



STATE OF HAWAII
DEPARTMENT OF HEALTH
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LATE

**Testimony in OPPOSITION to S.B. 2787 S.D. 1
RELATING TO MEDICAL CANNABIS.**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: Tuesday, February 25, 2020

Room Number: 016

Fiscal Implications: None identified.

Department Testimony: The Department respectfully opposes this measure and requests indefinite deferral. While DOH appreciates the intent to improve access for qualifying medical cannabis patients by allowing for delivery of medical cannabis and manufactured cannabis products to patient homes, there is no data to validate that the concern of restricted access would be relieved by this bill and to justify the associated inherent risks. Allowing for a delivery service would: (1) Jeopardize public safety by increasing the potential risk for diversion; (2) Jeopardize patient safety through the potential risk of product mishandling during transportation; (3) Jeopardize patient confidentiality by increasing the risk of identification of status as a qualifying medical cannabis patient; (4) Create the challenge of ensuring delivery to the intended recipient; (5) Create a safety risk for dispensary employees by making them a potential target for theft; and (6) Create a risk of inadvertent violation of state and federal laws prohibiting the possession of controlled substances in proximity to schools, playgrounds, and federal property. Combined, these increase the potential risk of federal and law enforcement intervention into Hawaii's medical cannabis dispensary program to the detriment of Hawaii's qualifying patients. Thank you for the opportunity to testify on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

S.B. NO. 2787, S.D. 1, RELATING TO MEDICAL CANNABIS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 25, 2020 **TIME:** 12:30 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Tara K.C.S. Molnar,
Deputy Attorney General, at 587-3050)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill.

This measure adds two new sections to chapter 329D, Hawaii Revised Statutes (HRS), that would allow the Department of Health to issue: (1) a medical cannabis delivery permit to a qualified medical cannabis dispensary to transport medical cannabis or manufactured cannabis products to a qualifying patient or primary caregiver (page 2, line 6, through page 7, line 12); and (2) a medical cannabis transporter license to a person to transport medical cannabis or manufactured cannabis products to a qualifying patient or primary caregiver (page 7, line 13, through page 8, line 16). The bill also amends section 329D-6, HRS, to require that a dispensary track the delivery of cannabis and manufactured cannabis products by a medical cannabis delivery permittee (page 10, lines 10-12). The measure amends section 329D-12, HRS, to require that a medical cannabis transporter licensee submit to a background check (page 13, lines 10-15).

Comments on section 3, which amends section 329D-6, HRS, to require that a dispensary track the delivery of cannabis and manufactured cannabis products by a medical cannabis delivery permittee (page 10, lines 10-12).

The bill's wording with respect to the tracking of cannabis and manufactured cannabis products by a dispensary raises concerns, because it does not require the

cannabis or manufactured cannabis products being delivered by a medical cannabis transporter licensee to be tracked by the computer software tracking system required in section 329D-6(j), HRS. Tracking is required, however, of the products delivered by a medical cannabis delivery permittee. The lack of tracking for a licensee may result in qualified patients or primary caregivers being able to purchase cannabis or manufactured cannabis products in excess of statutory limits without detection. If the Committee is inclined to move this measure forward, we recommend that the bill include a requirement of tracking cannabis or manufactured cannabis products being delivered by a medical cannabis transporter licensee.

Thank you for the opportunity to share these comments.



DEREK S. K. KAWAKAMI
Mayor

MICHAEL A. DAHLIG
Managing Director

POLICE DEPARTMENT COUNTY OF KAUAI

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TODD G. RAYBUCK
Chief of Police

LATE

Testimony of Todd G. Raybuck
Chief of Police
Kaua'i Police Department

Before the
Senate Committee on Judiciary
February 25, 2020; 12:30pm
Conference Room 016

In consideration of
Senate Bill 2787 SD1
Relating to Medical Cannabis

Honorable Chair Rhoads, Honorable Vice Chair Keohokalole and Members of the Committee:

The Kaua'i Police Department is **opposed** to Senate Bill 2787 SD1, which authorizes the Department of Health to issue permits to medical cannabis dispensaries for the delivery of medical cannabis and manufactured cannabis products to qualifying patients or primary caregivers if certain conditions are met and authorizes the Department of Health to issue medical cannabis transporter licenses in specific situations.

The Legislature recognized the potential dangers associated with the production and storage of marijuana and required security measures when the legislature enacted law establishing Medical cannabis dispensaries. Under Hawaii Revised Statutes §329D-7 Medical cannabis dispensary rules, dispensaries are required to have security measures in place such as video monitoring, fencing surrounding the premises, an alarm system and other reasonable security measures to deter and prevent intruders. Senate Bill 2787 SD1 however, has no provisions to ensure the secure and safe delivery of cannabis to qualifying patients and primary caregivers. No security measures are required for delivery personnel. Allowing dispensaries to deliver medical cannabis to qualifying patients and caregivers, without requiring reasonable security measures for transport, will increase opportunity for robberies and other violent crime.



The sale of cannabis is a cash business. Therefore, cannabis delivery drivers are vulnerable to become victims of violent crime due to the type of product they possess and the amount of cash on hand from the proceeds of said transactions. During my tenure with the Las Vegas Metropolitan Police Department (NV), I observed robberies, assaults, and on occasion, homicides associated with cannabis deliveries after Nevada permitted a similar cannabis delivery system. The prevalence of these crimes is not limited to Nevada. An online search reveals violent crimes toward marijuana delivery drivers is commonplace in locales that permit cannabis deliveries. The violence associated with cannabis delivery services has led lawmakers in several jurisdictions to reconsider laws that allow said services.

Further, the Department of Health and law enforcement agencies do not have the resources to monitor and regulate the transportation of medical cannabis to qualifying patients and caregivers. The inability to effectively regulate marijuana delivery services opens the door to unlicensed illegal transport and the distribution of cannabis by nefarious delivery personnel and dispensaries that may transport cannabis for unpermitted sales under the guise of permissible transport.

Limited enforcement resources and the potential for a high volume of illegal marijuana delivery services increases the risk of illegal activity and violent crime. During my tenure as the commander of the Las Vegas Metropolitan Police Department's Organized Crime Bureau, I fielded many complaints from licensed marijuana dispensaries regarding the proliferation of illegal marijuana delivery advertisements online. The difficulty to identify persons conducting the illegal delivery services coupled with inadequate enforcement resources resulted in the illegal marijuana delivery services operating with near impunity.

A legal marijuana delivery scheme enables unlicensed counterfeit marijuana delivery services to exist and places unsuspecting consumers at risk of falling victim to violent crime. It is difficult, if not impossible, to prevent online advertisements. And customers seeking the services of an online marijuana delivery service are unlikely, or able, to verify that the online service is legally licensed. In Nevada, violent criminals and gang members exploited the anonymity of online advertisements using the bogus marijuana delivery service claim to rob unsuspecting customers. Tragically, some of the robberies also resulted in homicides.

Lastly, enacting a cannabis delivery scheme is not necessary to allow for the safe delivery of cannabis to patients in Hawaii. The legislature enacted the primary caregiver system allowing for the safe purchase and delivery of marijuana to medical marijuana patients.

For these reasons the Kauai Police Department is **opposed** to Senate Bill 2787 SD1.

Thank you for your time and consideration.



Sincerely,

Todd G. Raybuck

Todd G. Raybuck
Chief of Police
Kaua'i Police Department

SB-2787-SD-1

Submitted on: 2/21/2020 10:53:48 PM

Testimony for JDC on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
dain retzlaff	Individual	Support	No

Comments:



KUSH BOTTLES

HAWAII

TO: Committee on Judiciary

FROM: Miles Wesley Tuttle & Adealani Wesley

HEARING DATE: 25 February 2020, 12:30 PM

RE: SB2787 SD1, Relating to Medical Cannabis, STRONG SUPPORT

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee,

"Cannabis can impair a driver's cognitive function, affecting a driver's time/space perception, reaction time, ability to concentrate, etc. Contrary to popular belief, marijuana does not make someone a better, more careful driver. According to the "Drug Recognition Expert (DRE) Examination Characteristics of Cannabis Impairment" study published in the July 2016 Accident Analysis & Prevention Journal, an evaluation of 302 toxicologically-confirmed cannabis-only DRE cases saw that in 72.3 percent of cases, one or more moving violations were listed as reasons for the traffic stop. Speeding was the number one violation (27.7 percent), followed by weaving (19.0 percent). Similarly, in a two-year study of THC in drivers in Orange County, California, published in the August 2016 Journal of Forensic Science, the top five moving violations were speeding (24 percent), unable to maintain lane position (23.2 percent), ran red light or stop sign (13.0 percent), unsafe lane change (8.7 percent) and involved in a collision (8.3 percent).

In Hawaii, a local study on motor vehicle crash fatalities and undercompensated care associated with legalization on medical marijuana finds that "THC positivity among driver fatalities increased since legalization, with a threefold increase from 1993-2000 to 2001-2015. THC positivity among all injured patients tested at our highest level trauma center increased from 11% before to 20% after legalization. From 2011 to 2015, THC positive patients were significantly less likely to wear a seatbelt or helmet (33% vs. 56%)." The study was published in the Journal of Trauma and Acute Care Surgery in May 2018."

The above testimony was given by the **State of Hawaii, Department of Transportation** in opposition to SB2024 (pertaining to Cannabis-infused edibles). Based on this logic, it appears that the introduction of a potential delivery service could mitigate the concerns of medical Cannabis patients driving under the influence of Cannabis (DUIC), as mentioned above. This would be especially pertinent to the neighboring islands where patients encounter greater distances to travel in order to obtain their medication.

Please pass SB2787 SD1. Thank you for this opportunity.

HAWAI'I CANNABIS INDUSTRY ASSOCIATION

February 25, 2020

To: Senator Karl Rhoads, Chair Judiciary
Senator Jarrett Keohokalole, Vice Chair Judiciary
Members of the Senate Committee on Judiciary

Fr: Teri Freitas Gorman, 2020 Chair, Hawai'i Cannabis Industry Association (HICIA)

Re: **SB2787 SD1 RELATING TO MEDICAL CANNABIS. - SUPPORT**

Authorizes the department of health to issue permits to medical cannabis dispensaries for the delivery of medical cannabis and manufactured cannabis products to qualifying patients or primary caregivers if certain conditions are met. Authorizes the department of health to issue medical cannabis transporter licenses in specific situations.

The Hawai'i Cannabis Industry Association, formerly known as the Hawai'i Educational Association for Therapeutic Health (HEALTH), represents all eight of the state's licensed medical cannabis dispensaries plus associate members. We submit testimony today in support of **SB2787 SD1**, a needed bill that improves access for patients on all islands.

The association supports legislation that will expand access to isolated, rural populations by providing a mechanism for dispensaries to either deliver products themselves or subcontract the service to qualified entities.

It is important to understand that numerous registered medical cannabis patients live in either geographically isolated or unable to access dispensaries on their respective islands for many reasons including lack of transportation. While this need certainly exists for patients living on all islands, the need is most prevalent on the neighbor islands--Hawai'i Island, Maui and Kaua'i where geographical distances and drive times are greatest. Rural areas on each of these islands typically have low population densities that make the opening of a nearby dispensary economically infeasible for licensees.

Patients living in these underserved rural areas are also often those with the greatest need for safe and reliable access. Those who are unable to find reliable caregiver services are left with virtually no legal option to obtain cannabis for medical use, so must frequently turn to more readily available black-market options. The recent lung injuries (EVALI) caused by illicit THC vaporizing devices demonstrate the true danger of using unregulated products. Mobile delivery services would effectively address the needs of these underserved patients while safeguarding product, patient and public safety.

The association would also like to share legislation from the other states that currently provide a legal framework for delivery programs. Hawai'i Senate Bill 2787 SD1 references states with regulated cannabis delivery programs as described here:

Arizona

State establishes a set of requirements for the safe distribution of marijuana to eligible patients
SB-1494

- 36-2806: Registered nonprofit medical marijuana dispensaries; requirements; rules; inspections; testing
- Section D: A registered nonprofit medical marijuana dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing

marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' designated caregivers.

- <https://www.azleg.gov/legtext/54leg/1r/bills/sb1494p.pdf>

Colorado

HB: 19-1234

Summary: Cannabis delivery permits/regulations

- https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a_1234_rev.pdf

New Mexico

7.34.4.17 - DEPARTMENT-APPROVED COURIERS; GENERAL PROVISIONS:

- May approve use of a courier for transporting for 1+ licensed non-profit producers
- Different than other states where courier was required to be an employee
- <http://164.64.110.134/parts/title07/07.034.0004.html>

Oregon

First state to allow delivery

OAR_845_025, Division 25: Recreational Marijuana Rules

- 845-025-2800 Retailer Privileges; Prohibitions
 - o Permits delivery of "Bona fide" orders as described by 845-025-2880
- 845-025-2880 Delivery of Marijuana Items by Retailer
 - o Provides specifics to delivery area, procedure, requirements, and limitations
- https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf
- https://www.oregon.gov/olcc/marijuana/Documents/Licensing_Forms/mj_ref_delivery_guide.pdf

California

DIVISION 10. Cannabis, Chapter 9: Delivery

Code section 26090

- (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.
- (b) All employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.
- (c) During delivery, the licensee shall maintain a copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.
- (d) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.
- (e) A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

- https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=9.&article=

California (cont'd)

DIVISION 10. Cannabis, Chapter 8: Distribution and Transport

Code section 26080

- (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, cannabis or cannabis products outside the state, unless authorized by federal law.
- (b) A local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with this division.

As with all elements of the Hawai'i medical cannabis dispensary program, the delivery service proposed in SB2787 would be subject to the strict regulatory oversight of the Department of Health's Office of Medical Cannabis Control and Regulation. As the only island-state in the nation, it is important to acknowledge and mitigate the challenges unique to Hawai'i.

On behalf of the Hawai'i Cannabis Industry Association, thank you for the opportunity to testify in support of SB2787 SD1.



To: Senator Karl Rhoads, Chair
Senator Jarrett Keohakalole, Vice Chair
Members of the Senate Committee on Judiciary

Fr: Jaclyn L. Moore, Pharm D., CEO Big Island Grown Dispensaries

TESTIMONY IN SUPPORT OF SENATE BILL 2787

RELATING TO MEDICAL CANNABIS.

Provide for a safe, secure, and transparent system for qualifying patients to have medical cannabis and manufactured cannabis products delivered to their homes.

Big Island Grown Dispensaries is one of eight dispensary licensees in the State. We operate a production facility and 3 retail locations on the Big Island of Hawaii. We submit testimony today **in support of SB2787** which seeks to improve access for patients in rural, under-served areas as well as those that suffer from a disability or condition that precludes them for easily gaining access to a dispensary.

Hawaii Island's land mass is approximately 4028 square miles compared to Oahu at approximately 597 square miles (Big Island is approximately 7x the size of Oahu). This creates a geographical challenge for Hawaii Island Dispensary Licensee's to properly serve all of Hawaii Island patients effectively. Big Island Grown has maximized the retail locations currently allowed by law with the opening of 3 retail locations in Hilo, Waimea, and Kona this past year-serving the highest density of cardholders on the island. Delivery increases access for patients in areas that are under-served with low density populations, or for patients experiencing difficulty accessing a dispensary due to physical limitations or geographical distance. State licensed dispensaries exist to provide legal infrastructure to patients that choose to consume clean, lab tested cannabis medicine. A framework for delivery enhances this infrastructure, and extends our ability to serve all Big Island patients.

Thank you,

Jaclyn L. Moore, Pharm.D., CEO Big Island Grown Dispensaries

