

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

**Testimony in SUPPORT of HB1886 HD1 SD1
RELATING TO CONTROLLED SUBSTANCES**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: 3/31/2022

Room Number: CR329/Videoconference

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 it bans hemp products containing cannabinoids created through isomerization, including Delta-8 tetrahydrocannabinol (THC), which are not by the U.S. Food and Drug Administration (FDA) and may put consumers at risk. On March 18, 2022, FDA updated their Consumer Update "5 Things to Know about Delta-8 Tetrahydrocannabinol – Delta-8 THC", alerting consumers that FDA has seen an uptick in adverse event reports to FDA and the nation's poison centers, marketing of products that is appealing to children, and concerns regarding contamination due to methods of contamination of manufacturing that may in some cases be used to produce marketed delta-8 THC products. FDA also warns consumers to be aware that delta-8 THC products have not been evaluated or approved by the FDA for safe use in any context. Delta-8 THC products may be marketed in ways that put the public health at risk and should especially be kept out of 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 its National Poison Data System (NPDS), allowing for the monitoring of delta-8 THC adverse events. From January 1, 2021, to February 28, 2022, the National poison control centers received 2,362 exposure cases. Of the 2,362 exposure cases:

- 1 • 58% involved adults; 41% involved pediatric patients less than 18 years of age, and 1%
2 did not report age.
- 3 • 40% involved intentional exposure to delta-8 THC and 82% of these unintentional
4 exposures affected pediatric cases.
- 5 • 70% required health care facility evaluations, of which 8% resulted in admission of
6 which 8% resulted in admission to a critical care unit; 45% of patients requiring health
7 care facility evaluation were pediatric patients.
- 8 • One pediatric case was coded with a medical outcome of *death*.

9 On September 21, 2021, the Department issued “CDC Health Alert Network Health Advisory
10 451: Increases in Availability of Cannabis Products Containing Delta-8 THC and Reported
11 Cases of Adverse Events” to Emergency Departments and Primary Care providers statewide of
12 the increased availability of cannabis products containing delta-8 THC and the potential for
13 adverse events due to insufficient labeling of products containing THC and cannabidiol (CBD).

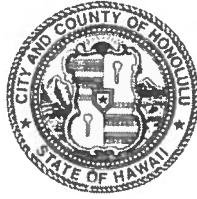
14 **Offered Amendments:** None.

15 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.honolulu.org

RICK BLANGIARDI
MAYOR



RADE K. VANIC
INTERIM CHIEF

OUR REFERENCE TN-GK

March 31, 2022

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: House Bill No. 1886, H.D. 1, S.D. 1, Relating to Controlled Substances

I am Captain Tate Nojima of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill 1886, H.D. 1, S.D. 1, Relating to Controlled Substances.

Delta-8 tetrahydrocannabinol has not been evaluated or approved by the U.S. 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. 1886, H.D. 1, S.D. 1, Relating to Controlled Substances, and we thank you for the opportunity to testify.

APPROVED:

Sincerely,

A handwritten signature in black ink, appearing to read "R. Vanic", is written over a horizontal line.

Rade K. Vanic
Interim Chief of Police

A handwritten signature in black ink, appearing to read "Tate Nojima", is written over a horizontal line.

Tate Nojima, Captain
Narcotics/Vice Division



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

TESTIMONY OPPOSING HB 1886, HD 1, SD 1

TO: Chair Rhoads, Vice Chair Keohokalole, & Judiciary Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: March 31, 2022 (9:30 AM)

Drug Policy Forum of Hawai'i **strongly opposes** HB 1886, HD 1, SD 1, 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, cannabinodiol, 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.

Existing data regarding the perceived negative impacts of Delta-8 quoted in prior written testimony is inconclusive at best. As with other cannabis products it appears that 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 do benefit from the use of available Delta-8 products. My own experience with Delta-8 tinctures, purchased online from vendors that provide batch lab test results, has been uniformly positive in terms of physiological effects and cost.

Misinformation around cannabis often gains traction with those who have discrete interests in continued prohibition and exercise of control over disfavored segments of the population. This should not be used as a basis for public policy. One recent example of this was a report 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 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 mired in relative limbo. The Legislature has failed to provide adequate employment protections for medical cannabis patients. The state Department of Health has yet to promulgate workable regulations that would allow for the production and sale of edible cannabis products by authorized medical cannabis dispensaries. 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](#). Hopefully the next governor will work with the Legislature on these and other cannabis-related policies.

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 just last year](#).

This measure represents yet another misguided and overbroad policy response to cannabis, and we respectfully ask that it be deferred.

Mahalo for the opportunity to provide testimony.

March 28, 2022

FROM: John Calvert, jcalvert@crystal3.com
TO: Hawai'i Senate COMMITTEE ON JUDICIARY
RE: Comments on HB1886 RELATING TO HEMP

Aloha Chair Rhoads, Vice-Chair Keohokalole, and Members of the Committee:

The subject of my testimony is *medicinal cannabis* in the state of Hawaii, which is inclusive of hemp.

(Abbreviations used: DOH = Dept. of Health; DOA = Dept. of Agriculture; MMJ = medical marijuana.)

I'm a former hemp pilot program licensee, and current MMJ licensee.

I strongly urge the Hawaii state government to modernize and update its legal interpretations and regulations regarding cannabis, which is a uniquely valuable plant with very diverse characteristics.

My first point is: all types of cannabis that contain significant amounts of cannabinoids are, in fact, *medicinal*. This includes some types of hemp.

The current classification of cannabis as either "medical marijuana," "recreational marijuana," or "hemp" is erroneous and misleading. The use of the term *industrial hemp* should be restricted, legally, to cannabis that contains little to no cannabinoids (THC, CBD, etc.) This means high-CBD hemp should not be classified as industrial hemp from a legal standpoint. The term, *industrial hemp*, should mean cannabis grown solely for food (seed or oil), fuel (oil), fiber, or for soil bioremediation, while also meeting the federal government's classification as *hemp* (cannabis with 0.3% THC or less).

The term *medicinal* rightly conveys the use of cannabis as a medicine, not as a recreational drug or intoxicant. How many cannabis users in Hawaii are using cannabis as a medicine? How many of these are not part of the state MMJ program? What are the demographics? These are very good questions, and the state should conduct an unbiased survey to determine the answers.

Legitimate medicinal uses of cannabis include: pain relief, stress relief, anti-anxiety, anti-depressant, sleep aid, anti-inflammatory, hunger-inducing.

It's easy to see that medicinal cannabis is an "old person's drug"; but, it goes beyond that, because people of all ages can suffer from health conditions for which the above mentioned medicinal uses are helpful. These conditions often don't overlap the state MMJ classifications for qualifying *medical* conditions, or don't reach the degree of severity to meet the qualifying conditions. Yet these are still legitimate, helpful uses of medicinal cannabis. Why keep this away from people who benefit from proper use? Is the reason – in part – to maintain the dispensary system's lucrative monopoly on state-regulated cannabis?

There are thus two types of medicinal cannabis: 1) that which contains significant amounts of THC, and 2) that which contains very low amounts of THC, but high amounts of either CBD or CBG.

The scientific term for (1) above is "Cannabis chemotypes I and II". The scientific term for (2) above is "Cannabis chemotypes III and IV". (I abbreviate these classifications as: Type 1/2 and Type 3/4.

Industrial hemp is Type 5, and has no medicinal value.)

Current legal language in Hawaii differentiates these forms of cannabis as "medical marijuana" and "hemp". Again, these misleading terms paint cannabis as something that's not generally medicinal, even though it is. The word *medical* implies being used only for medical reasons, meaning specific debilitating medical conditions. The word *hemp* (or *industrial hemp*) implies no medicinal use at all, but rather an agricultural product grown by the acre, tens of acres, or hundreds of acres (i.e. Type 5).

Neither of these currently used terms convey what cannabis really is. Federal legal language also doesn't convey the true value of cannabis, and hence the historic and ongoing federal war against this plant. Although Hawaii allows some growing of cannabis for medicinal purposes, the state government is still largely playing along with the federal war on cannabis.

The current situation is, the state DOH regulates the growing of Type 1/2 medicinal cannabis, while the state DOA regulates the growing of Type 3/4 medicinal cannabis. Why is the DOA regulating medicinal cannabis? The reason is because of the federal government's erroneous classification of Type 3/4 as hemp, and the fact that the state government is still playing along with the federal war on cannabis.

Type 3/4 medicinal cannabis – i.e high CBD or CBG, with very low THC – should be widely available to adults in the state of Hawaii, and not just available to those who have a state MMJ license, or those who have a federal DOA hemp license. How low is low THC? The most logical threshold, in terms of the logistics of cultivating Type 3/4 (high CBD) plants, is 1% THC. (The federal war on cannabis sets the max. amount of THC in "hemp" to 0.3% – an arbitrary threshold that is completely detached from both the realities of cultivation, and any concern around possible psychoactive effects.)

Why does growing state MMJ plants require a state license, while growing state hemp plants require a federal license – when MMJ contains lots of THC, and CBD/CBG hemp contains little to no THC? If the state allows the growing of high-THC plants with a state license, the state should then also allow the growing of very-low-THC plants with *no license*. This would, of course, run the state afoul with federal regulations, but in a vastly less serious way than state MMJ cultivation and sales are currently afoul with federal regulations.

I conclude by strongly recommending that the Hawaii DOH should regulate the growing and processing of all medicinal cannabis in the state, meaning Type 1/2 (MMJ) and Type 3/4 (CBD/CBG hemp).

Further, the Hawaii DOA should submit a hemp production plan to the federal DOA, and that plan should specify that the Hawaii DOH will regulate the growing and processing of all types of cannabis in the state, except for industrial hemp (Type 5) which would be regulated by the Hawaii DOA.

By modernizing and updating its legal interpretations and regulations regarding cannabis, the state, and the state DOH, can then offer a special classification for medical marijuana in Hawaii, called "low-THC medicinal marijuana." This new classification would provide regulations for growing, processing, use, and sale within the existing state medical marijuana program. This type of marijuana has essentially no intoxicating properties, and as such, sales should not be restricted to dispensaries. A new market and business opportunity would be created for small farmers and entrepreneurs. And, there would be inexpensive, legal access to low-THC cannabis for any adult who desires to grow and use it.

mahalo,
John Calvert

Farmer, father, and business owner
Kapoho, Big Island

HB-1886-SD-1

Submitted on: 3/29/2022 4:14:58 PM

Testimony for JDC on 3/31/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Oppose	Written Testimony Only

Comments:

TO: Judiciary Committee

FROM: Wendy Gibson-Viviani RN/BSN, Cannabis Nurse Educator

RE: HB1886 (In opposition)

DATE: March 31, 2022 (9:30 AM)

I am Wendy Gibson-Viviani, a healthcare professional (RN) who has lived and worked in Hawaii for 29 years. I am a Cannabis Nurse Educator and medical cannabis patient advocate.

I OPPOSE HB1886, because I feel that we should no longer condone the mis-scheduling of cannabis, as a Schedule I drug (in the Controlled Substances Act of 1970). We know from historical record that the main reason the Cannabis Sativa L. plant is in the Schedule I drug category has **nothing to do with science** and everything to do with, then President Richard Nixon's hatred of antiwar protestors and black people. (**See below** "Top adviser to Richard Nixon admitted that 'War on Drugs' was policy tool to go after anti-war protestors and 'black people'")

The reason that cannabis was **unscientifically and inappropriately** placed into the Schedule I drug category of the Controlled Substances Act of 1970 was for political reasons. Efforts to remove it (from what was **supposed to be a "temporary" placement**) have been ongoing and unfruitful since 1971.

Please stop criminalizing people who want to use cannabis and cannabis products. Please stop criminalizing substances that have potential medical usefulness. Patients have been fighting for the right to legally use cannabis as a medicine for many years. Nationally, we have large groups of patient activists with names such as "Illegally healed", "Patients Out of Time", and Americans for Safe Access, who continue to fight for access to safe medicines for patients. Fortunately, we have over registered 34,000 patients in Hawaii who benefit from it's use.

You may think that you're just placing another piece of cannabis into its designated legal space. Please realize that, by placing, yet another substance into the Schedule I Drug category you are **effectively cutting off any prospect of research**-- on this not well-researched cannabinoid (Delta 8 THC).

While cannabis clinicians and I share many concerns about the safety of **all unregulated cannabis products** including CBD products, we know that the sales will continue with or without research. We don't know if the products out there are safe and we would like to know!

Instead of creating another way to criminalize patients, please consider the removal of all cannabis sativa L. (Marijuana) chemicals OUT of the Schedule I drug category

As former President, Jimmy Carter once said: "Penalties against **possession of a drug should not be more damaging** to an individual than the use of the drug itself; and where they are, they should be changed.

Thank you for your consideration of this important matter.

Wendy Gibson-Viviani RN/BSN

Cannabis Nurse Educator

Kailua

Source Top adviser to Richard Nixon admitted that 'War on Drugs' was policy tool to go after anti-war protesters and 'black people'

<https://www.nydailynews.com/news/politics/nixon-aide-war-drugs-tool-target-black-people-article-1.2573832?fbclid=IwAR2dqzi1yTJ4RmV48FHWMZmOmHIvuY2KHM-GSOF5fHEzujJFEcV-qmHJ8sE>

LATE

HB-1886-SD-1

Submitted on: 3/31/2022 6:09:38 AM

Testimony for JDC on 3/31/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ben L.	Individual	Oppose	Written Testimony Only

Comments:

Hello,

I oppose this bill and the continued criminalization of the cannabis sativa plant. Adding plants and products to the controlled substances act has not stopped drug abuse, drug misuse or drug use period. Having police waste time and resources on controlled substance enforcement has ballooned our police budget to \$300 million annually for Oahu alone. Not only have our police focused on controlled substance enforcement, but they have done so to the detriment of keeping us safe from violent crimes and property crimes. The entire state of Hawaii is known for people breaking into homes and cars and stealing things. Physical attacks on people in public, during the day, especially on the elderly have increased in chinatown and waikiki and nothing seems to be getting done about it. Why? Because the police have been tasked with some gigantic never ending prohibition list of chemicals and constituents known as the uniform controlled substances act.

This bill goes against the majority of citizens in this state and country who want to make cannabis sativa, and its parts like CBD, THC and Delta THC legal.

The war on drugs? Drugs won the war on drugs. Its time to admit defeat, accept reality and change how we waste our budgets and tax dollars dealing with them. The state of Hawaii cant even build jails fast enough to house drug inmates. Its just an absolutely absurd policy. Over and over again, doing the same thing but expecting different results.

End the war on drugs, end the war on marijuana, stop this madness.

Thank you.



LATE

March 31, 2022

Chair Karl Rhoads
Vice Chair Jarrett Keohokalole
Judiciary Committee

**TESTIMONY ON HB 1886, HD 1, SD 1 – RELATING TO CONTROLLED
SUBSTANCES**

Dear Chairs, Vice Chairs, and Members of the Judiciary Committee:

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 **HD 1886, HD1, SD1 – Relating to Controlled Substances**

MPP appreciates the opportunity to comment on HD 1886, HD1, SD 1. While the public health and safety aims of this bill are laudable, MPP has concerns around the timing of this measure. Just last year the legislature passed, and Gov. Ige signed Act 169 into law. Act 169 (Gov. Msg. 1271) charges the Office of Medical Cannabis Control and Regulation with considering the impacts of legalization of cannabis through a taskforce with recommendations to be made for the 2023. As the Department of Health considers a legalization model and the potential impacts on the state, this measure might be better served as part of a comprehensive cannabis bill in the 2023 legislative session. Additionally, in 2019, the Hawaii legislature passed HCR89 which called on the United States Congress to remove cannabis from the Controlled Substance Act. Approving HD 1886 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 next session as it may be premature in light of the taskforce's work, inconsistent with Hawaii's previous positions on policy, and detrimental to medical cannabis patient access.

Thank you 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