



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

**Testimony in SUPPORT of HB0070
RELATING TO CONTROLLED SUBSTANCES**

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH & HOMELESSNESS

Hearing Date: 2/4/2023

Room Number: 329

Fiscal Implications: This measure will impact the priorities identified in the Governor's Executive Budget Request for the Department of Health's (Department) appropriations and personnel priorities.

Department Testimony: The Department supports this measure since this prohibition mirrors Section 11-37-3(h)(12), Hawaii Administrative Rules, which the department adopted pursuant to its interim rulemaking authority. The Department bans hemp products containing cannabinoids created through isomerization, including Delta-8 tetrahydrocannabinol (THC), which have not been approved by the U.S. Food and Drug Administration (FDA) for safe use in any context. Delta-8 THC is a psychoactive substance found in the *Cannabis sativa* plant and is one of over 100 cannabinoids produced naturally by the cannabis plant but is not found in significant amounts in the cannabis plant.

On May 4, 2022, FDA updated their Consumer Update "5 Things to Know about Delta-8 Tetrahydrocannabinol – Delta-8 THC" to inform consumers that:

1. Delta-8 THC products have not been evaluated or approved by the FDA for safe use and may be marketed in ways that put public health at risk. Some concerns include variability in product formulations and product labeling, other cannabinoid and terpene content, and variable delta-8 THC concentrations.
2. FDA received 104 reports of adverse events in patients who consumed delta-8 THC products between December 1, 2020, and February 28, 2022. 66% described adverse events after ingestion of delta-8 THC-containing food products (e.g., brownies, gummies). Adverse events included but were not limited to hallucinations, vomiting,

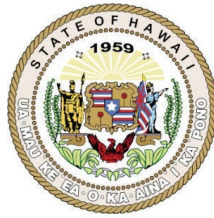
- tremor, anxiety, dizziness, confusion, and loss of consciousness.
3. Delta-8 THC has psychoactive and intoxicating effects, similar to delta-9 THC (i.e., the component responsible for the “high” people may experience from using cannabis). FDA is concerned that these products likely expose consumers to much higher levels of the substance than are naturally occurring in hemp cannabis raw extracts.
 4. Delta-8 THC products often involve the use of potentially harmful chemicals to create the concentrations of delta-8 THC claimed in the marketplace. Manufacturing delta-8 THC products may occur in uncontrolled or unsanitary settings, which may lead to unsafe contaminants or other potentially harmful substances.
 5. Delta-8 THC products should be kept out of the reach of children and pets. In 2021, the American Association of Poison Control Centers (AAPCC) introduced a product code specific to delta-8 THC into the National Poison Data System (NPSD) and received 2,362 exposure cases of delta-8 THC products between January 1, 2021, and February 28, 2022. The Hawaii Poison Control Center received two exposure cases within the same timeframe. Additionally, animal poison control centers have indicated a sharp overall increase in accidental exposure of pets to these products.

On September 21, 2021, the Department issued “CDC Health Alert Network Health Advisory 451: Increases in Availability of Cannabis Products Containing Delta-8 THC and Reported Cases of Adverse Events” to Emergency Departments and Primary Care providers statewide of the increased availability of cannabis products containing delta-8 THC and the potential for adverse events due to insufficient labeling of products containing THC and cannabidiol (CBD).

Offered Amendments: None

Thank you for the opportunity to testify on this measure.

JOSH GREEN
GOVERNOR



JORDAN LOWE
DIRECTOR

MICHAEL S. VINCENT
Deputy Director
Administration

STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'opalekana Lehulehu
1177 Alakea Street
Honolulu, Hawaii 96813
(808) 587-2562

Vacant
Deputy Director
Law Enforcement

No.

TESTIMONY ON HOUSE BILL 70
RELATING TO CONTROLLED SUBSTANCES
Before the House Committee on Health and Homelessness
Saturday, February 4, 2023; 9:30 a.m.
State Capitol Conference Room 329 Via Videoconference
WRITTEN TESTIMONY ONLY

Chair Belatti, Vice Chair Takenouchi, and Members of the Committee:

The Department of Law Enforcement (DLE) **supports** House Bill (HB) 70, which seeks to: 1) ban hemp products that contain Delta 8 tetrahydrocannabinol ("Delta 8 THC"), and 2) add Delta 8 tetrahydrocannabinol to the list of schedule I controlled substances. DLE supports HB 70 but requests that a change in language be made to the proposal. First, DLE supports HB 70 because Delta 8 THC is similar in structure to Delta 9 THC, the chemical in cannabis that is commonly known to make users intoxicated. The difference between both is one atomic position, 8 versus 9. In chemistry, where substances have similar structure, they have similar effects. DLE is aware that some in our community, including children, are using hemp products containing Delta 8 THC because such products are currently in the marketplace and being marketed as way to obtain a "legal high." HB 70 makes clear that Delta 8 THC is a Schedule I controlled substance and this proposal would allow regulators to regulate Delta-8 THC under clear legal language.

Second, DLE is requesting that a change in language be made to HB 70. Under current law in section 329-14 (g)(1) of the Hawaii Revised Statutes (HRS), Delta 8 THC, including its optical isomers is already scheduled but not clear in our current law. The controlled substances known as "Delta 8 tetrahydrocannabinol and their optical

isomers” as this proposal seeks to regulate is already scheduled in section 329-14 (g)(1), but is listed in that section as, “Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers.” This is because the names “Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers” and “Delta 8 cis or trans tetrahydrocannabinol, and their optical isomers” are synonyms. In the naming of tetrahydrocannabinol substances, the international scientific convention for naming such substances is not standardized. The Hawaii Uniform Controlled Substances Act accounts for this in the tetrahydrocannabinol section of law by currently providing:

“...(since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered)”

HB 70 currently reads in Section 2, page 2, lines 6-9:

Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 8 cis or trans tetrahydrocannabinol, and their optical isomers;

DLE respectfully recommends that Section 2, page 2, lines 6-9 be amended as: :

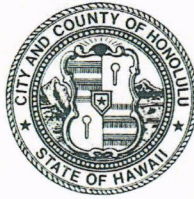
Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers (other names: Delta 8 cis or trans tetrahydrocannabinol, and their optical isomers);

DLE is recommending this change to be consistent with existing law that recognizes the non-standard naming for tetrahydrocannabinol substances. Additionally, the term “other names” is already used in other places on the controlled substances lists to indicate the synonym names of controlled substances.

Thank you for the opportunity to testify on this measure.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honoluluupd.org



RICK BLANGIARDI
MAYOR

ARTHUR J. LOGAN
CHIEF

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS

OUR REFERENCE

PO-HR

February 4, 2023

The Honorable Della Au Belatti, Chair
and Members
Committee on Health and Homelessness
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 329
Honolulu, Hawaii 96813

Dear Chair Belatti and Members:

SUBJECT: House Bill No. 70, Relating to Controlled Substances

I am Paul Okamoto, Acting Major of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.


The HPD supports House Bill No. 70, Relating to Controlled Substances.

Delta-8 tetrahydrocannabinol has not been evaluated or approved by the United States Food and Drug Administration (FDA). The FDA reports that products containing Delta-8 tetrahydrocannabinol are marketed in ways that put the public's health at risk. When ingested, Delta-8 tetrahydrocannabinol has been known to cause vomiting, hallucinations, difficulty breathing, loss of consciousness, and even coma. The FDA and poison control centers have reported an uptick in adverse events related to products containing Delta-8 tetrahydrocannabinol.

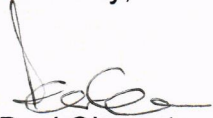
The HPD urges you to support House Bill No. 70, Relating Controlled Substances. Thank you for the opportunity to testify.

APPROVED:

Sincerely,



Arthur J. Logan
Chief of Police


Paul Okamoto, Acting Major
Narcotics/Vice Division



Dedicated to safe, responsible, humane and effective drug policies since 1993

TESTIMONY OPPOSING HB 70

TO: Chair Belatti, Vice Chair Takenouchi, & Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: February 4, 2023 (9:30 AM)

Drug Policy Forum of Hawai'i **opposes** HB 70, which would ban hemp products that contain cannabinoids created through isomerization, including Delta-8 tetrahydrocannabinol, and places Delta-8 tetrahydrocannabinol the list of Schedule I of the state's Controlled Substances Act.

Cannabis and cannabis-related products do not belong in Hawai'i's Controlled Substances Act, nor does cannabis belong in the federal Controlled Substances Act. Cannabis has never satisfied the articulated rationales of the statute (medical use, potential for abuse, dependence).

The continued scheduling of cannabis under federal law impedes emerging scientific research around cannabis and cannabis components, including cannabidiol, cannabinol, cannabigerol, cannabiodiol, cannabichromenes, cannabidiolic acid, tetrahydrocannabinolic acid, and terpenes. Cannabis use results in less injury, illness, and death than either alcohol or smoked tobacco, which are licit and widely available in the commercial marketplace.

[The FDA's recent inaction on CBD products](#) counsels a pause on further criminalization. As with much of cannabis, existing data regarding Delta-8 is inconclusive at best. As with other cannabis products it appears that most problems are related to ingesting too much at a given time. Clearly Delta-8 should not be used when operating a motor vehicle or heavy machinery and should be kept from the reach of children. Still, many conceivably benefit from the use of available Delta-8 products, including tinctures, edibles, and cartridges. The best course of action, as with cannabis generally, is legalization, regulation, and further scientific research that is now constrained by Schedule I placement.

Misinformation around cannabis often gains traction with those who have discrete interests in continued prohibition and the continued exercise of control over disfavored segments of the population. This posture should not be used as a basis for public policy. One example of this was a report last year conflating nascent symptoms of cannabis use disorder with “rapid onset of cannabis disorder” in medical cannabis states.

[When the Legislature passed HCR 89 in 2019](#), it requested that the United States Congress take actions necessary to remove cannabis from the Controlled Substances Act and authorize the provision of banking services for cannabis-related businesses. This bill is contrary to this prior legislative pronouncement that cannabis be removed from the federal Controlled Substances Act.

Despite some salutary policy efforts to reduce the harmful impacts of cannabis prohibition in Hawai'i, [including the decriminalization of possession of very small quantities of non-medical cannabis via HB 1383](#), cannabis policy remains far too timorous.

Notably, ***the Legislature has failed to provide adequate employment protections for medical cannabis patients***, as recommended by the [Act 116 Working Group](#) and last year's [Dual-Use Cannabis Task Force](#), which I was honored to be a part of. Hopefully these kinds of protections will be passed and signed into law this year.

Probationers who test positive for cannabis face re-incarceration or extended terms, which increases the number of persons in county jails at a given time and [further ensnares people in a probation system that has the highest average term in the nation](#).

The clearest way to navigate issues related to cannabis regulation is for Hawai'i to authorize adult-use cannabis and for the federal government to end its almost nine-decade long “war” on cannabis. Cannabis prohibition continues to criminalize BIPOC and under-resourced communities in this state and across the nation. In Hawai'i, [Uniform Crime Report data over the past decade show that Native Hawaiians comprise a plurality of adult and juvenile arrests](#). As such, [cannabis prohibition in Hawai'i continues to be an ongoing manifestation of the kind of structural racism that this Legislature declared a public health crisis via HCR 112 in 2020](#).

In short, this measure represents yet another misguided and overbroad policy response to cannabis and should be deferred.

Mahalo for the opportunity to provide testimony.

HB-70

Submitted on: 2/1/2023 9:13:22 PM

Testimony for HLT on 2/4/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Tai Cheng	Aloha Green Holdings Inc.	Support	Remotely Via Zoom

Comments:

To: Representative Della Au Belatti, Chair

Representative Jenna Takenouchi, Vice-Chair

Members of the Health & Homelessness Committee

Fr: Tai Cheng, President of Aloha Green Holdings Inc.

Re: Testimony In Support with COMMENTS of House Bill (HB) 70

RELATING TO CONTROLLED SUBSTANCES.

Bans hemp products that contain Delta 8 tetrahydrocannabinol. Adds Delta 8 tetrahydrocannabinol to the list of schedule I controlled substances.

Dear Chair, Vice-Chair and Members of the Committee:

Aloha Green Apothecary is a state licensed medical cannabis dispensary licensee operating on Oahu. Aloha Green Supports with COMMENTS as this bill may affect the medical cannabis dispensary program by banning Delta 8 THC, a naturally occurring minor cannabinoid in cannabis plants.

Aloha Green's comment is to amend the bill to allow 329D state licensed medical cannabis dispensaries to sell cannabis and cannabis products which contain Delta 8 THC as it is a naturally occurring but rare and minor cannabinoid. The Department of Health has revised its interim medical cannabis dispensary rules to require labelling which shows Delta 8 THC; Delta 9 THC and THCA concentrations in all cannabis products.

Thank you for the opportunity to testify with comments.



February 4, 2023

Chair, Rep. Della Au Belatti
Vice Chair, Rep. Jenna Takenouchi
House Committee on Health & Homelessness

TESTIMONY ON HB 70 – RELATING TO CONTROLLED SUBSTANCES

Dear Chair, Vice Chair, and Members of the Health and Homelessness. Committee:

Aloha, my name is DeVaughn Ward and I am the senior legislative counsel at the Marijuana Policy Project - the largest marijuana policy reform organization in the United States. As you may know, MPP has been working to improve marijuana policy for more than 25 years.

I am here today to testify regarding **HB 70 – Relating to Controlled Substances**

MPP appreciates the opportunity to comment on HB 70. While the public health and safety aims of this bill are laudable, MPP has concerns around the continued criminalization of cannabis use. Many criminal justice and drug policy advocates recognize that cannabis does not belong in the Hawaii Controlled Substances Act. Additionally, in 2019, the Hawaii legislature passed HCR89 which called on the United States Congress to remove cannabis from the Controlled Substance Act. Approving HB 70 would be inconsistent with HCR89.

While Delta 8 tetrahydrocannabinol is not approved by the Food Drug and Administration, neither is Delta 9 (a more potent tetrahydrocannabinol found in medical cannabis) despite it being authorized for lawful use since 2000 in Hawaii. Some medical cannabis patients use Delta 8 to treat their conditions. A complete ban of Delta 8 products by hemp producers could prohibit 329 patients from accessing a product, that is fair safer than alcohol and best serves their individual medical needs.

In sum, MPP respectfully requests that the committee defer this measure until the legislature considers the legalization of cannabis. Any action prior to full legalization could be inconsistent with Hawaii's previous positions on cannabis policy and detrimental to medical cannabis patient access.

Mahalo to the Chairs and members of the committee for your time and attention. If you have any questions or need any additional information, I would be happy to help and can be reached at the email address below.

Sincerely,
DeVaughn Ward, Esq.
Senior Legislative Counsel
Marijuana Policy Project
Honolulu, HI
dward@mpp.org

HB-70

Submitted on: 2/3/2023 8:41:57 PM

Testimony for HLT on 2/4/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
celia tapp	Individual	Oppose	Written Testimony Only

Comments:

Delta-8 is a naturally occurring cannabinoid that occurs in trace amounts in cannabis derived products. If we want to get high dose delta-8 products off the shelf, we need better verbiage so that we do not setback the hemp industry.

JOSH GREEN, MD
GOVERNOR



STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF PUBLIC SAFETY
KA 'OIHANA HO'OPALEKANA LEHULEHU
1177 Alakea Street
Honolulu, Hawaii 96813

TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Michael Hoffman
Deputy Director
Corrections

William Oku, Jr.
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 70
RELATING TO CONTROLLED SUBSTANCES

By
Tommy Johnson, Director

House Committee on Health and Homelessness
Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair

Saturday, February 4, 2023; 9:30 a.m.
Via Videoconference

Chair Belatti, Vice Chair Takenouchi, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 70, which seeks to: 1) ban hemp products that contain Delta 8 tetrahydrocannabinol ("Delta 8 THC"), and 2) add Delta 8 tetrahydrocannabinol to the list of schedule I controlled substances. PSD supports HB 70 but requests that a change in language be made to the proposal.

First, PSD supports HB 70 because Delta 8 THC is similar in structure to Delta 9 THC, the chemical in cannabis that is commonly known to make users intoxicated. The difference between both is one atomic position, 8 versus 9. In chemistry, where substances have similar structure, they have similar effects. PSD is aware that some in our community, including children, are using hemp products containing Delta 8 THC because such products are currently in the marketplace and being marketed as way to obtain a "legal high." HB 70 makes clear that Delta 8 THC is a Schedule I controlled substance and this proposal would allow regulators to regulate Delta-8 THC under clear legal language.

Second, PSD is requesting that a change in language be made to HB 70. Under current law in section 329-14 (g)(1) of the Hawaii Revised Statutes (HRS), Delta 8 THC, including its optical isomers is already scheduled but not clear in our current law. The controlled substances known as "Delta 8 tetrahydrocannabinol and their optical isomers" as

this proposal seeks to regulate is already scheduled in section 329-14 (g)(1), but is listed in that section as, “Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers.” This is because the names “Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers” and “Delta 8 cis or trans tetrahydrocannabinol, and their optical isomers” are synonyms. In the naming of tetrahydrocannabinol substances, the international scientific convention for naming such substances is not standardized. The Hawaii Uniform Controlled Substances Act accounts for this in the tetrahydrocannabinol section of law by currently providing:

“(since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered)”

HB 70 currently reads in Section 2, page 2, lines 6-9:

Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 8 cis or trans tetrahydrocannabinol, and their optical isomers;

PSD respectfully recommends that Section 2, page 2, lines 6-9 be amended as: :

Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers (other names: Delta 8 cis or trans tetrahydrocannabinol, and their optical isomers);

PSD is recommending this change to be consistent with existing law that recognizes the non-standard naming for tetrahydrocannabinol substances. Additionally, the term “other names” is already used in other places on the controlled substances lists to indicate the synonym names of controlled substances.

Thank you for the opportunity to testify on this measure.