



GOV. MSG. NO. 795

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 6, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB1058 SD2 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB1058 SD2 HD2 CD1

A BILL FOR AN ACT
RELATING TO CONTROLLED SUBSTANCES.

Sincerely,

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2009

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1058

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1058, entitled "A Bill for an Act Relating to Controlled Substances."

This bill establishes the medical cannabis task force within the Department of Public Safety to review issues relating to the medical marijuana program and make recommendations for any proposed legislation and rules. This bill also establishes the Salvia divinorum task force within the Department of Public Safety to review issues regarding the effects, use, and sale of Salvia divinorum and its primary psychoactive constituent, salvinorin A, and make appropriate legislative recommendations regarding the possible regulation of Salvia divinorum and salvinorin A. The Director of Public Safety is required to submit reports for both task forces to the Legislature prior to the convening of the regular session of 2010.

This bill is objectionable because the proposed task forces are unnecessary and would redirect limited resources within the Department of Public Safety from their primary functions of corrections and operations of the Sheriff Division.

The medical cannabis task force is unnecessary because it would attempt to deal with issues raised by medical marijuana users that can only be addressed by circumventing federal law. The use of marijuana and the distribution of marijuana are still illegal under federal law. Until that law is changed, it is

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inappropriate for the State of Hawaii to support the production, transportation, and distribution of marijuana. The task force will not be able to resolve these issues.

The Salvia divinorum task force is also unnecessary. The Narcotics Enforcement Division of the Department of Public Safety is already working with county police departments, the Alcohol and Drug Abuse Division of the Department of Health, and the federal Drug Enforcement Administration to closely monitor this substance and determine if it should be scheduled as a controlled substance. Under the provisions of section 329-11, Hawaii Revised Statutes, the Department of Public Safety has the duty to annually recommend to the Legislature the necessary scheduling of any controlled substances, and the Department has the authority to temporarily establish the emergency scheduling of any substance, if necessary, pending legislative action.

The provisions pertaining to the Salvia divinorum task force may also raise a possible objection under Section 14 of Article III of the State Constitution, which states in pertinent part, "Each law shall embrace but one subject, which shall be expressed in its title." Salvia divinorum is not a controlled substance under Hawaii law and the bill is not amending our controlled substances law to include it. Consequently, the provisions pertaining to the Salvia divinorum task force could possibly be challenged as being beyond the scope of the subject of this bill as expressed in its title.

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For the foregoing reasons, I am returning Senate Bill
1058 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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

PART I

1
2 SECTION 1. (a) There is established a medical cannabis
3 task force that shall be placed within the department of public
4 safety for administrative purposes. The purpose of the medical
5 cannabis task force shall be to review issues relating to the
6 medical marijuana program. The director of public safety shall
7 be responsible for administering the work of the medical
8 cannabis task force. The medical cannabis task force shall:

9 (1) Examine current state statutes, state administrative
10 rules, and all county policies and procedures relating
11 to the medical marijuana program;

12 (2) Examine all issues and obstacles that qualifying
13 patients have encountered with the medical marijuana
14 program;

15 (3) Examine all issue and obstacles that state and county
16 law enforcement agencies have encountered with the
17 medical marijuana program;



- 1 (4) Compare and contrast Hawaii's medical marijuana
2 program with all other state medical marijuana
3 programs; and
- 4 (5) Address other issues and perform any other function
5 necessary as the task force deems appropriate,
6 relating to the medical marijuana program.
- 7 (b) The medical cannabis task force shall consist of
8 thirteen members as follows:
- 9 (1) The director of public safety or the director's
10 designee;
- 11 (2) The director of health or the director's designee;
- 12 (3) The director of transportation or the director's
13 designee;
- 14 (4) The attorney general or the attorney general's
15 designee;
- 16 (5) The chairperson of the board of agriculture or the
17 chairperson's designee;
- 18 (6) The president of the Drug Policy Forum of Hawaii or
19 the president's designee;
- 20 (7) One medical cannabis advocate who is a patient that
21 uses cannabis in a medically authorized or recommended
22 manner to be appointed by the governor;



1 (8) A physician who authorizes or recommends the use of
2 medical cannabis that is nominated from a list jointly
3 submitted by the senate president and speaker of the
4 house of representatives to be appointed by the
5 governor;

6 (9) A Hawaii-licensed physician who specializes in pain
7 control and has issued a medical cannabis
8 recommendation that is nominated from a list jointly
9 submitted by the senate president and speaker of the
10 house of representatives to be appointed by the
11 governor;

12 (10) The president of West Oahu Hope for a Cure Foundation
13 or the president's designee;

14 (11) The director of Americans for Safe Access - Honolulu
15 Chapter, or the director's designee;

16 (12) One registered caregiver to be appointed by the
17 governor; and

18 (13) One representative of the American Civil Liberties
19 Union.

20 (c) The members of the task force shall select a
21 chairperson from among its members, who, in conjunction with the
22 director of public safety, shall establish task force



1 procedures, including the meeting schedule, voting procedures,
2 and member duties.

3 The members of the task force shall serve without
4 compensation, but shall be reimbursed for necessary expenses,
5 including travel expenses, incurred in the performance of their
6 official duties.

7 (d) No later than August 30, 2009, the legislative
8 reference bureau shall complete and submit to the task force a
9 report on the policies and procedures for access, distribution,
10 security, and other relevant issues related to the medical use
11 of cannabis for all the states that currently have a medical
12 cannabis program.

13 (e) The director of public safety shall submit a report of
14 the medical cannabis task force's findings and recommendations,
15 including any proposed legislation and rules, to the legislature
16 no later than twenty days prior to the convening of the regular
17 session of 2010.

18 (f) The medical cannabis task force shall cease to exist
19 on June 30, 2010.

20 PART II

21 SECTION 2. The legislature finds that *Salvia divinorum*,
22 otherwise known as "diviner's sage" or "magic mint," is not



1 regulated in Hawaii. The legislature further notes that several
2 countries, such as Australia, Belgium, Denmark, Estonia,
3 Finland, Italy, Japan, Spain, and Sweden have passed regulatory
4 laws on *Salvia divinorum* or its primary psychoactive
5 constituent, salvinorin A. In the United States, California,
6 Delaware, Florida, Illinois, Iowa, Kansas, Louisiana, Maine,
7 Michigan, Mississippi, Missouri, New Jersey, North Dakota, Ohio,
8 Oklahoma, Pennsylvania, South Carolina, Tennessee, and Virginia
9 regulate *Salvia divinorum*, with approaches ranging from
10 classification as a Schedule I controlled substance to placing
11 restrictions on its sale. The legislature finds that possible
12 regulation of *Salvia divinorum* and its primary psychoactive
13 constituent, salvinorin A, is worthy of formal examination by
14 the State.

15 SECTION 3. (a) There is established a *Salvia divinorum*
16 task force within the department of public safety for
17 administrative purposes. The purpose of the *Salvia divinorum*
18 task force shall be to review the effects of *Salvia divinorum*
19 and its primary psychoactive constituent, salvinorin A. The
20 director of public safety shall be responsible for administering
21 the work of the *salvia divinorum* task force. The *Salvia*
22 *divinorum* task force shall:



- 1 (1) Research the uses and effects of *Salvia divinorum* and
- 2 salvinorin A on adults and minors;
- 3 (2) Research all other states' legislation relating to
- 4 *salvia divinorum* and salvinorin A;
- 5 (3) Recommend appropriate legislation resulting from its
- 6 findings to address the sale and use of *Salvia*
- 7 *divinorum* and salvinorin A in Hawaii; and
- 8 (4) Address other issues and perform any other function
- 9 necessary as the task force deems appropriate,
- 10 relating to *Salvia divinorum* or salvinorin A.
- 11 (b) The *salvia divinorum* task force shall consist of the
- 12 following members:
- 13 (1) The director of public safety or the director's
- 14 designee;
- 15 (2) The director of health or the director's designee;
- 16 (3) The administrative director of the judiciary or the
- 17 administrative director's designee;
- 18 (4) The attorney general or the attorney general's
- 19 designee;
- 20 (5) The president of the Hawaii State Bar Association or
- 21 the president's designee; and



1 (6) The president of the Drug Policy Forum of Hawaii or
2 the president's designee.

3 (c) The members of the task force shall select a
4 chairperson from among its members, who, in conjunction with the
5 director of public safety, shall establish task force
6 procedures, including the meeting schedule, voting procedures,
7 and member duties.

8 The members of the task force shall serve without
9 compensation, but shall be reimbursed for necessary expenses,
10 including travel expenses, incurred in the performance of their
11 official duties.

12 (d) The director of public safety shall submit a report of
13 the *Salvia divinorum* task force's findings and recommendations,
14 including any proposed legislation or rules, to the legislature
15 no later than twenty days prior to the convening of the regular
16 session of 2010.

17 (e) The *Salvia divinorum* task force shall cease to exist
18 on June 30, 2010.

19 PART III

20 SECTION 4. This Act shall take effect upon its approval.

