws have all determined: “[i]mportantly, the only statutory metric for distinguishing controlled marijuana from legal hemp is the delta-9 THC concentration level. In addition, the definition extends beyond just the plant to all derivatives, extracts, [and] cannabinoids.” [7 U.S.C. § 1639o \(1\)](#). The use of “all” indicates a sweeping statutory reach. *See Lambright v. Ryan*, [698 F.3d 808, 817](#) (9th Cir. 2012).” *AK Futures LLC v. Boyd St. Distro*, 35 F.4th 682, 690-91 (9th Cir. 2022).^[4]

<https://www.mcglinchey.com/insights/is-thca-legal-the-state-line-is-the-bottom-line/>

2. THCA article by Emory Garcia at Oregon CBD: The 2018 Farm Bill, and the DEA, explicitly state in order for cannabis products to be considered hemp they must contain less than 0.3% Delta 9 post-decarboxylation (i.e. once its heated). This is described as "Total THC" and despite what a pile of money hungry lawyers say - this is how the law is interpreted by the US government. Coincidentally total THC is what is posted on every product sold at dispensaries in legal states

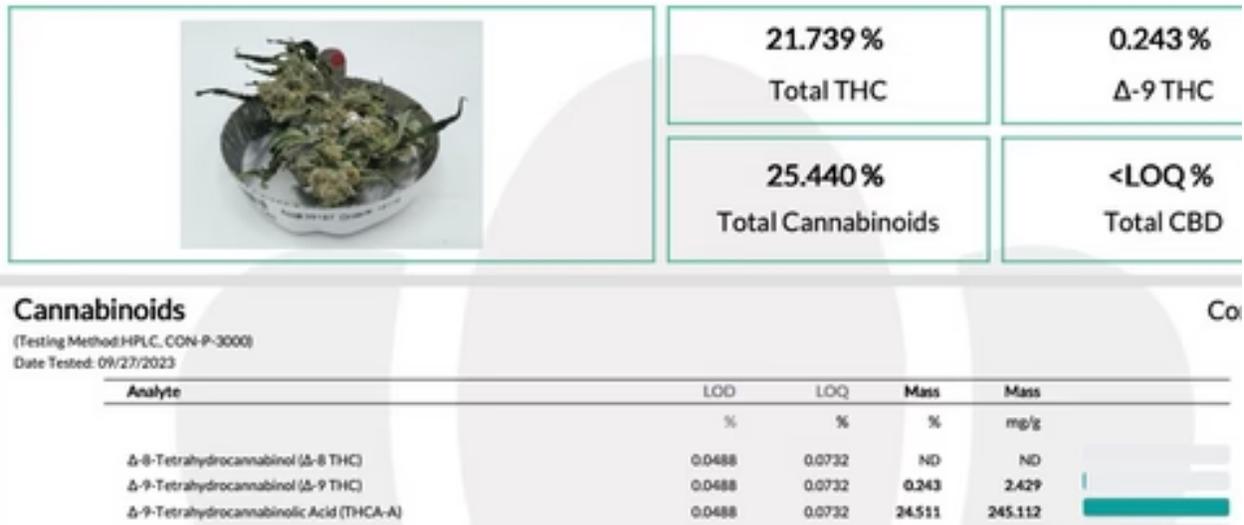
The statement below comes directly from the USDA website regarding what is considered hemp

-

- o 1.8 At a minimum, analytical testing of samples for total delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary in writing. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC), and the test result must reflect the total available THC derived from the sum of the THC and THCA content. Current testing methodologies meeting these requirements include gas chromatography and liquid chromatography. Other methods may be approved if they meet the requirements.

Total THC is calculated by multiplying THCa content * 0.877 and then adding the Delta 9 percentage. It sounds confusing, but the labs do the math.

For example, the test results below are from flower being sold as "hemp" online.



According to the DEA and the USDA this flower has 18.56% total Delta 9 THC - not the scant 0.243% accepted by the public. Law enforcement would certainly agree this is not legal flower.

<https://gtrseeds.com/blogs/news/is-thca-legal-hemp>

3. H.R. 8454, the “Medical Marijuana and Cannabidiol Research Expansion Act,” which establishes a new registration process for conducting research on marijuana and for manufacturing marijuana products for research purposes and drug development;

Thank you to Representatives Blumenauer, Harris, Griffith, Joyce, Mace, and Perlmutter, Delegate Norton, and Senators Feinstein, Grassley, Schatz, Durbin, Klobuchar, Tillis, Kaine, Ernst, Tester, and Murkowski for their leadership.

<https://www.whitehouse.gov/briefing-room/legislation/2022/12/02/bills-signed-h-j-res-100-h-r-8454-s-3826-and-s-3884/>

4. “Trulieve Awarded Alabama’s Only “Minority-Owned” Medical Cannabis License”

SB-3335-SD-1

Submitted on: 2/26/2024 7:10:03 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Oppose	Written Testimony Only

Comments:

I **strongly oppose** the passage of SB 3335, SD 1 which would legalize the personal adult use of cannabis beginning January 1, 2026 and establishes taxes for adult-use cannabis and medical cannabis sales.

SB 3335, SD 1 sadly is trying to justify that personal adult use of cannabis will provides income to the state through taxes. I have no problem with the medical use of cannabis for pain management for those suffering from chronic conditions or debilitating diseases because their doctors are involved in the assessment and managing of the individual's health care in the use of cannabis as a pain management treatment.

These are facts that should not be taken lightly. The personal adult use of cannabis (non-medical) would increase the health risk (in particular substance abuse and mental health issues) and safety risks of our residents and their families - on our roads, workplaces, and in our communities. Likewise, for our visitors to the islands.

Thank you for the opportunity to submit written testimony in **strong opposition** of SB 3335, SD 1.

Testimony of Will Caron
Comments on SB3335 SD1: Relating to Cannabis
Senate Committees on Ways & Means and Commerce & Consumer Protection
February 26, 2024

Aloha members of the committees,

I support the concept of legalizing adult-use recreational cannabis use in Hawai'i. Research shows that legalizing recreational cannabis lowers rates of abuse of far more harmful substances like opioids and reduces crime, while generating significant tax revenue that can be reinvested in public priorities such as education.

At the same time, it is important to acknowledge and address the harms that cannabis prohibition has brought to marginalized communities. While this bill contains some provisions that appear to align with this restorative framework, other sections of the bill still rely on the failed policy of law enforcement crack-downs that made the "War on Drugs" such a devastating campaign for many communities.

Specifically, I have serious concerns about the provision that encourages law enforcement to aggressively pursue cannabis activity that is outside the legal market. Section §A-2 (6):

Ensure that state and county law enforcement agencies work closely with the Hawaii cannabis authority and vigorously investigate and prosecute illegal cannabis activities that fall outside of safe harbor protection;

We should not be stepping up efforts to criminalize activity related to cannabis simply because it occurs outside a newly-established legal market. Law enforcement resources should not be wasted in this way.

Section §A-2 (5) mentions incentives to move into the legal market voluntarily. This is a far more equitable and less costly way to phase-out the cannabis black market. Efforts should be concentrated here, rather than on criminalization.

I also have concerns about §A-5 (5), specifically:

...provided that in the case of the rental of a residential dwelling, a landlord shall not prohibit the possession of cannabis or the consumption of cannabis that is not inhaled..."

This appears to restrict the method of consumption for renters, including for medical cannabis card holders. We should not be restricting how cannabis is consumed in statute.

I also have concerns about Section 5(2) related to "open containers" and the of unscientifically validated "per se" blood testing to determine if a driver is driving under the influence (impaired) in Section 6.

The U.S. DOT has said that “it is not possible to conclude anything about a driver’s impairment on the basis of his/her plasma concentrations of THC and THC-COOH determined in a single sample.”

Instead of creating new crimes to find people guilty of, lawmakers should ensure the bill includes more robust consideration for:

- Remediation for individuals who have been affected by drug convictions for cannabis-related offenses. This process should be **automatically applied**, and include retroactive expungement of offenses for the possession of cannabis. This, in turn, requires a dedicated source of funding—which can be drawn from recreational cannabis revenue. Other possible recommendations include financial compensation and assistance with employment and educational opportunities.
- Social equity programs to level the playing field for the recreational cannabis industry. These programs provide special licenses to business owners from communities that have been disproportionately affected by the War on Drugs.
- Community reinvestment through the allocation of a significant portion of cannabis tax revenue to communities affected by criminalization, promoting education, health, social services, arts, culture, and environmental programs.

Incorporating social equity into cannabis legalization efforts is a commitment to building a fair and inclusive society. Hawai’i has the opportunity to set a precedent for thoughtful and equitable cannabis policies that address historical injustices, paving the way for a cannabis industry that generates revenue for important priorities and helps foster positive social change.

Mahalo

SB-3335-SD-1

Submitted on: 2/26/2024 7:54:42 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Bobby R Duffer	Individual	Oppose	Written Testimony Only

Comments:

NO TO RECREATIONAL MARIJUANA

SB-3335-SD-1

Submitted on: 2/26/2024 8:09:53 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Jodi Liu	Individual	Oppose	Written Testimony Only

Comments:

Aloha Legislators,

Please vote NO TO LEGALIZED MARIJUANA!! The stats coming out of several states for years now, including California, Nevada, Washington, Oregon, and Colorado have consistently shown that car accidents and especially fatal car accidents have multiplied since marijuana was legalized in those states. It is not a coincidence. Those big increases show up in Canada as well. Also, marijuana continues to be a gateway drug into stronger drugs. Not many addicted to meth or cocaine started off doing meth or cocaine, almost all those individuals started off using marijuana. It's just common sense that most of the "legal" marijuana market will be controlled by organized crime. Needless to say how that will go!

Yes, legalizing marijuana will increase the tax revenue for our state, but one of the most irresponsible things our government leadership can do is to legalize the non-pharmaceutical sales here in our beautiful islands. It will destroy lives, families, communities and our state's future. Thank you for doing the pono thing for our people and for our state.

Aloha,

Jodi Liu

SB-3335-SD-1

Submitted on: 2/26/2024 8:36:09 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Cynthia Dorflinger	Individual	Oppose	Written Testimony Only

Comments:

NO TO RECREATIONAL MARIJUANA!

SB-3335-SD-1

Submitted on: 2/26/2024 10:01:30 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark Gordon	Individual	Support	Written Testimony Only

Comments:

Please Support SB 3335

- Recreational cannabis is legal in almost half of the U.S. States including Washington DC and Guam even in some of the more conservative States
- Use of Cannabis is much safer and has much less detrimental and long term effects than smoking and alcohol, with the latter two both being legal
- No fatal overdoses reported in the Literature compared to other drugs
- Another industry besides tourism
- Would be a tremendous increase in tax revenue for the State, especially with a majority of funds me allocated for Maui relief efforts
- Can still be controlled and managed by DOH
- Allows tourists, as well as residents to purchase

Clifford G Wong, Ph.D.
dba Hawaii DUI Toxicology Consulting

47-286 Hui Iwa Street, Apt.D,
Kaneohe, HI 96744
808-670-9460

February 23,2024

Senate Ways and Means Committee, and Commerce and Consumer Protection Committee
Senators Dela Cruz (C), Moriwaki (VC), Keohokalole (C), Fukunaga (VC),

Re: SB 3335 SD1, Legalization of Adult Cannabis Use and Establishment of *per se* definition of THC intoxication

I am currently a board-certified forensic toxicologist (DABFT-FT), and was the former Toxicology Dept. Director of Clinical Laboratories of Hawaii , a local-grown clinical laboratory which provided clinical toxicology services to physicians, and forensic toxicology services for work place drug programs, pathologists/coroners, and law-enforcement agencies in the state. In our forensic analyses, our laboratory provided toxicology evidence in support of DUI cases involving both alcohol and drugs, and of criminal prosecutions of assault/homicide in felony cases. I was often called to testify on behalf of our laboratories reports in court hearings from 1995 through 2019, the end year when I formally retired from my position at Clinical Laboratories of Hawaii. I currently serve as an independent forensic toxicologist consultant for the county prosecutors and law enforcement, and for the state Dept. of Health.

I wish to take this opportunity to address the proposed senate legislation SB3335 SD1 that is currently being reviewed by your committee. This legislation will legalize cannabis use for all adults in the state of Hawaii and establish an infrastructure for the production and distribution of cannabis to the entire public, as well as adding an additional bureaucratic layer of oversight into the established medical cannabis program currently in place.

I am quite familiar with the pharmacological and toxicological properties of cannabis as part of my forensic practice and offer my opinion as to the proposed legislation. I cannot emphasize that the committee carefully consider all known factors of human cannabis use and its history in states where cannabis use has been legalized. I have seen many of the opinions already presented for this bill and urge extreme caution as to the wisdom of proceeding before all factors are clearly understood. Cannabis is an intoxicant with unique CNS-depressant and CNS-stimulant properties and is currently the most prevalent drug involved in DUI cases in the state outside of alcohol. I am fearful that broad legalization of cannabis use in Hawaii will increase even more the occurrences of cannabis-related DUI driving, as supported by data from states already possessing legalization

statutes. While the incidence of underage usage has not been as great as originally feared, nevertheless, the occurrence of edible cannabis products has opened *de facto* avenues of exposure to our children, which cannot be abided.

My specific concern with this legislation as written is the establishment of a *per se* concentration limit for cannabis intoxication in blood at 10 ng/mL. Such a limit has no scientific basis for meaningful application in DUI cases. Scientific data from actual driving studies in the Netherlands by Dr. Jan Ramaekers have observed a level of 5 ng/mL in blood as the minimum threshold where consistent impaired driving occurred, but those levels were measured immediately after the driving experiment. Accordingly, such levels were adopted in some states for their *per se* definition of cannabis intoxication in driving. However, the confounding issue is that blood draws for DUI testing often occurred 2-4 hours after the incident where it has been established (Dr Marilyn Huestis) that blood THC levels drop rapidly after dosage and may significantly fall below the 5 ng/mL threshold during the time of the blood sampling for analysis, rendering the adoption of such a threshold as unrealistic given the lag in time between driving arrest and actual blood sampling. Another problem is that our own state statutes allow for the defendant to opt for a urine sampling *in lieu* of a blood draw, thus avoiding the *per se* threshold limit. Of course, there is often the ever-present possibility that the defendant will not consent to any sampling or interview with police, thereby rendering any type of testing or impairment assessment by trained law enforcement officers (DRE) moot.

My fellow members of the Society of Forensic Toxicologists (SOFT) share a common consensus that any *per se* threshold for drug intoxication lacks scientific merit based on :

- 1) the hysteresis effects of drugs versus concentration: no blood concentration of an intoxicant drug, outside of alcohol, is proportional to its effects in human performance.
- 2) the intoxicating effects of cannabis often lag after blood peak concentrations and these effects normally peak after the blood concentrations rapidly decline to very low levels.
- 3) The confounding issue of drug tolerance: chronic users may not exhibit intoxication at blood concentrations occasional or naïve users experience after use.

It is for these reasons outlined above, that in any DUI case, there are three pillars of evidence that must accompany a forensic determination of DUI beyond a reasonable doubt. These pillars are:

- 1) Driving impairment or unsafe driving behavior must have been exhibited by the driver.
- 2) The driver should exhibit specific behaviors and physiological symptoms that are unique for a given class of drug intoxicants.
- 3) The toxicology report must indicate recent use of an intoxicating substance/drug.

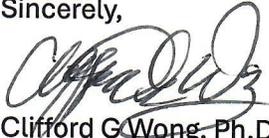
These enumerated factors are used in our current DUI assessment with drugs and should be maintained. A defined *per se* concentration limit is not consistent with current scientific knowledge or best practice. I recommend the exclusion of any proposed alterations in our current drug DUI practices by this bill. Under current rules, anyone who drives impaired by

cannabis will be prosecuted for DUI, whether or not they possess a medical license for use for treatment. The criminal charges and sentencing are the same for any drug intoxicant.

In addition, I would recommend that you consult with known national and world experts as to the consequences of chronic cannabis usage, both in adults and in children. Dr Marilyn Huestis has been involved in or has headed many clinical studies in the US on both impairing effects of cannabis, and the neural pathogenesis in brain tissue from chronic use by adults and children. I am sure that she would be happy to impart her experience and knowledge to the committee if given the opportunity.

Thank you for your consideration of my professional opinion on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clifford G. Wong', written in a cursive style.

Clifford G. Wong, Ph.D. DABFT-FT

SB-3335-SD-1

Submitted on: 2/26/2024 11:35:30 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Cindy Goldstein	Individual	Support	Written Testimony Only

Comments:

I support the legalization of the adult use of cannabis and support the creation and funding of the infrastructure needed to establish what is needed for implementing policies for legalization by the State of Hawaii. The WAM and CPN committees are urged to pass this bill.

SB-3335-SD-1

Submitted on: 2/27/2024 5:37:57 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
adam	Individual	Oppose	Written Testimony Only

Comments:

In Opposition of Sb 3335 - Relating to Medical Cannabis

Aloha kākou,

I am a local business owner and a medical marijuana card holder here on O’ahu and I am writing to express my **opposition to Sb 3335** - Relating to Medical Cannabis.

I am a strong advocate for the rights of medical marijuana patients and growers in Hawai’i. I believe that these individuals deserve to have access to safe and legal medicine in the form of medical marijuana and that the rights to legally grow medication and provide more options to patients should be protected.

I am concerned that this could have negative impact on the patients who need this medicine to be able to safely have more options to access the medicine and that could have a variety of consequences for patients.

Medical marijuana has been shown to be effective in treating a variety of medical conditions, including chronic pain, nausea, seizures, and more. It is a safe and effective alternative to many prescription drugs, and it can provide relief to patients who have not found other treatments to be effective.

Keeping it medical and not recreational is what Hawaii law enforcements support.

If you wish to create a positive impact and add more value to medical marijuana services for the people of our community, I would urge you to:

- Support legislation to increase the number of medical marijuana dispensaries in the state.
- Work to reduce the costs of medical marijuana.
- Streamline the process for patients to obtain medical marijuana cards.
- Oppose any legislation that would prohibit the cultivation of cannabis and reduce the rights of medical marijuana patients and growers.

Mahalo for your time and consideration.

SB-3335-SD-1

Submitted on: 2/27/2024 7:35:24 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Kapua Keliikoa-Kamai	Individual	Oppose	Written Testimony Only

Comments:

Aloha kakou,

I rise in **STRONG OPPOSITION** to SB2225 SD1!

Establishes the Hawai'i Cannabis Authority and Cannabis Control Board within the Department of Commerce and Consumer Affairs to regulate all aspects of the cannabis plant. Establishes the Cannabis Control Implementation Advisory Committee. Beginning January 1, 2026, legalizes the personal adult use of cannabis. Establishes taxes for adult-use cannabis and medical cannabis sales. Transfers the personnel and assets of the Department of Health and assets of the Department of Agriculture to the Hawai'i Cannabis Authority. Declares that the general fund expenditure ceiling is exceeded. Makes appropriations. Takes effect 12/31/2050. (SD1)

1. You know why and what you have to do now - DEFER IT.
2. You don't know all the egregious unintended consequences that this will bring about in our Hawai'i nei and we can't afford to risk it - DEFER IT.
3. If those unintended consequences hasn't happened in your ohana, it's only a matter of time before they will - DEFER IT.
4. DEFER IT.

Do the right thing and DEFER SB3335 SD1. Mahalo!

Kapua Keliikoa-Kamai

He Hawai'i Au

SB-3335-SD-1

Submitted on: 2/27/2024 9:49:27 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Victor K. Ramos	Individual	Oppose	Written Testimony Only

Comments:

Strongly oppose. If the purpose to legalize recreational use of marijuana is to make money and addicting the masses, you will obtain far less of the former and you will overwhelmingly succeed with the latter. Every neighborhood, will have homes that reek of this particulate. Every beach park and every state & county park will have the sickening smoke of marijuana. No thanks!

SB-3335-SD-1

Submitted on: 2/27/2024 12:54:04 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Teri Heede	Individual	Support	Written Testimony Only

Comments:

With all the looming budget cuts, one would think that #legalization would be considered a common sense solution.

Adults across America are demanding the right to make their own decisions.

We don't need to be a "nanny state" while every other state reaps the financial benefits of cannabis legalization.

STOP listening to the hysterics and start reading the FACTS versus propaganda about usage and the effects of adult use.

Respectfully submitted,

Teri Heede

Hawaii State Senate
Committee on Ways and Means
Committee on Commerce and Consumer Protection
415 S. Beretania Street
Honolulu, HI 96813

Hearing
March 1, 2024
9:50 AM
Conference Room 211

Testimony of Jennifer Flanagan
SB3335, Relating to Cannabis - Proposed SD1

Chair Dela Cruz and Chair Keohokalole,

My name is Jen Flanagan. I'm testifying in support of the proposed SD1, SB3335.

I am a former founding member and was the public health appointee of the Massachusetts Cannabis Control Commission. Prior to that, I served as a State Senator and a State Representative for the Commonwealth of Massachusetts.

Recently, I had the opportunity to meet a number of Hawaii legislators and staff from the State's Attorney General's office. Massachusetts served, in part, as a model for the legislation before the committees today, SB3335.

Let me start by making clear that I was highly skeptical when Massachusetts enacted its adult cannabis use legislation. I shared many of the same fears expressed recently by Honolulu's prosecutor and law enforcement officials, especially given my background in public health. However, through my involvement in our cannabis commission and as I observed our legal cannabis market unfold, I am now a firm believer in legalizing, regulating, and taxing this industry.

Massachusetts was mindful in establishing its program to avoid delays and cumbersome policies given the risk of illegal criminal cannabis proliferation. Allowing legal sales quickly was, therefore, vital to ensuring the success of our adult-use cannabis program. To that end, we launched our commission with an initial appropriation of approximately \$7.5 million and an additional annual operating budget of \$5 million. We were able to issue licenses within 12 months starting from scratch with this approach and limited funding.

SB3335 proposes an ambitious regulatory model with funding for significant state resources, programs and grants of over \$30 million in appropriations. While laudable, I worry the time and cost of establishing these numerous initiatives, coupled with the long delay of 18

months for the issuing of licenses, will result in unintended consequences similar to New York, Ohio, and other jurisdictions where regulatory delays allow illegal criminal cannabis operations to fill the void when consumers can't access legal cannabis.

The proposed Senate Draft (SD1) would help to mitigate this by utilizing the staff, resources and expertise of the medical cannabis office. However, I would encourage legislators to consider reducing the self-imposed requirements on the State to establish the program.

I fully support SB3335 and Hawaii's vision for legalizing adult cannabis use. At the same time, I would urge the legislature to heed the cautionary tales from other jurisdictions that have created difficult to implement policies and programs that have led to delays and allowed illegal cannabis operations to take root.

Massachusetts has demonstrated that encouraging legal sales early is the most effective way to deter illegal activities. In addition, that a nimble state regulatory program with efficient funding at the start is a prudent approach that can allow Hawaii to grow its regulatory programs once legal sales tax revenue is generated.

You might ask just how effective was Massachusetts' adult-use regulations? In 2022, Massachusetts generated \$157 million in cannabis excise tax alone, not including state sales tax, county taxes, and income taxes. In 2021, we collected roughly \$112.4 million. In 2020, the cannabis excise tax yielded \$51.7 million. This revenue is now an important part of our state's budget and is utilized to fund the cannabis regulatory agency, social justice efforts, law enforcement, and numerous other programs.

Thank you for the opportunity to testify. I hope that Hawaii can learn from our efforts in Massachusetts. I welcome any questions or comments from Senators.

SB-3335-SD-1

Submitted on: 2/27/2024 5:48:24 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Albert E Beeman	Individual	Support	Written Testimony Only

Comments:

Aloha Sen Dela Cruz and Sen Keohokalole and Members of CPN/WAM

Please vote to approve SB3335 legalizing recreational marijuana.

It's time to end this long-time hypocrisy in Hawaii and legalize recreational marijuana!!

24 US states have already legalized recreational marijuana plus Washington DC and Guam:

Alaska Arizona California Colorado Connecticut Delaware Illinois Maine Maryland
Massachusetts Michigan Montana Nevada New Jersey New York Oregon Rhode Island South
Dakota Vermont Virginia Washington

183.6 million people currently live in states where it is legal to possess recreational marijuana.

Me ka mahalo (Respectfully),

Al Beeman

Hilo

SB-3335-SD-1

Submitted on: 2/27/2024 8:52:24 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Joy Chinen	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators.

You have heard many testimonies against recreational marijuana, from our law enforcement officers, teachers, fathers and mothers. I am a grandmother. I don't want this law in our Hawaii. The other States who have this law are NOT thriving, have students who are not doing well in school and families are in breakdown. Our society in Hawaii is fragile. Please don't do this.

SB-3335-SD-1

Submitted on: 2/27/2024 9:12:30 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Mary Katherine Trevithick	Individual	Oppose	Written Testimony Only

Comments:

Possibly the last thing Hawaii needs is to legalize marijuana. Children will undoubtedly have access to it, and the negative effects of pot on people under the age of 25, when the brain is fully mature, are well-documented. And people will drive under the influence causing more havoc on our roads. PLEASE do not legalize marijuana. It is a Pandora's box that needs to stay shut and locked.

SB-3335-SD-1

Submitted on: 2/27/2024 10:12:17 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Garner Shimizu	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill.

I am 65yrs old and have a high school buddy who has smoked weed all of his life. He is unmotivated, in depression, not in good health, living with his parents, unemployed, and generally an unproductive adult. He is a large representation of the affects of smoking marijuana.

You have testimony from experts, the Mayor, Prosecuting Attorney, all County Police Forces; real life degrading consequences of other locations that legalized marijuana that all point to the very grave ramifications of passing this bill.

I believe this bill if passed will become a marker in Hawaii's history of the beginning of our collapse, and this legislature will be associated in history for being responsible promoters.

I humbly ask that you please kill this bill to protect our keiki and the future of our 'aina and aloha spirit.

Thank you.

SB-3335-SD-1

Submitted on: 2/27/2024 10:14:00 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Daniel Chinen	Individual	Oppose	Written Testimony Only

Comments:

strongly oppose this bill. for the sake of the impact upon our future generations and economy, please consider opposing this bill. thank you.

TO: Members of the Committees on Ways and Means
and Commerce and Consumer Protection

FROM: Natalie Iwasa, CPA, CFE
808-395-3233

HEARING: 9:50 a.m. Friday, March 1, 2024

SUBJECT: SB3335, SD1, Cannabis - **OPPOSED**

Aloha Chairs Dela Cruz and Keohokalole and Committee Members,

Thank you for allowing the opportunity to provide testimony SB3335, SD1, which would establish a separate board under the Department of Commerce and Consumer Affairs to regulate cannabis and legalize personal use of cannabis, among other things.

Cannabis, aka marijuana, remains a Schedule I substance under the federal Controlled Substances Act. Law enforcement is required to uphold that law.

If this bill is passed, it would be in direct conflict with federal law, as our current medical marijuana law already is. We should not be putting our law enforcement officers and agents in a position of either upholding the law or ignoring it. That is simply not good policy.

Please **vote “no”** on SB3335, SD1.

SB-3335-SD-1

Submitted on: 2/28/2024 1:29:25 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Catherine Collado	Individual	Oppose	Written Testimony Only

Comments:

I am in strong OPPOSITION to this bill regarding legalizing recreational marijuana. We all know that legalizing the use of marijuana will cause increased use of marijuana among our children. Do you really think that recreational use of marijuana will confine itself to law-abiding citizens? Use of marijuana will likely cause children, and adults for that matter, to venture into other street drugs. Should you pass this bill, there will be repercussions such as increased use/sale of street drugs, increased vandalizing, increased crime against people and against property and against businesses, increased use of illegal firearms, increased human trafficking, decreased school attendance, increased psychological problems, decreased tourism, increased use of State funds, etc. If the intent of this bill is to tax marijuana users/growers, and contribute to the State's financial income, you are gravely wrong. It will cause greater use of State funds to respond to the additional problems this bill will cause the State. In addition, what kind of people do you think you'll attract to Hawaii by passing this type of bill? By passing this bill you greatly compromise the safety of our children, our elderly, and our tourist, and the people of Hawaii. Please do your due diligence to the people of Hawaii and OPPOSE this bill! Listen to what the majority of those testifying are saying about this bill and heed the call of those of your constituents and to those who you work for.

Testimony
IN SUPPORT
SB3335, Relating to Cannabis - SD1

Aloha Chairs Senator Keohokalole and Dela Cruz,

Thank you for the opportunity to testify in strong support of SB3335.

My name is Michael Medeiros, I am Native Hawaiian raised in Hilo. I have lived in California and Colorado and have seen the positive benefits that cannabis can have on a community. When I moved back to Hawaii from Colorado, I was excited to become a part of that positive change for Hawaii.

Cannabis has had such a positive impact on my life. It helped me when I did not want to rely on opiates for pain relief and still to this day helps me cope with regular pain. I firmly believe that every adult deserves the right to decide whether they can use cannabis without fear of judgment or imprisonment.

In addition to the personal benefits, the measure would establish a tax revenue stream for the state that has the potential to generate roughly \$30 million per year of initial sales; and over \$80 million per year when the industry fully matures.

Cannabis is already being bought and sold in the islands but occurs through criminal, underground transactions. SB3335 would address this by regulating and taxing the cannabis industry.

This measure provides for strong enforcement that would reduce risk of illicit sales and exposure for Hawaii's keiki and the public.

It is worth noting that the current bill requests \$38M to establish various programs and agencies for the administration of the measure. However, Massachusetts was able to establish its own program with only \$7.5 million in initial funding despite having a population 5 times the size of Hawaii's. Alaska also established its adult use program for roughly \$7 million. Given the current budget constraints Hawaii faces, it is clear that such a program can be established here for far less than currently requested under this measure.

I respectfully urge the committees to pass SB3335 to safeguard the public, support the majority of Hawaii's voters desire to allow for adult use, and establish a new tax revenue stream that is now being lost to the illicit market.

Mahalo,
Mike Medeiros

SB-3335-SD-1

Submitted on: 2/28/2024 9:26:34 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Michelle Kane	Individual	Oppose	Written Testimony Only

Comments:

As a retired attorney and resident of Lahaina I ask that bill not pass. We must look at the tragedies that are occurring in other states on the mainland through the legalization of marijuana and learn from it. Unfortunately what was hoped to assist their economy and residents it opened those states up to organized criminals with great power causing land grabs, murders and human trafficking not to mention the problems that happen when people are under the influence of this drug and drive. Please do not allow this to go through.

SB-3335-SD-1

Submitted on: 2/28/2024 9:39:49 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Patrick E. Kane	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

SB-3335-SD-1

Submitted on: 2/28/2024 10:21:40 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Susan Quist	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB3335

Testimony
IN SUPPORT
SB3335, Relating to Cannabis - SD1

Aloha Chairs Senator Keohokalole and Dela Cruz,

My name is Leah Kekaulua. Thank you for the opportunity to testify in strong support of SB3335 SD1, Relating to Cannabis. This measure seeks to provide a regulatory framework for adult use of cannabis. I currently work in the legal cannabis industry and have witnessed first-hand the opportunities provided through jobs and specialized skills residents are able to acquire working in the industry. In addition to the jobs, it is important that clean, tested cannabis derived products be available to all adults who chose to consume them. While we have seen the benefits of the medical program for patients, there is no reason that the therapeutic effects of this plant should not extend beyond the medical program to all adults. The numbers show that currently, more than 80% of Hawaii voters support legalizing and regulating cannabis use for adults. We know that cannabis is already being bought and sold in the islands but occurs through illicit underground transactions. SB3335 would address this by regulating and taxing the cannabis industry. This measure provides for strong enforcement that would reduce risk of illicit sales and exposure for Hawaii's keiki and the public.

In addition, the measure would establish a tax revenue stream for the state that has the potential to generate roughly:

- over \$30 million per year of initial sales; and
- over \$80 million per year when the industry fully matures

It is worth noting that the current bill requests \$38M to establish various programs and agencies for the administration of the measure.

- However, Massachusetts was able to establish its own program with only \$7.5 million in initial funding despite having a population 5 times the size of Hawaii's.
- Alaska also established its adult use program for roughly \$7 million.
- Given the current budget constraints Hawaii faces, it is clear that such a program can be established here for far less than currently requested under this measure.

I respectfully urge the committees to pass SB3335 to safeguard the public, support the majority of Hawaii's voters desire to allow for adult use, and establish a new tax revenue stream that is now being lost to the illicit market.

Mahalo

SB-3335-SD-1

Submitted on: 2/28/2024 10:30:49 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Regina Gregory	Individual	Support	Written Testimony Only

Comments:

Please pass this bill! We have been waiting for a very long time.

SB-3335-SD-1

Submitted on: 2/28/2024 10:51:59 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Grace Fujii	Individual	Oppose	Written Testimony Only

Comments:

I strongly OPPOSE this bill SB3335. Look at what it did to California. We already have elevated crime, increased accidents in our state, and increased mental problems. We don't need more problems. Listen to the majority of the people. Legislators, it's not who can pay more or who can speak the loudest. It is what is righteous for our state and people. Save our Hawaii Nei. Keep it clean and keep ALOHA. Speak OLA, life and NOT pass this bill. If it is passed, it is death to our people, our next generation and to Hawaii. SAY NO to bill SB3335, oppose the legalization of the use of marijuana in Hawaii.

SB-3335-SD-1

Submitted on: 2/28/2024 11:43:11 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Eric Keli'i Beyer	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Eric Keli'i Beyer and I live in Volcano, Big Island. I'm testifying in support of SB3335 SD1. I believe Hawai'i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.

SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance.

SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Mahalo for your time and consideration

SB-3335-SD-1

Submitted on: 2/28/2024 11:25:25 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherilyn Kang	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose the legalization of marijuana. Marijuana is a gateway drug to stronger/harder drugs. I believe this would open many negative doors for our community and state and ultimately, have an adverse effect on families, the community and our state as a whole.

It would change the culture and the spirit of our state and destroy the Aloha that makes Hawaii a special place.

Our state motto is, "Ua mau ke ea o' ka aina i ka pono," which means, the life of the land is perpetuated in righteousness." Legalizing marijuana would NOT be perpetuating righteousness, and would ultimately cause the land to perish.

Please do not allow this bill to pass! Think about our children and grandchildren and the generations of Hawaii keiki to follow and do it for them!

SB-3335-SD-1

Submitted on: 2/28/2024 11:47:13 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Randy Gonce	Individual	Support	Written Testimony Only

Comments:

Strong Support.

This bill does need some amendments and I fully support the amendments that are being requested by the Hawaii Alliance for Cannabis Reform (HACR). The amendments are imperative for a sound program that will achieve the goals of legalization. Thank you for the opportunity to testify.

SB-3335-SD-1

Submitted on: 2/28/2024 12:15:29 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Thomas Lee Price	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Tom Price and I live in Koloa, Kaua'i I'm testifying in support of SB3335 SD1. I believe Hawai'i should join 23 states in legalizing cannabis.

SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement.

SB3335 SD1 should require local ownership.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

SB3335 SD1 should also ban employment discrimination based on cannabis use.

Mahalo for your time and consideration.”

SB-3335-SD-1

Submitted on: 2/28/2024 12:31:13 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Larry Veray	Individual	Oppose	Written Testimony Only

Comments:

I totally oppose this bill as an individual. If this bill is approved, you will have made a permanent negative impact on our citizens health, safety and their environment forever. It will also negatively impact tourism.

Thank you

Chair, for the Pearl City Neighborhood Board No. 21

SB-3335-SD-1

Submitted on: 2/28/2024 12:36:02 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
William P Hardrict	Individual	Support	Written Testimony Only

Comments:

“Aloha, my name is William Hardrict and I live in Kapolei. I’m testifying [with comments/in support] on SB3335 SD1. I believe Hawai’i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.”

SB-3335-SD-1

Submitted on: 2/28/2024 12:46:04 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Donna Ho	Individual	Oppose	Written Testimony Only

Comments:

Aloha Sen. Keohokalole, Sen. Dela Cruz, and members,

I OPPOSE SB3335.

I saw a recent column headline in the newspaper: "No time for pakalolo high on busy legislative agenda." Someone was speaking out, saying what's been on my mind for a long time. Everything in the article was spot on - referring to issues of illegality, driving while high, negative impacts to children, a Hawai`i Cannabis Authority and Cannabis Control Board. Will there be a tax windfall? The idea of revenue gotten from the legalization of recreational marijuana use is just not pono, not right, not worth it.

Mahalo for your service to the people of Hawai`i.

Respectfully submitted from a kupuna born and raised in Hawai`i nei, a place like no other.

SB-3335-SD-1

Submitted on: 2/28/2024 1:24:34 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Lucy Parkin	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I sincerely oppose SB3335 legalizing recreational marijuana.

Mahalo,

Lucy Parkin

Hawaii Resident

SB-3335-SD-1

Submitted on: 2/28/2024 1:44:05 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Dale Atsuko Stevens	Individual	Oppose	Written Testimony Only

Comments:

Aloha Senator Jarrett Keohokalole,

As one of your constituent in your district of Kaneohe, my entire ohana ask that you highly consider voting against moving this bill forward for the maika'iloa of our beautiful State of Hawaii.

Mahalo Nui Loa,

Dale Bangay Stevens

SB-3335-SD-1

Submitted on: 2/28/2024 2:08:39 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacquelyn Esser	Individual	Support	Written Testimony Only

Comments:

I **strongly support** the legalization of marijuana for all the reasons that have been said. It's past time. Let's do this.

SB-3335-SD-1

Submitted on: 2/28/2024 2:12:08 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Balutski	Individual	Comments	Written Testimony Only

Comments:

Aloha, my name is Elizabeth and I live in Waialua. I'm testifying with comments on SB3335 SD1. I believe Hawai'i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.

SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance.

SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Mahalo for your time and consideration.

SB-3335-SD-1

Submitted on: 2/28/2024 2:25:48 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Karl Michael Kvalvik	Individual	Oppose	Written Testimony Only

Comments:

My name is Karl Kvalvik and I am an IT professional with 15 years of experience.

I have been participating in Hawaii's Medical Cannabis Community, growing my own cannabis legally, and I oppose SB3335.

SB3335 opens the door to a draconian witch hunt which remains entirely unnecessary for the Hawaii 329 program at this time.

Law Enforcement need not be allowed to harrase those that are willingly participating in full view of the law.

This bill should not be allowed to pass this legislature, as it would be used as a tool against Hawaii Medical Cannabis Community.

Rep. Gene Ward has publicly acknowledged there is a "turf War" between those legacy farms and the state dispensaries. It is no secret how SB3335 would be used to condemn law abiding citizens.

Kind Regards,

Karl Kvalvik
karlkvalvik@gmail.com
808-518-7806

SB-3335-SD-1

Submitted on: 2/28/2024 2:53:29 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Frank Lopez IV	Individual	Oppose	Written Testimony Only

Comments:

Oppose

SB-3335-SD-1

Submitted on: 2/28/2024 3:02:24 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
R B	Individual	Oppose	Written Testimony Only

Comments:

As written this is too vague and does not put patients first.

SB-3335-SD-1

Submitted on: 2/28/2024 3:17:04 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Janet Belcher	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB3335!

SB-3335-SD-1

Submitted on: 2/28/2024 3:18:06 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Greg Puppione	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Greg Puppione and I live in Honolulu. I'm testifying with comments in support of SB3335 SD1. I believe Hawai'i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.

SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance.

SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Mahalo for your time and consideration.

SB-3335-SD-1

Submitted on: 2/28/2024 3:19:17 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Tricia Mills	Individual	Oppose	Written Testimony Only

Comments:

Oppose

I Aaron Mintz oppose the bill. I have used Care Wailua as a Medical card carrying Veteran with a prescription allowance for Cannabis, but not provided by VA, therefore, Care Wailua helps provide me cannabis as I am allotted 10 plants. I am disabled and without Care Wailua I would be forced to pay retail (minus a small discount for being a veteran) at the dispensary. Living on a pension, I simply can not afford the dispensary prices, therefore I am a staunch supporter of Care Wailua.

Sincerely,

Aaron Mintz

SB-3335-SD-1

Submitted on: 2/28/2024 3:37:04 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Drew Daniels	Individual	Support	Written Testimony Only

Comments:

I am writing in support of the AGs bill but believe it still needs critical amending. Legalization is meant to relieve the burden on law enforcement, not increase it.

Please consider amending the large portion of the budget going to law enforcement and allow them to prioritize more serious crimes while the cannabis authority focuses on consumer and youth protection.

Please consider amending the parts of the bill that would wrongfully criminalize citizens for possessing legal products in their vehicles and that suggest using outdated impaired driving tests.

By allowing immediate sales for existing licensees, you'll allow the legal market to grow itself organically. Tax revenue estimated to be approximately \$30mm in year 1 can more than fund the development of the Cannabis Board, community education, safety efforts and social equity program.

Please also consider the implications of further inaction on this subject. Keeping cannabis illegal will further empower the already thriving, unregulated market by increasing the amount of untested products coming in from out of state and the amount of untaxed dollars leaving our state.

If you truly care about community safety and economic opportunity for Hawaii's young workforce, I urge you to legalize cannabis for adults and to create a market that values and prioritizes local farmers and entrepreneurs.

SB-3335-SD-1

Submitted on: 2/28/2024 3:57:59 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Angela M Anderson	Individual	Oppose	Written Testimony Only

Comments:

As written, this bill does not meet the needs of local patients, there are no patients on the legislative committee selection.

Licensing is geared towards big business and not locals who have been cultivating for centuries. The licenses will not be affordable for local people or small business, making it available for only big business. This is not in the best interest of the patients.

Taxing medicine doesn't help anyone, it's a plant I can grow in my yard, why would you tax me for something god grows naturally?

The language around amendment or repeal is vague, hemp is such a via le resource, why would you limit it?

Just legalize it, why implement limits? Do you limit how much beer someone can purchase or cigarettes? This is medicine and we still get treated like outlaws for medical use. As a veteran this is frustrating.

A cannabis authority sounds like a prime opportunity for more big business and culorruption, just like Massachusetts.

If you would just legalize it, there would be no need to devote any resources to an illegal market, it's a plant, a weed that grows in the ground, why are we trying to regulate medicine when alcohol is so much more damaging to society

This bill is limiting availability to patients who need access to affordable medicine. It is a plant grown by mother earth and has no business in big business or the law for that matter.

SB-3335-SD-1

Submitted on: 2/28/2024 3:54:49 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Michal C Cohen	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill. It does not provide a road to legalization in a way that benefits the community. There are many ways for legalization to go forward and this is not one of them.

SB-3335-SD-1

Submitted on: 2/28/2024 4:32:12 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

I support this bill.

SB-3335-SD-1

Submitted on: 2/28/2024 4:33:29 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Dr. Ryan Winslow	Individual	Oppose	Written Testimony Only

Comments:

I am officially submitting my testimony as a cannabis patient in Hawaii opposing this bill. Here is why, first of all there are no local patients or community members being considered for the Committee. This bill is purposely vague especially where considering amount, allowable for possession and rates of taxation. This bill as written could drive prices of medical cannabis through the roof and create additional financial complications for patients who are already suffering, and are often receiving disability income and will no longer have reasonable access to their medicine.

SB-3335-SD-1

Submitted on: 2/28/2024 4:41:09 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Andre Pulido	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill ! Please do not pass it. No legalization. Medical use only

SB-3335-SD-1

Submitted on: 2/28/2024 4:49:39 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Dave Willweber	Individual	Oppose	Written Testimony Only

Comments:

Vote NO on SB3335 SD1.

Listen to any video by Stanford neuroscientist Andrew Huberman on cannabis effects and it will become clear that any positive recreational gains to be made by legalizing will be greatly overshadowed by the acute anxiety, paranoia, and psychosis that can happen to users, some at a far greater risk than others. The risks will be a massive drain on society, and disproportionately hurt Hawaii's youth.

SB-3335-SD-1

Submitted on: 2/28/2024 5:02:09 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Baleen Markwort	Individual	Oppose	Written Testimony Only

Comments:

I oppose this measure

SB-3335-SD-1

Submitted on: 2/28/2024 5:44:36 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Rhonda K Higashihara	Individual	Oppose	Written Testimony Only

Comments:

We don't need more DUIs!!!

Testimony
IN SUPPORT
SB3335, Relating to Cannabis -SD1

Aloha Chairs Keohokalole and Dela Cruz,

My name is Dr. Craig Pollard.

Thank you for the opportunity to testify in strong support of SB3335, Relating to Cannabis. This measure seeks to provide a regulatory framework for adult use of cannabis.

As a pharmacist who has practiced in this state for many years, I have seen the toll that opioid medicines take on our communities first hand. In many of these cases, patient's have verbalized to me that they wish they had never started down this path. Legalizing and regulating cannabis will give these community members the easiest access possible to an effective and worthwhile alternative to opioids.

- Currently, more than 80% of Hawaii voters support legalizing and regulating cannabis use for adults.
- Cannabis is already being bought and sold in the islands but occurs through criminal, underground transactions. SB3335 would address this by regulating and taxing the cannabis industry.
- This measure provides for strong enforcement that would reduce risk of illicit sales and exposure for Hawaii's keiki and the public.
- In addition, the measure would establish a tax revenue stream for the state that has the potential to generate roughly:
 - over \$30 million per year of initial sales; and
 - over \$80 million per year when the industry fully matures
- It is worth noting that the current bill requests \$38M to establish various programs and agencies for the administration of the measure.
 - However, Massachusetts was able to establish its own program with only \$7.5 million in initial funding despite having a population 5 times the size of Hawaii's.
 - Alaska also established its adult use program for roughly \$7 million.

- Given the current budget constraints Hawaii faces, such a program can be established here for far less than currently requested under this measure.
- I respectfully urge the committees to pass SB3335 to safeguard the public, support the majority of Hawaii's voters desire to allow for adult use, and establish a new tax revenue stream that is now being lost to the illicit market.

Mahalo,

Craig Pollard Pharm.D.

SB-3335-SD-1

Submitted on: 2/28/2024 5:09:36 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Brock Lyle	Individual	Oppose	Written Testimony Only

Comments:

This bill will limit access for low-income residents to their medication. Please consider working with local providers when drafting legislation

SB-3335-SD-1

Submitted on: 2/28/2024 5:33:11 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Paul Asuncion	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. I am a 329 card holder and cannot afford dispensary prices. Legalization is the only way to avoid prosecution by federal law!

I utilize the farm due to a more affordable way to get my medicine!

SB-3335-SD-1

Submitted on: 2/28/2024 5:44:41 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Donald stenson	Individual	Oppose	Written Testimony Only

Comments:

Oppose

SB-3335-SD-1

Submitted on: 2/28/2024 5:49:45 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
David	Individual	Oppose	Written Testimony Only

Comments:

I retired after 30 years in the high school and junior high classroom. Young people have been, and remain, my focus. Marijuana has ramifications for society at large, but I shall restrict my comments to its impact on youth. Unless I state otherwise, all references will be to young people age 12 to 18. Pertinent articles and books will be included at the end. I wish not to get bogged down in the forest of data, as the handful of trees that loom large must be seen clearly. If we don't get this right, many of our precious offspring will be lost in the quicksand of addiction and mental illness and violence, shattering their lives and their families, too.

* 25% THC is 12 to 25 times stronger than what the Woodstock generation smoked. It is creating an epidemic of schizophrenia, psychosis, and violence. Certainly only some are affected this way, but the aggregate numbers are staggering.

* "Medical marijuana" is a smokescreen to normalize high-THC pot usage. While CBD has no psychoactive properties and does have medicinal efficacy, it is THC that is in demand. A dispensary in Hilo I visited recently displayed 56 products, 51 of which are 25% THC, 2 a combination of THC/CBD, and 3 all CBD.

* Marijuana is irrefutably a gateway drug.

* Marijuana can be laced with lead or other heavy metals, glass, fungus and bacteria, PCP, heroin, embalming fluid, laundry detergent, LSD, methamphetamine, ketamine, cocaine, fentanyl. Government oversight would seem to prevent contamination, and initially this might be the case. But over time, legalization increases usage, creating a black market that can always undercut prices of government-regulated sellers.

* Marijuana used regularly during adolescence and early adulthood can alter the structure and function of the brain, impairing learning and memory, and increasing the risk of addiction and psychosis. Early and regular use during adolescence is associated with lower IQ later in adulthood and with decreased activity and/or connectivity in the areas of the brain related to executive function, learning and memory.

* Marijuana poses a risk to drivers and others on the road. It is the illicit drug most frequently reported in connection with impaired driving and motor vehicle accidents, including fatal accidents. Following alcohol, cannabis is the second most commonly detected substance in drivers who were fatally injured in car crashes. There is evidence that the cumulative effects of marijuana and alcohol when used together cause greater impairment to driving than either substance alone.

* Marijuana use in teen years is much more likely to result in heavy use as adults, an important consideration for the pot industry which relies for the great majority of its profits from those using marijuana 5-7 days a week.

* Legalization would make the legal age 21 as a way to deter teen use. However, such laws are

not very effective at keeping substances out of the hands of teens as their primary sources of marijuana are their friends and family, and if it is legal for adults, teens will have greater access to it, driving greater use. Alcohol is by far the most commonly used substance among teens, despite minimum legal drinking age restrictions.

I could go on.

The onus is on you the lawmakers to make it clear why legalization is necessary. Do you dispute all of the cited reports? What if you are wrong on any of them? Why is not the present medicinal marijuana approach sufficient? Why must we accommodate smokers seeking a thrill? At the expense of youth? Do you have no fear that lives may be wrecked because of this unwarranted indulgence of the few? Do you care so little that stronger THC will turn many schizophrenic over time? What if it is your children harmed?

Again, what is the overriding reason to legalize a drug that has no benefit to society?

SB-3335-SD-1

Submitted on: 2/28/2024 6:32:01 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Heidi Brown	Individual	Oppose	Written Testimony Only

Comments:

Presenting more law enforcement with this legalization bill instead of less is ridiculous. The whole point of legislation is to feel less threatened by a plant. Why is this State so afraid of a plant? Legalization of such an industrious , cancer curing , life-changing plant should be simple to this State. I oppose this bill

SB-3335-SD-1

Submitted on: 2/28/2024 6:02:59 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Todd Bliss	Individual	Oppose	Written Testimony Only

Comments:

OPPOSE

SB-3335-SD-1

Submitted on: 2/28/2024 6:37:27 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Alika Bee	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB3335.

This is a bad legalization bill which shouldn't be passed. Licenses will be unaffordable to local people and it allows big business to slide in. We must keep a place for the local growers of Hawai'i

SB-3335-SD-1

Submitted on: 2/28/2024 6:38:08 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Meghan Williams	Individual	Oppose	Written Testimony Only

Comments:

I STRONGLY OPPOSE THIS BILL. IT WILL BE A DISASTER FOR OUR STATE AND WILL DESTROY YOUNG MINDS AND LIVES.

SB-3335-SD-1

Submitted on: 2/28/2024 7:06:11 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Deborah Umiamaka	Individual	Support	Written Testimony Only

Comments:

I favor the legalization of industrial hemp, regenerative agriculture, and cannabis as a package for food as medicine, culinary, and appropriate use by adults for recreational and therapeutic purposes. I also support decriminalizing cannabis at the federal level.

Sincerely,

Deborah Umiamaka

SB-3335-SD-1

Submitted on: 2/28/2024 7:18:31 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Kathy Shimata	Individual	Support	Written Testimony Only

Comments:

Aloha Senators,

I support the legalization of marijuana for two reasons. First, it is on a par with alcohol in its effects & leads to much less violence. The same way the state taxes marijuana, it should be taxing marijuana, which people are using anyway.

Second, the legal system has harmed people caught with marijuana by locking them up, sometimes for years, removing them from society & preventing society from benefiting from their talents. The conviction brands them forever, preventing them from getting work, housing & other basic social benefits.

I urge you to support SB3335.

Mahalo,

Kathy Shimata

3453 Pawaina St

Honolulu. 96822

SB-3335-SD-1

Submitted on: 2/28/2024 7:41:51 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Dolores Martinez	Individual	Oppose	Written Testimony Only

Comments:

I oppose

SB-3335-SD-1

Submitted on: 2/28/2024 7:43:45 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Lorraine Martinez	Individual	Oppose	Written Testimony Only

Comments:

I oppose

SB-3335-SD-1

Submitted on: 2/28/2024 7:44:03 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
shayne	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. It's horrible

SB-3335-SD-1

Submitted on: 2/28/2024 8:02:40 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
ANDREW ISODA	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Andrew and I live in Lahaina. I'm testifying [with comments/in support] on SB3335 SD1. I believe Hawai'i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.

SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance.

SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Mahalo for your time and consideration.

*Andrew Isoda
Lahaina, Mau"i*

SB-3335-SD-1

Submitted on: 2/28/2024 8:18:55 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Henry amezcua jr	Individual	Oppose	Written Testimony Only

Comments:

I Oppose this bill , by affecting the accessibility towards affordable and clean medicine; It will create hardships and affect the way of my life and affect my close friends and family.

SB-3335-SD-1

Submitted on: 2/28/2024 8:51:57 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Liza Kobayashi	Individual	Oppose	Written Testimony Only

Comments:

As a parent and former secondary education teacher in the State of Hawai'i, I am deeply opposed to the passing of this bill which would make personal marijuana use for adults legal throughout all of Hawai'i.

Yes, lots of money can be generated and brought in to the state of Hawai'i if this is done. But at what cost?

There's a saying that states the love of money is the root of all evil. There's much truth in this.

What are some crucial implications that could result if our Hawai'i lawmakers choose to make marijuana legal? Some states that have legalized marijuana has seen some increases in people driving under the influence of smoking weed. Police have reported that the black market for weed has increased, even though some states have legalized marijuana. In Colorado, the drug cartels have been setting up shop in increasing measure. How is legalizing marijuana going to impact their activity in the islands? Do we even want to go there?

It also poses some crucial questions. What's the impact going to be on babies/toddlers (Keiki) whose parents regularly smoke weed?. What about second-hand smoke that this child is inhaling? What about the possibility of professionals smoking weed on their lunch breaks or before work? What if these are teachers, police officers, doctors, firemen, or other professional workers smoking weed while on their lunch-breaks? What is the probability that there will be an increase of drivers driving under the influence of smoking weed? What about increases in people driving under the influence of marijuana?

Many lawmakers across our nation have chosen to pick generating money and increased revenue over the cost of all negative impacts that could happen on children, families, communities and cities.

Will the cost of legalizing weed/marijuana in Hawai'i be worth it? How much is it really going to cost Hawai'i and the people of Hawai'i if lawmakers choose money and generating revenue over a host of negative possibilities that could happen?

Is this going to leave a legacy that is in line with our state motto? **Ua Mau ke Ea o ka 'Āina i ka Pono** - "The life of the land is perpetuated in righteousness." Is legalizing this bill going to

perpetuate the life of the land of Hawai'i and leave a legacy of righteousness for our keiki and future generations?

Please vote NO to opening this Pandora's box just to generate money. It's NOT worth it.

SB-3335-SD-1

Submitted on: 2/28/2024 9:04:14 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Winternitz	Individual	Support	Written Testimony Only

Comments:

“Aloha, my name is Elizabeth Winternitz and I live in Kula, Maui. I’m testifying n support of SB3335 SD1. I believe Hawai’i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.

SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance.

SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Mahalo for your time and consideration.”

Elizabeth Winternitz

SB-3335-SD-1

Submitted on: 2/28/2024 9:50:22 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
fehren	Individual	Oppose	Written Testimony Only

Comments:

Aloha.

My name is Fehren Jones and I strongly OPPOSE this bill SB3335.

- Establish the Hawaii cannabis authority, cannabis control board, and cannabis control implementation advisory committee; Possibly by having Hawaiian, patent and/or growers on this committee.

- Over Taxation.. You'll lose the passion of farmers. Look and observe closely at our Agriculture farmers and it's example of just working hard, laborers, "job" trying to make ends meet.. there's no passion there.

- Licensing will not be affordable for those who want to give cannabis growing a chance. With the rising cost of living in rent, taxes, food cost, utilities, gas.. its insane how we are surviving to scrape by.

- there is many more to cover in this bill. I don't think it's should pass but instead be looked over once again and re-written so we all can come to an agreement.

Thank you for allowing me to testify. Have a blessed day. Mahalo

SB-3335-SD-1

Submitted on: 2/28/2024 9:05:34 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Carly Lobitos	Individual	Oppose	Written Testimony Only

Comments:

I Oppose SB3335.

SB-3335-SD-1

Submitted on: 2/28/2024 9:43:48 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
anthony ettleman	Individual	Oppose	Written Testimony Only

Comments:

I oppose this.

Testimony

IN SUPPORT

SB3335, Relating to Cannabis - Proposed SD1

Aloha Chairs Senator Keohokalole and Dela Cruz,

My name is Hiwa Ka'apuni and I am from Pi'ihonua in Hilo writing to express my support of bill SB3335, relating to cannabis.

After being controversially subjected to U.S law, Hawai'i underwent the criminalization of cannabis and has since had to deal with the continued war on it with both racial and capitalistic driving forces.

More than 80% of Hawai'i voters are in support of safe and guided access to cannabis for responsible adult use. While medical access to cannabis has, since 2016, existed well here in Hawai'i, a maximum of only eight medical dispensary licenses throughout the state with some of the most stringent and expensive compliances does not allow the law to reach its potential for access to medical cannabis at all.

Today's legal but very limited, stringent and expensive medical access has not minimized patient dependency on the illicit market here and has only encouraged unlicensed local consumers and growers alike to leave home or retreat underground where cannabis products of uncertain composition are sold illegally; no rules, no tax, no standard. No way of knowing what it is going in or onto the bodies of our adult community.

This bill can set forth quality assurance practices like monitored cultivation, accurate labeling and batch testing from seed to sale, ensuring that any possible health risks of cannabis use here in Hawai'i are minute compared to two widely used legal substances: alcohol and tobacco.

This all for significantly less than the proposed \$38 million for the establishment and administration of the measure and in turn creating a far greater tax revenue which can go towards providing more health care, creating comprehensive substance abuse and drug education for youth, prioritizing public safety, resourcing education and local governments—none of which need to be consumers to be stakeholders.

I hope to continue helping to educate others about this plant and further dismantle the mountain of misinformation on adult cannabis use that society and the government has built over the past 100 years. I encourage you all to continue the effort to normalize the regulated use of cannabis so everyone may arrive to it safely if they choose to.

Mahalo nui,

Hiwa Ka'apuni

SB-3335-SD-1

Submitted on: 2/28/2024 9:57:12 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Amy Denzer	Individual	Oppose	Written Testimony Only

Comments:

We don't need designer drugs, we just need access to affordable medicine, therapy.

SB-3335-SD-1

Submitted on: 2/28/2024 10:12:44 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynnette Shimabukuro	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. we really don't need more trouble to deal with.

NO TO RECREATIONAL MARIJUANA.

SB-3335-SD-1

Submitted on: 2/28/2024 10:19:39 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Cynthia Mauri	Individual	Oppose	Written Testimony Only

Comments:

I do not support the legalization of marijuana

SB-3335-SD-1

Submitted on: 2/28/2024 10:27:10 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Robert C. Anderson	Individual	Oppose	Written Testimony Only

Comments:

Here are the problems of allowing a legalization bill to be set up by the Attorney General. This bill is a cut and paste from Massachusetts. As they say in Mass. "Our program is colonized".

(1) Establish the Hawaii cannabis authority, cannabis control board, and cannabis control implementation advisory committee; **NO PATIENT OR LOCAL PEOPLE ON BOARD. LEGISLATIVE COMMITTEE SELECTION**

(2) Establish laws for the cultivation, manufacture, sale, and personal adult use of cannabis; **LICENSES WILL BE UNAFFORDABLE TO LOCAL PEOPLE**

(3) Amend or repeal existing laws relating to cannabis, including hemp; **VAGUE**

(4) Establish taxes for adult-use cannabis sales; **OVER TAXATION**

(5) Legalize the possession of certain amounts of cannabis for individuals twenty-one years of age and over beginning January 1, 2026; and **CERTAIN ????? HOW MUCH???**

(6) Transfer the personnel and assets of the department of health and assets of the department of agriculture to the Hawaii cannabis authority. **I LIKE THIS PART BUT NOT REALISTIC**

SB-3335-SD-1

Submitted on: 2/28/2024 10:34:18 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Marcella Alohalani Boido	Individual	Support	Written Testimony Only

Comments:

Aloha, all. Thank you for hearing this bill.

I support this bill, with some amendments.

I would like to emphasize my most important point. **The prohibitions on the use of cannabis and the many lies that have been told about it by government, religious leaders, teachers, and others in positions of authority, have had a corrosive effect on our community. For many people it has created at the least a distrust of authorities, and perhaps even contempt.** Knowing that someone is lying to you tends to have these effects.

We need to legalize cannabis to begin the process of restoring trust between people and government, at least on this issue. Government should not be a giggle.

Many of the harms inflicted by our current laws simply cannot be undone. That is the sad truth. But at least passing this bill will help, and will hopefully create a better future..

Tax revenue from cannabis sales should go into the State General Fund. The problem with directing the tax revenue to a special fund for enforcement and the creation of another bureaucracy is that there is no necessary link between the amount of tax revenue and the need for spending on enforcement and bureaucracy. What we will wind up with is that funds in excess of needs will still be spent on these things. That makes no sense.

In part, I agree with the ACLU in their comments, as follow, in italics. These are quotes from their sample testimony.

SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization.

SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Their criminal records should be expunged.

I partially agree with the following part of the ACLU testimony. I would also like the Legislature to be able to use the taxes from sales of cannabis to improve and maintain our schools, UH system, roads, harbors, dams, and other infrastructure. I prefer "...invest **some** cannabis tax revenue..." to the goal of investing all such revenue as provided below. We need to give our Executive and the Legislature flexibility in using these funds. We have already seen a major crisis in Lahaina. The rising sea level which is coming for some of our coastal roads and bridges is also an important issue.

*SB3335 SD1 Relating to Cannabis, needs to reinvest ~~any~~ **some** cannabis revenue into community safety, not in law enforcement. We should invest **some** cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance.*

The reason I am leaving out the ACLU's first paragraph of their sample testimony is that as far as I can see, Hawaii is largely composed of communities of color, including Native Hawaiians. In this very multi-cultural, multi-ethnic state, we also have people of European descent who have been harmed by our cannabis laws. I see no reason to exclude them or put them at the back of the line. To remind everyone, this is a state where there is a very high rate of racial intermarriage. So, people of largely European background are almost inevitably part of an '*ohana* that includes people of color. Their '*ohana* has also been harmed when the "White" member is harmed

In Hawai'i, we have people of Spanish and Portuguese extraction. Even if we don't think of them as "White," the reality is that they are of European descent.

I spent most of my childhood on Kauai. It hurts me to see the formerly green fields of sugar cane are now covered with scrub cane and albizia trees (these latter are an invasive pest). It would be wonderful to see these fields once again green with plants that contribute to our agricultural economy and hopefully, eventually, when federal laws are changed, can produce high quality products for export.

To conclude, this is my personal *mana'o* on this subject.

Please pass this bill with these suggested changes.

Thank you.

Respectfully,

Marcella Alohalani Boido, M.A.

Hawai'i Judiciary Certified Spanish Court Interpreter, Tier 4

Moili'ili, Honolulu, Hawai'i 96826.

Senate District 10, House District 23

SB-3335-SD-1

Submitted on: 2/28/2024 10:50:15 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Ashley Isei	Individual	Oppose	Written Testimony Only

Comments:

1) Establish the Hawaii cannabis authority, cannabis control board, and cannabis control implementation advisory committee; **NO PATIENT OR LOCAL PEOPLE ON BOARD. LEGISLATIVE COMMITTEE SELECTION**

(2) Establish laws for the cultivation, manufacture, sale, and personal adult use of cannabis; **LICENSES WILL BE UNAFFORDABLE TO LOCAL PEOPLE**

(3) Amend or repeal existing laws relating to cannabis, including hemp; **VAGUE**

(4) Establish taxes for adult-use cannabis sales; **OVER TAXATION**

(5) Legalize the possession of certain amounts of cannabis for individuals twenty-one years of age and over beginning January 1, 2026; and **CERTAIN ????? HOW MUCH???**

(6) Transfer the personnel and assets of the department of health and assets of the department of agriculture to the Hawaii cannabis authority. **I LIKE THIS PART BUT NOT REALISTIC**

Provide a legal safe harbor from state or county criminal prosecution concerning activities relating to cannabis for those who **strictly** comply with the provisions of the Hawaii cannabis law; **THEY CANT PROMISE THIS BECAUSE THE FEDERAL GOVT CAN INTERVENE AT ANY TIME.**

(2) Establish the Hawaii cannabis authority as an independent body with the power to administratively regulate all aspects of the cannabis plant in accordance with the Hawaii cannabis law; **THIS AUTHORITY IN MASSACHUSETTS (CCC) IS RIFED WITH CORRUPTION**

(3) Legalize the sale and possession of cannabis for non-medical adult use beginning January 1, 2026, in accordance with the Hawaii cannabis law; **HOW? VAGUE!!!**

(4) Provide economic opportunities to disproportionately impacted areas; **A TOTAL FAILURE IN MASSACHUSTEETS. BIG BUSINESS SLIDES IN BEHIND THESE MODELS.**

(5) Encourage those currently engaging in illegal, unlicensed commercial cannabis activities to enter the legal market; **THE ILLEGAL MARKET?? YOU MEAN THE LOCAL GROWERS OF HAWAII**

(6) Ensure that state and county law enforcement agencies work closely with the Hawaii cannabis authority and vigorously investigate and prosecute illegal cannabis activities that fall outside of safe harbor protection; and **LETS LEGALIZE IT BUT PROSECUTE PEOPLE. HOW ABOUT CIVIL FINES?**

(7) Mandate that the Hawaii cannabis authority make the protection of public health and safety its highest priorities. **HOW WILL THEY CONTROL THIS? IT HASNT HAPPENED IN ANY OTHER STATE. THE GROWERS MUST PROTECT THE PUBLIC.**

SB-3335-SD-1

Submitted on: 2/28/2024 11:33:05 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Dylan Ramos	Individual	Comments	Written Testimony Only

Comments:

Aloha,

While I am generally in support of cannabis legalization and have testified in support of imperfect legalization measures in the past, I choose to only offer comments this session, because as many others have pointed out, this framework still needs work. But to keep my comments brief, I will simply say that my sentiments echo those stated in previous testimonies by the Drug Policy Forum of Hawaii and the Chamber of Sustainable Commerce.

Mahalo,

Dylan Ramos
96816

SB-3335-SD-1

Submitted on: 2/29/2024 1:37:42 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Robin C Clark	Individual	Oppose	Written Testimony Only

Comments:

Robin C Clark

I STRONGLY OPPOSE SB3335!

Do not sell out our Hawai'i, our families, our talent, our unique, aloha spirit culture to become a drug dealing state to raise revenue! Do not lower our standard of living, our quality of life, and exchange it for fearful living, broken families, addicts, a rise in domestic violence and crime.

Look at the truth that is obvious to the public, if you support SB3335 to allow everyone, everywhere, anytime to get high, you are advertising to everyone in the world to do business in Hawai'i because it's legal. Look at the truth, that we don't have enough law enforcement to keep up with the devastation that is coming with a state full of drug addicts. The truth that Hawai'i will increase the amount of addicts, homelessness and psychosis, the truth that it doesn't keep people out of jail for marijuana, but WILL increase the inmate population for deadlier crimes, manslaughter type crimes, injuries to innocent people.

I would like to believe our lawmakers are protecting the people of Hawai'i to be safer, brighter, more creative, productive, innovative, stronger and courageous, to thrive as a Hawaiian resident, everything opposite of what SB3335 will produce.

Don't take the easy way, Work for integrity, honesty, innovation, creativity, to grow our revenue.

Robin C Clark

SB-3335-SD-1

Submitted on: 2/29/2024 2:42:05 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Kassius Hill	Individual	Oppose	Written Testimony Only

Comments:

My name is Kassius Hill, aged 34, I have a terminal illness that's hereditary. I was the youngest in the world to show symptoms and my family was the first to show my disease generationally. I have been on steroids since I was 13 til about 2019. The amount of damage the drug caused was out of control and my medical team came to the conclusion that they had nothing else to help. One of my doctors thought it may help to use medical cannabis. I wasn't so sure at first but after the first year I saw my first remission. Cannabis helps to give me a little bit more time on this earth to live. It slows down symptoms and manages a lot of my inflammation. The biggest misconception of those who do not consume cannabis products is that we just want to get high, but with the correct education you discover that cannabis is not one thing. It's many strains designed to help many illnesses;no one strain is the same nor does it do the same things. Making access to cannabis products less affordable is not in the spirit of Aloha,it's no different than everyday American greed. Co-op farms keep the spirit of family and healing in the fore front. For people like me who wasn't sure about its use there was a personal touch to helping me to my healing journey. This in turn created a ripple effect of helping others get to a place where they aren't just a medical case or a prescription drug nor is cannabis a addictive medicine that destroys our community like this devastating effects of fentanyl. One of the main reasons I love our island is because it's the only place in America where every person matters, how we treat each other matters, and most importantly healing is apart of the aina this island brings to everyone who breathes in these island airs. I hope the board considers my words and ask yourselves if you were out of options for medical help and this was your only chance wouldn't you want to be able to afford it? We already can't use insurance to help pay for our medicine, and with the housing market being what it is, why hurt the people more? If it was you or your loved ones wouldn't you want the most economical solution? We are all locals we have to help each other that is the Hawaiian way. Ohana is what we stand for! We have enough people taking from us and our island don't add to our struggle be our hero's! Be the board that stands with and for its people help us educate more about the positive effects of cannabis. I'm originally from Philly you don't want another Kensington it's an embarrassment to say my city gives out clean needles and we step over dead bodies on the way to school. We don't let our kids play outside because of the drug problem that feeds the violence. Plain and simple "weed" doesn't make you kill anyone, it doesn't have you drive home drunk. And it definitely doesn't have you living like a junky. Every decision you make is your own cannabis doesn't control your mind the way hard substances do.

SB-3335-SD-1

Submitted on: 2/29/2024 7:25:09 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
E.L. Brown	Individual	Oppose	Written Testimony Only

Comments:

This bill opens the public, our streets, our parks, our beaches, and even neighbors who deserve privacy and refuge in their own homes, to the negative effects of marijuana ingestion, including not being able to avoid the nuisance & strong odor of it. Even if a neighbor smokes it on their own property, the non-smoker's "clean home" will be affected. If you don't believe this, talk to neighbors in Oregon and Washington who live in homes, or worse apartments that share a wall with a recreational-use adult, how their home lives have become disrupted. Marijuana is not like alcohol. Alcohol stays in the body. Marijuana smoke spreads way beyond the body.

These same people in Oregon and Washington can also speak to how recreational-use neighbors conduct "pot tours." What will Waikiki, Haleiwa, Hawi, and our other local towns look like tomorrow? Marijuana plant signs in window shops, and an even higher smash and grab crime rate?

If you are part of a family that has not yet experienced the negative, addictive, generational effects that marijuana use by a single family member can have on the whole, this law will welcome you to that situation. It won't be long before your kids, and grandkids, will see smoking marijuana as a normal thing. Once the disease of addiction takes them over, they and the whole family will be trapped.

SB-3335-SD-1

Submitted on: 2/29/2024 7:31:18 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Taryn Murray mccaig	Individual	Oppose	Written Testimony Only

Comments:

Oppose

SB-3335-SD-1

Submitted on: 2/29/2024 8:04:32 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Ben Tamamoto	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill. Marijuana is much stronger than it was in the 70's, there are much higher concentrations of THC. We already have a problem with alcohol and driving, this will increase that problem. The tax revenues will be far outweighed by the social costs.

Please vote no on the recreational use of Marijuana.

Thank you.

SB-3335-SD-1

Submitted on: 2/29/2024 8:09:38 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
April Bullis	Individual	Oppose	Written Testimony Only

Comments:

I oppose

SB-3335-SD-1

Submitted on: 2/29/2024 8:13:55 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Daniel Murren	Individual	Comments	Written Testimony Only

Comments:

My testimony is simple. While I adamantly advocate for complete legalization of cannabis in the State of Hawaii, it **MUST** address the historical inequities and impacts that it's criminalization has had on native Hawaiians and other people of color. Any bill that does not do this is a bad bill and will perpetuate the oppression of native Hawaiians, POC, and poor people in Hawaii.

Legalization of cannabis should include measures to free people currently incarcerated for cannabiss (distribution and use), and their arrest records for cannabis should be expunged.

Make it happen legislators!

SB-3335-SD-1

Submitted on: 2/29/2024 8:18:39 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Maria M Neil	Individual	Oppose	Written Testimony Only

Comments:

I oppose

SB-3335-SD-1

Submitted on: 2/29/2024 8:33:15 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Liam Chinn	Individual	Support	Written Testimony Only

Comments:

“Aloha, my name is Liam Chinn and I live in Ewa Beach. I’m testifying [with comments/in support] on SB3335 SD1. I believe Hawai’i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color. SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance. SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization. SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Mahalo for your time and consideration.”

SB-3335-SD-1

Submitted on: 2/29/2024 8:41:39 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeremiah J Ryan III	Individual	Oppose	Written Testimony Only

Comments:

I oppose this horrible bill.

It contains NO ALOHA whatsoever!

Nothing PONO about it.

Seems MEAN and totally MISINFORMED.

Sincerely,

Jeremiah J Ryan III

SB-3335-SD-1

Submitted on: 2/29/2024 9:05:27 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica dos Santos	Individual	Comments	Written Testimony Only

Comments:

Aloha,

My name is Jessica dos Santos, and I reside and was born and raised in Kahuku. I am also a high school humanities teacher, instructing an Introduction to Criminal Justice course, and I actively engage with the perspectives of young people regarding the legalization of cannabis, the War on Drugs and mass incarceration issues. Today, I am providing comments on the sorely needed amendments to SB3335 SD1, which seeks to legalize cannabis in Hawai'i. While I commend the efforts to move towards cannabis legalization, I believe there are crucial amendments that must be made to prioritize racial justice and equity in the reform process.

First and foremost, any legislation regarding cannabis legalization should prioritize reinvesting cannabis revenue into community safety measures, rather than funneling funds into law enforcement. It is imperative that we direct these resources towards proven solutions that address the root causes of social issues and help build safer communities. This includes investing in programs focused on harm reduction, crisis outreach, food security initiatives, mental health support, homeless outreach, outpatient treatment, and housing assistance.

Furthermore, SB3335 SD1 must ensure local ownership within the cannabis industry. It is essential that individuals who have been disproportionately impacted by the enforcement of cannabis laws, particularly Native Hawaiians and communities of color, have the opportunity to participate in and benefit from the legal cannabis market. This means creating pathways for local entrepreneurs and businesses to thrive, thus fostering economic empowerment and community development.

Additionally, SB3335 SD1 should aim to rectify the injustices perpetuated by the failed War on Drugs. This includes forgiving any outstanding debts related to cannabis fines and fees, as well as providing avenues for individuals with cannabis convictions on their records to fully reintegrate into society by accessing the same rights and services as any other citizen. By doing so, we can begin to address the systemic inequalities and barriers faced by those impacted by past cannabis policies.

In conclusion, I urge the legislature to amend SB3335 SD1 to incorporate these vital provisions that prioritize racial justice, equity, and community well-being in the legalization of cannabis in Hawai'i. Mahalo for your time and consideration of these important matters.

Respectfully submitted,

Jessica dos Santos

SB-3335-SD-1

Submitted on: 2/29/2024 9:13:27 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Comments	Written Testimony Only

Comments:

To: COMMITTEE ON WAYS AND MEANS And COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

From: Wendy Gibson-Viviani RN/BSN—Cannabis Patient Advocate

RE: SB3335 SD1 – COMMENTS

Hearing: March 1, 2024 at 9:50 AM in Conference Room 211 & Videoconference

Dear Committee Chairs, Dela Cruz and Keohokalole, Vice Chairs, Moriwaki and Fukunaga, and Honorable Members of the Committees,

I am Wendy Gibson-Viviani, an RN, a medical cannabis patient advocate and cannabis activist.

While I support adult-use legalization – because the main purpose is to STOP criminalizing people who use cannabis—I cannot support SB3335 SD1 until the “New Crimes” are removed.

SB3335 is a minefield of “New Crimes” that could easily blow-up innocent people’s lives and criminalize medical cannabis patients. My top 2 picks of new crimes that need to be removed from the bill are:

1. The Per Se, THC drug testing to determine if a person is guilty of driving under the influence
2. The open container crimes-- in a car or at a home

Both of these new crimes could criminalize patients and blow up their lives.

1. **RE: The Per Se drug testing to determine if a person is guilty of driving under the influence.**

Please look at recent comments made by Frances Scott, a physical scientist at the National **Institute of Justice (NIJ)** Office of Investigative and Forensic Sciences under DOJ. She says:

“States may need to “get away from that idea” that marijuana impairment can be tested based on the concentration of THC in a person’s system.”

Multiple reports from The US Dept of Transportation show that: “It is not possible to conclude anything about a DRIVERS impairment based ON THC levels in the blood. “ And, As you know, the penalties for this crime are extremely high.

Patients who use cannabis daily are likely to have higher levels of THC in their bloodstream. They may be tolerant to the intoxicating effects of THC and completely sober while driving while a less frequent user may be driving intoxicated but test with lower levels of THC. So, using this test, a sober medical cannabis patients could be criminalized, while an intoxicated driver could walk free.

If you allow THC testing, you will be granting the prosecutors permission to use a flawed test to determine whether a person is a criminal or not. Prosecutors should not be allowed to use this to fulfill the burden of proof of impaired driving.

One study from 2021 found that smoking CBD-rich marijuana had “no significant impact” on driving ability, despite the fact that **all study participants exceeded the per se limit for THC** in their blood. [link to study at <https://academic.oup.com/fsr/article/6/3/195/6802651>]

In Colorado, an increase in law enforcement officers--trained in recognizing drug use, increased drug detection rates. Please do not replace bad drug laws with other bad drug laws simply because you need to have something that addresses drugged driving. We do need better solutions and hope for some in the future. I ask you to please listen to what the experts are saying now. They warn that we shouldn’t use this test.

1. **RE: Open container in a Car or at home.** Two more landmines in this bill’s minefield that could criminalize patients who may have to misstep to use their medicine(s).

For example, chemotherapy patients who are NOT allowed to use cannabis in healthcare facilities may need to premedicate IN a parked car, right before their infusions. They are at risk of being caught with an “Open Container”.

At Home, a patient will be required to keep their medicine(s) in child-proof containers even if they have difficulty opening them and no children live with them. That's nonsense.

I understand that it is very difficult to reverse bad drug laws—and that you are hearing loud voices urging you to keep cannabis illegal—to protect society. I imagine the same thing happened when alcohol prohibition ended. And, yet, society has learned to adapt to living with people who drink low and high strength alcohol –a much more dangerous drug than cannabis.

Please legalize cannabis for adult-use without creating a minefield of new crimes that could blow up medical cannabis patient's lives.

Thank you for this opportunity to comment on SB3335 SD1

Wendy Gibson-Viviani RN/BSN

Cannabis Nurse Educator/Medical Cannabis Patient Advocate

Kailua

(808) 321-4503

SB-3335-SD-1

Submitted on: 2/29/2024 9:18:10 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Tadia Rice	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Tadia Rice and I live in Kailua, Oahu. I'm testifying in support on SB3335 SD1. In my view this is the only practical course available to mitigate illegal drug use, and de-criminalize personal and private use of marijuana. Here's why:

- Hawai'i should join 23 states in legalizing cannabis. Any legalization efforts should prioritize racial justice and equity in reform efforts in order to address the harms that cannabis laws have inflicted upon Native Hawaiians and communities of color.
- SB3335 SD1 Relating to Cannabis, needs to reinvest any cannabis revenue into community safety, not in law enforcement. We should invest cannabis tax revenues into proven solutions that help build safer communities such as programs that focus on harm reduction, crisis outreach, food banks, mental health support, homeless outreach, outpatient treatment, and housing assistance.
- SB3335 SD1 should ensure local ownership. People who have been harmed by the enforcement of cannabis must have a place in the burgeoning marketplace created by legalization.
- SB3335 SD1 should remedy the harm caused by the failed War on Drugs. Any outstanding debts for cannabis fines and fees should be forgiven. People with a cannabis conviction on their record should be able to fully re-integrate into society by accessing the same rights and services as anybody else.

Mahalo for your time and consideration.

Karen L. Klemme
Retired Registered Nurse
73-446 Hane St.
Kailua-Kona, HI 96740
808-896-2962

2-29-24

Re: SB3335 SD1 Relating to Cannabis

To Whom It May Concern:

Please accept my written testimony as a retired Registered Nurse of 42 years with vast experience in caring for patients with traumatic injuries such as traumatic brain injuries, spinal cord injuries, burn injuries to name a few. I have seen many catastrophic injuries as a result of someone's negligence. In many cases the person (patient) was injured as a result of someone who was impaired and under the influence. We do NOT need any more mind-altering substances legalized, therefore putting the public at risk. Illegal and legal substances are far out of control.

Patients who I cared for now are serving a life sentence with their catastrophic injuries which are extremely debilitating.

I have witnessed people "blowing smoke" while driving, also witness people "blowing smoke" while circulating shopping parking lots and sometimes even with small children in the rear seats.

Again, I am strongly against SB3335 SD1.

Mahalo,

Karen Klemme

LATE

SB-3335-SD-1

Submitted on: 2/29/2024 10:16:31 AM
Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Blyth	Individual	Oppose	Written Testimony Only

Comments:

The bill say for "adults"/"adult use" but we know how often children get into the possession of adult things. Let it not be about \$\$\$. We need to think of the innocent keiki today and for generations to come. Let's create a saver tomorrow for them.
I STRONGLY OPPOSE TO LEGALIZING RECREATIONAL MARIJUANA!

LATE

SB-3335-SD-1

Submitted on: 2/29/2024 11:05:41 AM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
SCOTT SUZUKI	Individual	Oppose	Written Testimony Only

Comments:

Here are the problems of allowing a legalization bill to be set up by the Attorney General. This bill is a cut and paste from Massachusetts. As they say in Mass. "Our program is colonized".

(1) Establish the Hawaii cannabis authority, cannabis control board, and cannabis control implementation advisory committee; **NO PATIENT OR LOCAL PEOPLE ON BOARD. LEGISLATIVE COMMITTEE SELECTION**

(2) Establish laws for the cultivation, manufacture, sale, and personal adult use of cannabis; **LICENSES WILL BE UNAFFORDABLE TO LOCAL PEOPLE**

(3) Amend or repeal existing laws relating to cannabis, including hemp; **VAGUE**

(4) Establish taxes for adult-use cannabis sales; **OVER TAXATION**

(5) Legalize the possession of certain amounts of cannabis for individuals twenty-one years of age and over beginning January 1, 2026; and **CERTAIN ????? HOW MUCH???**

(6) Transfer the personnel and assets of the department of health and assets of the department of agriculture to the Hawaii cannabis authority. **I LIKE THIS PART BUT NOT REALISTIC**

Provide a legal safe harbor from state or county criminal prosecution concerning activities relating to cannabis for those who **strictly** comply with the provisions of the Hawaii cannabis law; **THEY CANT PROMISE THIS BECAUSE THE FEDERAL GOVT CAN INTERVENE AT ANY TIME.**

(2) Establish the Hawaii cannabis authority as an independent body with the power to administratively regulate all aspects of the cannabis plant in accordance with the Hawaii cannabis law; **THIS AUTHORITY IN MASSACHUSETTS (CCC) IS RIFED WITH CORRUPTION**

(3) Legalize the sale and possession of cannabis for non-medical adult use beginning January 1, 2026, in accordance with the Hawaii cannabis law; **HOW? VAGUE!!!**

(4) Provide economic opportunities to disproportionately impacted areas; **A TOTAL FAILURE IN MASSACHUSETTS. BIG BUSINESS SLIDES IN BEHIND THESE MODELS.**

(5) Encourage those currently engaging in illegal, unlicensed commercial cannabis activities to enter the legal market; **THE ILLEGAL MARKET?? YOU MEAN THE LOCAL GROWERS OF HAWAII**

(6) Ensure that state and county law enforcement agencies work closely with the Hawaii cannabis authority and vigorously investigate and prosecute illegal cannabis activities that fall outside of safe harbor protection; and **LETS LEGALIZE IT BUT PROSECUTE PEOPLE. HOW ABOUT CIVIL FINES?**

(7) Mandate that the Hawaii cannabis authority make the protection of public health and safety its highest priorities. **HOW WILL THEY CONTROL THIS? IT HASNT HAPPENED IN ANY OTHER STATE. THE GROWERS MUST PROTECT THE PUBLIC.**

Testimony RE: SB 3335

Audra Ryan-Shepard, MD MPH

Kaneohe, HI

2/28/24



As a child, adolescent, and adult psychiatrist with over 10 years' experience in mental health since medical school with a passion for peripartum psychiatry, I **respectfully oppose** the current version of SB 3335 which would allow for legalization for recreational marijuana in the state of Hawaii. While Hawaii is a great state in which I am proud to live and work, I have witnessed working here for the past year that Hawaii's **current mental health system is tenuous**. We already do not have enough psychiatric beds, psychiatrists, therapists, and mental health infrastructure to meet the demand of patients who need mental health care.

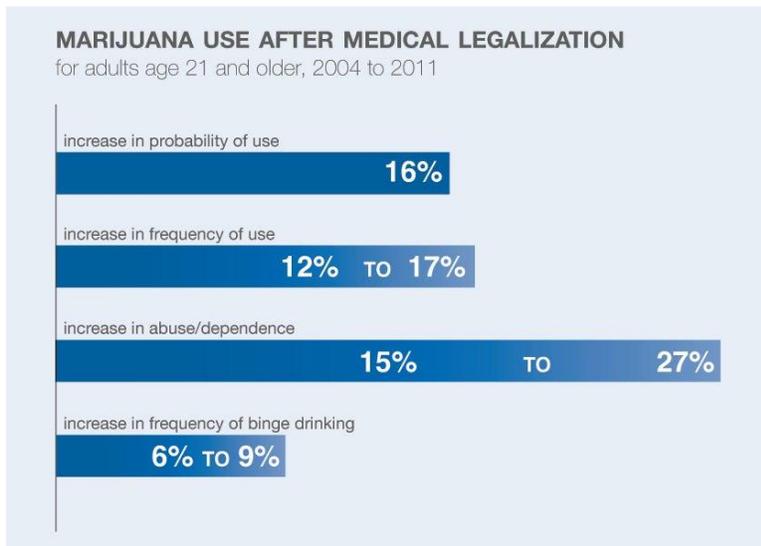
As just one metric by the Kaiser Family Foundation, compared to the rest of the USA, we in are **severe shortage** in terms of psychiatrists in Hawaii:

Mental Health Care Health Professional Shortage Areas (HPSAs), September 2022		
	Percent of Need Met	Practitioners Needed to Remove HPSA Designation
United States	27.7%	7,871
Hawaii	14.1%	28

NOTE: Percent of need met is defined as the ratio of available psychiatrists to the number needed to eliminate the HPSA designation. Calculations are based on the number of psychiatrists and do not generally include other mental health care professionals.

SOURCE: Bureau of Health Workforce, Health Resources and Services Administration, [Designated Health Professional Shortage Areas Statistics: Designated](#)

And yet we have seen in other states where marijuana was legalized that when marijuana is legalized, at several studies has shown that **use of marijuana has gone up in youth and adults once it was legalized**. This graph from (Wen et al from 2014 paper) is illustrative for adults:



As the bill before you now reads, cannabis is a psychoactive substance that predisposes the user especially the adolescent's brain to permanent mental illnesses including depression, anxiety and debilitating illnesses such as schizophrenia. Using cannabis regularly can make a vulnerable person **develop schizophrenia 10 years earlier** and cannabis currently is more potent with **more THC than 20-30 years ago**. This bill does not consider that the **brain grows/does not fully mature until age 25**, and thus does not offer any additional protection for the adolescent brain which still may be impacted beyond when an individual turns 21 years old.

Logically if more individuals are using cannabis if it were to be legalized in Hawaii, more individuals may unknowingly be vulnerable to develop psychosis and/or cannabis use disorder. Although it is rare, when individuals do develop a serious mental illness such as schizophrenia, their healthcare costs are high. By one estimate, **compared to the general population a person with schizophrenia will incur \$1.54 million in excess lifetime costs to the government** (including: health care costs, criminal justice system, lost tax revenue).

While the goal of this bill is to get more revenue for the state of Hawaii due to the taxes for sales of recreational marijuana, if instead, recreational marijuana makes it more accessible such that more people are using marijuana and **if this even causes one or two more individuals to develop schizophrenia which will cost the state millions of dollars in healthcare and legal costs of the course of their lifetimes will end up costing the state a lot more than the relatively small amount of tax revenue they get from the taxes of legal marijuana sales**. Also, there is a real possibility of dependence on cannabis when there are more users of cannabis. The estimates are that **9%** of those who start using cannabis, will become dependent on it. In addition to having insufficient mental health treatment in Hawaii, we have high levels of substance use disorders in Hawaii and also insufficient substance use

treatment access. In fact, per Mental Health America, Hawaii also has a higher percentage of substance adults with substance use disorder (**8.45%**) compared to the USA national average (**7.74%**).

Therefore, I recommend that **the state of Hawaii focus on funding and fixing the mental health system first** before potentially breaking the mental health system by over-loading it further with more very ill patients created by legalizing recreational marijuana at this time.

National organizations such as the **American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the American Academy of Addiction Psychiatry** do not recommend use to patients use marijuana routinely and they *oppose* the legalization of marijuana.

I am including these statements with my testimony as they are relevant medical associations in support of my position because the senate in Hawaii should also consider these experts when they make their important decision.

Thank you.

[Marijuana Legalization \(aacap.org\)](https://www.aacap.org)

[The Impact of Marijuana Policies on Youth: Clinical, Research, and Legal Update | Pediatrics | American Academy of Pediatrics \(aap.org\)](https://www.aap.org)

[Marijuana Use During Pregnancy and Lactation | ACOG](https://www.acog.org)

https://www.aacap.org/wp-content/uploads/2020/06/AAAP-cannabis-model-law-to-disseminate_Dec-2019.pdf

AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY

W W W . A A C A P . O R G

Marijuana Legalization

The American Academy of Child and Adolescent Psychiatry (AACAP) advocates for careful consideration of potential immediate and downstream effects of marijuana policy changes on children and adolescents. Marijuana legalization, even if restricted to adults, may be associated with (a) decreased adolescent perception of marijuana's harmful effects, (b) increased marijuana use among parents and caretakers, and (c) increased adolescent access to marijuana, all of which reliably predict increased rates of adolescent marijuana use and associated problems.¹⁻³ Marijuana use during pregnancy, occurring at increasing rates, raises additional concerns regarding future infant, child, and adolescent development.⁴⁻⁶

AACAP is aware that, among hundreds of chemical constituents, marijuana contains select individual compounds that, if safely administered in reliable doses, may potentially convey therapeutic effects for specific conditions in specific populations.⁷ Advocacy regarding potential cannabinoid therapeutics, alongside social justice, public policy, and economic concerns, have contributed to marijuana policy changes. Amid these factors, AACAP remains focused on concerns regarding adolescent marijuana use.

Adolescents are especially vulnerable to marijuana's many known adverse effects.^{8,9} One in six adolescent marijuana users develops cannabis use disorder, a well characterized syndrome involving tolerance, withdrawal, and continued use despite significant associated impairments.^{10,11} Selective breeding has increased marijuana's addictive potency and potential harm to adolescents.¹² Heavy use during adolescence is

associated with increased incidence and worsened course of psychotic, mood, anxiety, and substance use disorders.^{13,14} Furthermore, marijuana's deleterious effects on adolescent cognition, behavior, and brain development may have immediate and long-term implications, including increased risk of motor vehicle accidents, sexual victimization, academic failure, lasting decline in intelligence measures, psychopathology, addiction, and psychosocial and occupational impairment.^{8,13-16}

Marijuana-related policy changes, including legalization, may have significant unintended consequences for children and adolescents. AACAP supports (a) initiatives to increase awareness of marijuana's harmful effects on adolescents, (b) improved access to evidence-based treatment for adolescents with marijuana-related problems, and (c) careful monitoring of the effects of marijuana-related policy changes on child and adolescent mental health. Finally, AACAP strongly advocates for the involvement of the medical and research community in these critical and highly impactful policy-related discussions.

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The American Academy of Child and Adolescent Psychiatry promotes the healthy development of children, adolescents, and families through advocacy, education, and research. Child and adolescent psychiatrists are the leading physician authority on children's mental health.

Approved by Council 2014. Revised May 2017

AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY

W W W . A A C A P . O R G

Proposed Model State Cannabis Laws to Reduce Harms December, 2019

Background: Despite the majority of states passing legislation and policies to allow access to medical and/or recreational, or nonmedical, use of cannabis and cannabis-derived products, there has been little coordination with the medical establishment, especially mental health and addiction specialists, to mitigate potential harms of legalized access

(1). As the nation's leading professional society for addiction psychiatrists, AAAP encourages states to consider the following, well-established and widely reproduced findings in the scientific literature regarding cannabis and mental health (2):

1). Cannabis can be addictive for upwards of 9-17% of users (3, 4) and 30-50% of daily users (5,6), especially those who begin use at younger ages (i.e. under age 18) (7).

2). Cannabis can cause transient psychosis (a break from reality, paranoia, etc.) with just a single episode of use (7). Risk is especially high with edibles, high potency cannabis, or products such as concentrates (i.e. wax, shatter) – which have in common contents higher in THC:CBD ratios (2,7).

3). Cannabis can cause and/or worsen psychiatric symptoms, especially for individuals vulnerable to, or experiencing mood, anxiety, trauma-related, or psychotic disorders (6, 4).

4). The developing brain (i.e., persons under age 25) is especially vulnerable to the use of cannabis on cognitive performance and increasing the risk for later development of mood and substance use disorders (6).

5). There is currently insufficient evidence for the use of “medical cannabis” to treat any psychiatric disorder, including the increasingly approved “qualifying condition” of post-traumatic stress disorder (PTSD) (2,6).

6). Blood levels of THC and its metabolites do not correspond to levels of physical or mental impairment and are not reliable for roadside testing of driver safety (6).

Proposed tenets: While AAAP does not endorse expanded access to cannabis, given the above scientific findings consistent with widespread expert consensus in medical and research communities, AAAP proposes the following key elements to inform any potential statewide initiative to legislate or amend expanded legal access to cannabis: 1). Legal recreational sales of cannabis should be limited to adults aged 21 or **older (some states may consider the age of 25)**. Similarly, any potential marketing or advertising of cannabis and cannabis derived products to youth and young adults should be banned.

2). As there is currently no psychiatric indication for “medical cannabis,” states should not include such indications (e.g. PTSD, anxiety, depression, opioid use disorder) as qualifying conditions. Similarly, advertising touting the use of cannabis for treating mental health conditions should be banned.

3). Any expansion of legal use should include strategic public awareness campaigns and packaging alerts about potential harms from use (8), especially heavy or daily use, or use of high-potency and edible products, such as risks of addiction, psychosis, and worsening of mood and anxiety symptoms. Targeted campaigns to prevent cannabis use during pregnancy and breastfeeding are warranted given the increasing prevalence of cannabis use among pregnant women living in the US (9).

4). State-level regulation, including allocation of funds for purchase of high grade analytic equipment, is critical for quality control measures to ensure proper chain of custody, testing, and labeling of cannabis derived products so that users have accurate information about what they are ingesting. Mechanisms to audit and impose penalties for infractions or fraudulent practices should be built into initial legislation.

5). Regulations are needed to guard against impaired driving and innovative approaches with dedicated funding from cannabis sales are needed to respond to this vital public safety issue.

6). States should maintain a public registry supported by revenue from cannabis sales that reports annually on adverse outcomes associated with medical and recreational cannabis product sales and/or consumption.

Signed, Arthur Robin

Williams MD MBE

Kevin P. Hill MD MHS

Richard N. Rosenthal MD

Hilary S. Connery MD PhD

Justine Welsh, MD

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LATE

SB-3335-SD-1

Submitted on: 2/29/2024 2:23:54 PM

Testimony for CPN on 3/1/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Las Takeuchi	Individual	Oppose	Written Testimony Only

Comments:

Oppose SB3335, This bill is a cut and paste from Massachusetts horrible