



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on SB375
RELATING TO MEDICAL CANNABIS.**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATOR JARRETT KEOHOKALOOLE, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Hearing Date: Wed., Feb. 15, 2023 Room Number: 229

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

4 **Department Testimony:** The Department of Health (DOH) provides comments on S.B. 375
5 which proposes to: (1) provide for legalization, regulation, and taxation of responsible, adult-use
6 cannabis; (2) exempt sales of cannabis and manufactured cannabis products for medical use from
7 the general excise tax; and (3) provide that qualifying out-of-stte patients have the same rights
8 and privileges as qualifying patients with respect to medical cannabis.

9 The department appreciates the alignment of the requirements under Part IV. Licensee
10 Operations and Testing [pp. 29-48] with the current medical cannabis dispensary system
11 requirements. The department also appreciates the clear language under Part V. Licensing
12 Sanctions [pp. 48-53]. Together these provisions will help to protect consumer and public health
13 and safety as well as facilitate the transition from medical use only to adding legalized
14 responsible, adult-use cannabis.

15 The department seeks to clarify if section 92 [pg 47, lines 16-21] will allow for on-site
16 consumption of smoke cannabis or manufactured cannabis products delivered by an electronic
17 smoking device. There is substantial evidence that cannabis smoke contains many of the same
18 cancer-causing chemicals as tobacco smoke.^{1,2,3,4,5} The department's strong position against

1 smoking aims to protect users as well as prevent exposure to bystanders, including the
2 employees of retail locations.

3 Although S.B. 375 provides for a strong regulatory structure and education of the industry and
4 the public, the department remains highly concerned about increased health impacts arising from
5 the increased accessibility of cannabis that legalized adult use will bring.

6 While the proposed legalized adult use will be restricted to those aged 21 and older, the human
7 brain continues to develop into the mid-20s and remains vulnerable to the effects of addictive
8 substances.^{6,7} According to the 2021 Monitoring the Future Panel Study Annual Report, in 2021
9 cannabis use in the past 12 months and past 30 days among young adults aged 19-30 reached the
10 highest levels ever recorded since 1988.⁸ Protecting young adults who are legally allowed to use
11 cannabis but still very vulnerable to its detrimental effects will be challenging.

12 Also, although the use of child-resistant packaging reduces unintentional pediatric poisonings
13 from a wide range of products,^{9,10,11} these still rely on the user to properly employ and maintain
14 the packaging. A recent retrospective analysis of National Poison Data System data for pediatric
15 exposures to edible cannabis products in children younger than age 6 years found an increase of
16 1375% from 2017-2021 with a significant increase in both ICU and non-ICU admissions.¹²
17 There is substantial evidence that more unintentional exposures for children occur in states with
18 increased legal access to cannabis and these exposures can lead to significant clinical effects
19 requiring medical attention.^{13,14,15,16,17,18,19,20,21,22}

20 Mental health, substance use, and youth suicide have been identified as high priorities this
21 legislative session. There is substantial evidence that adolescents and young adults who use
22 cannabis daily or near-daily are more likely than non-users to develop future psychotic disorders
23 such as schizophrenia and for daily or near-daily adult users to be diagnosed with a psychotic
24 disorder such as schizophrenia.^{23,24,25,26,27,28,29,30,31,32,33,34} There is also substantial evidence that
25 adolescent and young adult cannabis users are more likely than non-users to increase their use
26 and to develop cannabis use disorder and that increases in cannabis use frequency is generally
27 associated with progression to developing cannabis use disorder.^{35,36,37,38,39,40,41,42,43}

1 Additionally, there is moderate evidence that adolescents and young adults who use cannabis are
2 more likely than non-users to have suicidal thoughts or attempt suicide, and have an increased
3 incidence of suicide completion.^{44,45,46,47,48,49,50,51,52,53,54,55,56,57,58,59,60}

4 Fetus and newborn exposure to cannabis is also a growing concern. National estimates show that
5 between 3-7% of pregnant women report using cannabis while pregnant.^{61,62} Biological evidence
6 shows that tetrahydrocannabinol (THC), the primary intoxicating compound in cannabis is
7 passed through the placenta of women who use cannabis during pregnancy and that the fetus
8 absorbs and metabolizes the THC.^{63,64,65,66,67} Despite this, cannabis use among pregnant women
9 has continued to increase amidst the perceived lack of risk from the increasing acceptance and
10 accessibility of cannabis.^{68,69,70,71,72,73,74,75,76,77} Biological evidence also shows that THC is
11 present in the breast milk of women who use cannabis and that infants who drink breast milk
12 containing THC absorb and metabolize the THC.^{78,79,80,81,82} There is substantial evidence of
13 association between maternal cannabis smoking and lower birth weight of offspring^{83,84} and
14 moderate evidence that maternal use of cannabis during pregnancy is associated with decreased
15 academic ability, attention problems, reduced cognitive function, and decreased IQ scores in
16 exposed offspring.^{85,86,87,88,89,90,91,92,93,94,95,96,97,98}

17 Thank you for the opportunity to testify.

18 **Offered Amendments:**

19 The department respectfully requests the following clarifying amendment:

- 20 • Page 56, lines 11-13, amend the language to read: “§A-113 Limitation of smoking,
21 ingesting, possession, and manufacture of cannabis. Section A-92 and A-111 shall not
22 permit a person to:”

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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 375, Relating to Cannabis

BEFORE THE:

Senate Committee on Health and Human Services and Senate Committee on Commerce & Consumer Protection

DATE: Wednesday, February 15, 2023

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 229

Chairs San Buenaventura and Keohokalole, Vice-Chairs Aquino and Fukunaga, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding S.B. 375 for your consideration.

S.B. 375 adds new chapters to the Hawaii Revised Statutes (HRS), legalizing, regulating, and taxing cannabis and manufactured cannabis products for responsible, adult-use. The bill also clarifies that qualifying out-of-state patients have the same rights and privileges as in-state patients under the medical cannabis law.

Part II of the bill creates a new chapter A, HRS, entitled "Hawaii Responsible, Adult-Use Cannabis Law," establishing the Hawaii Cannabis Authority ("Authority"), which will provide regulations and oversight of the newly-legalized cannabis industry and the duties associated with entity licensing and enforcement.

Part IV of the bill, beginning on page 94, creates a new chapter B, HRS, entitled "Responsible, Adult-Use Cannabis Tax Law." Under section B-2 of the Responsible, Adult-Use Cannabis Tax Law, responsible, adult-use retailers will be issued a permit by the Department once the Hawaii Cannabis Authority licenses the retailer to sell cannabis or manufacture cannabis products and application has been made along with payment of the unspecified permit fee. Section B-4 imposes a tax on the gross proceeds of sale of cannabis and manufactured cannabis products for responsible, adult-use at the rate of 5

percent on January 1, 2024, 10 percent on January 1, 2026, and 15 percent on January 1, 2028, and thereafter. Pursuant to section B-5, the tax shall be due on or before the twentieth day of each month, facilitated by the filing of a return showing all sales of cannabis by dollar volume and taxed during the preceding month. All provisions applicable to the administration of a tax have been included in the language for the new chapter. All monies collected pursuant to this chapter shall be paid into the state treasury as state realizations.

Section 30 of the bill, beginning on page 107, amends section 235-2.4, HRS, to exclude the cultivation, distribution, manufacture, and sale of cannabis and manufactured cannabis products for responsible, adult use by persons licensed under chapter A, HRS, from conformity with section 280E of the Internal Revenue Code (IRC). IRC section 280E disallows deductions and credits for amounts paid or incurred in a trade or business consisting of trafficking in controlled substances prohibited by federal or state law.

Section 31 of the bill, on page 113, exempts from the general excise tax (1) amounts received for the sale of cannabis and manufactured cannabis products for medical use and (2) taxes on cannabis and manufactured cannabis products imposed by chapter B on responsible, adult-use cannabis retail locations.

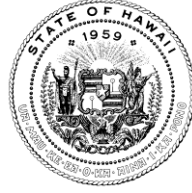
The bill shall take effect on July 1, 2023.

First, the Department notes that the permit fee (on page 95, line 17), the renewal fee (on page 96, line 8), and the fee for printing duplicate permits (on page 96, line 11), are currently unspecified. The Department requests that the fees be amended to \$25 each for permitting and renewal and \$5 for printing duplicate permits to cover the administrative costs of processing these applications.

Second, the Department suggests amending section 237-24(19), HRS, on page 113 to clarify that the general excise tax exemption applies to "[t]axes on cannabis and manufactured cannabis products imposed by chapter B ~~[on]~~ and passed on and collected by responsible, adult-use cannabis retail locations holding permits under that chapter."

Finally, the Department notes that implementation of an initiative of this size will require resources and ample time to define the requirements, forms, and processes. Accordingly, the Department requests that the effective date of the tax rate provisions be amended to begin January 1, 2025, and adjusted appropriately for each rate thereafter.

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



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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Health and Human Services and
Commerce and Consumer Protection
Wednesday, February 15, 2023
9:30 a.m.
Conference Room 229

On the following measure:
S.B. 375, RELATING TO CANNABIS

Chairs San Buenaventura and Keohokalole and Members of the Committee:

My name is Iris Ikeda, and I am the Commissioner of Financial Institutions, Department of Commerce and Consumer Affairs (Department), Division of Financial Institutions (DFI). The Department is providing comments on this bill.

The purpose of this bill is to establish regulations for the cultivation, sale, and personal use of small amounts of cannabis. Decriminalizes and regulates small amounts of cannabis for personal use. Establishes taxes for cannabis sales. The Department defers to the Department of Health as it has oversight over the cannabis industry.

The Department does not take a position on whether cannabis should be allowed for adult use, but is providing comments on access to banking products and services for businesses and consumers should Hawaii move toward legalized adult-use of cannabis.

Since the medical cannabis law was enacted in 2016, we have been in discussion with banks and credit unions about how to offer banking services to cannabis related businesses. In 2016, banks were closing or threatening to close accounts for related service providers. We worked with banks individually to request they monitor consumer accounts for federal illegal activity. To mitigate some of the inflow of cash, Governor Ige offered a suggested mobile phone app for safe use by consumers and medical cannabis companies. This phone app is still used by some consumers.

For DFI, the services provided for the medical cannabis business is just ONE of the many business clients, banks have allowed the continued banking relationship to these service providers. Today, banking services are available for related cannabis service providers like accountants, construction, plumbers, electricians, lawyers, etc. There is no banking services available for the medical dispensaries. All of the medical dispensaries have banking services provided by an out-of-state financial institution.

The reason banks in Hawaii have not provided banking services is because several federal laws prohibit banks from engaging in activity with businesses deemed illegal by federal banking laws such as the Bank Secrecy Act / Anti Money Laundering Act, and the Controlled Substances Act. In the banking industry the laws using the federal payment system for illegal activity, prohibits banking services for illegal activity and provides for personal liability and incarceration.

Although we were able to work with other states to have a federal budget bill proviso that does not allow federal money to be allocated to prevent any state from implementing its own medical marijuana law, this proviso must be included with every federal budget act. It's impermanency does not provide banks the needed reliance to provide banking services.

Other alternatives have been explored. A State bank charter was explored; however, it is difficult to get a state bank charter for two main reasons. First, Hawaii laws require FDIC insurance before a bank can get chartered. Second, the bank also needs a master account / certificate to use the federal payment system for debit cards, ACH, and deposits into an account. Two companies have applied to get a bank charter for cannabis related businesses, but no financial institution has been granted a master

account by the federal reserve and the FDIC has not granted insurance to the companies.

The digital currency option was explored to facilitate payments. A couple of states allow digital currency payments for cannabis. However, digital currency's inherent volatility and high transaction costs make it a poor substitute for cash. Converting the digital currency units to fiat may expose the cannabis business to capital-gains tax or lose value when it comes time to "cash in" to pay rent or other expenses. As we have recently seen, digital currency companies have shut down suddenly.

In conclusion, without banking services in Hawaii for cannabis companies, the use of cash will be more prolific. Banking services are available for service providers and consumers. Banks and financial institutions are waiting for action by Congress to allow banking services for cannabis related businesses.

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

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on
Health and Human Services and Senate Committee on
Commerce and Consumer Protection**

February 15, 2023

S.B. No. 375: RELATING TO CANNABIS

Chair San Buenaventura, Chair Keohokalole, Vice Chair Aquino, Vice Chair Fukunaga, and Members of the Committees:

The Office of the Public Defender supports S.B. No. 375, which will legalize, regulate, and tax cannabis and manufactured cannabis products for responsible, adult use. The measure will also authorize the expungement of records relating to the arrest, criminal charge, or conviction of a person for marijuana offenses.

The legalization of cannabis and manufactured cannabis products will not create or normalize the commercial marijuana market. Nor will legalization drive consumer demand. *The marijuana market already exists.* This market, however, remains underground, and those involved in it largely remains unaccountable. Unregulated sellers do not pay taxes; they do not check identification to ensure that buyers are 21 years old or older; and they do not test the purity of their product. Moreover, any disputes that arise in the illicit marketplace are not adjudicated in the courts of law.

By contrast, legalization and regulation will allow the State of Hawai‘i to establish legal parameters regarding where, when, and how the cannabis market may operate, similar to the rules and regulations established in the medical marijuana industry. Authorities will actually know who is selling marijuana, where it is being sold, when, and to whom. Cannabis will be produced and sold by legitimate, taxpaying businesses instead of drug cartels and criminals. These businesses will be required to test their products and adhere to strict labeling and packaging requirements that ensure cannabis is identifiable and consumers know what they are getting.

Legalizing and regulating cannabis will disrupt the illegal marijuana market, end low-level marijuana citations and arrests, and create jobs and new revenue. It will further promote public health and safety by taking the marijuana trade away from unregulated operators and placing it in the hands of licensed businesses.

Recent data provided by the U.S. Centers for Disease Control and Prevention reports a decrease¹ in lifetime marijuana use by young people over the better part of the past decade. Scientists believe that cannabis regulation is partly responsible for spurring this decline. Specifically, a 2019 study² published in JAMA (Journal of American Medical Association) Pediatrics concluded: “[M]arijuana use among youth may actually decline after legalization for recreational purposes. This latter result is consistent ... with the argument that it is more difficult for teenagers to obtain marijuana as drug dealers are replaced by licensed dispensaries that require proof of age.”

To be clear, the OPD does not support this bill out of a belief that marijuana is harmless. In fact, it is precisely because cannabis is not altogether harmless that reform advocates opine that it should be legalized and regulated accordingly -- with restrictions on who can purchase and consume it, when and where they can do so, and at what age.

Ultimately, the establishment of a regulatory framework allowing for the legal, licensed commercial production and retail sale of cannabis and manufactured cannabis products to adults best reduces the risks associated with the marijuana’s use or abuse and acknowledges the reality that consumers’ demand for marijuana is here to stay. By contrast, advocating for marijuana’s continued criminalization denies this reality and compounds the public safety risks posed by the unregulated market.

Thank you for the opportunity to comment on this measure.

¹ See CDC, “Prescription Opioid Misuse and Use of Alcohol and Other Substances Among High School Students – Youth Risk Behavior Survey, United States, 2019,” August 21, 2020, <https://www.cdc.gov/mmwr/volumes/69/su/su6901a5.htm> (last visited, January 13, 2023).

² See JAMA, “Association of Marijuana Laws with Teen Marijuana Use,” July 8, 2019, https://jamanetwork.com/journals/jamapediatrics/fullarticle/2737637?guestAccessKey=5e4e41eb-ec96-4641-86f9-b5c89cc7cc48&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tf1, (last visited, January 13, 2023).



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:
S.B. NO. 375, RELATING TO CANNABIS.

BEFORE THE:
SENATE COMMITTEES ON HEALTH AND HUMAN SERVICES AND ON
COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 15, 2023 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Andrew Goff, Deputy Attorney General

Chairs San Buenaventura and Keohokalole and Members of the Committees:

The Department of the Attorney General (the Department) opposes this bill.

The purpose of this bill is to legalize responsible, adult-use cannabis, and establish regulations regarding the cultivation, sale, use, and taxation of cannabis. The Department has serious law enforcement concerns regarding preventing unlicensed activity, and notes that the bill has several provisions that could present confusion on what is intended to be permitted.

Further Preparation Is Needed to Develop Adequate Regulations

This bill creates a new regulatory body called the Hawaii Cannabis Authority (HCA) to oversee the regulation and licensing of cannabis in the State (page 12, lines 7-10). The HCA appears to be an oversight board attached administratively to the Department of Health whose membership is devoid of any individuals with regulatory or enforcement experience. See page 12, line 14, through page 13, line 20. Additionally, the HCA does not appear to have any of its own personnel, including any criminal law enforcement personnel. While the HCA has the authority to investigate and conduct administrative hearings for violations of the statute, unlicensed activity is a criminal misdemeanor and will likely require law enforcement officers to enforce (page 61, lines 14-15). Although most cannabis consumers and producers are law abiding, the HCA must be authorized and equipped to deal with those who are not.

Challenges with unlicensed medical cannabis operators in Hawaii illustrate that regulating licensed entities without enforcing unauthorized actions is not enough to ensure a well-regulated program. While the Act 169, Session Laws of Hawaii 2021, Dual Use of Cannabis Task Force submitted a report to the Legislature in December 2022, the report did not address the potential costs of adequately regulating an adult use market. The report focused on impacts to medical cannabis patients and did not identify or study issues relating to community safety, protection of minors, and enforcing laws against unlicensed cannabis operators. Therefore, the Department respectfully requests that this bill be deferred to allow for further discussion of these issues.

Should this Committee be inclined to recommend passage of this legislation, the Department notes the following additional concerns.

Distributing Cannabis to a Minor Should Remain a Criminal Offense

The penalty for distributing cannabis to a person under twenty-one years of age (a minor) is limited to a civil infraction fine ranging from \$500 to \$2,000 (page 71, line 10, to page 73, line 21). This amount is inadequate to protect minors. This conduct should remain a criminal offense. The bill would also eliminate the criminal offense of distributing cannabis or cannabis products to a minor by deleting the terms "marijuana" and "marijuana concentrate" from section 712-1244(1)(e), Hawaii Revised Statutes (HRS), Promoting a Harmful Drug in the First Degree (page 83, lines 1-18). In order to adequately protect minors, we recommend that the distribution of cannabis to a minor be considered Promoting a Harmful Drug in the First Degree, and the terms "marijuana" and "marijuana concentrate" be kept in section 712-1244(1)(e).

Wording Regarding Cannabis Possession and Use May Cause Confusion

The wording that allows for the lawful possession and use of cannabis by persons twenty-one years of age or older could present confusion regarding what is legal and conflict with other laws. The bill's proposed section A-111 is entitled "[p]ossession of cannabis by persons twenty-one years of age or older" (page 53, lines 20-21). Section A-111(a) on page 53, line 21, through page 54, line 14, provides that it "shall be lawful" for a person twenty-one or older to possess cannabis and cannabis

products "in excess of a limit as established by the authority by rule pursuant to chapter 91." If the intent is to allow the HCA to establish a limitation on the amount of cannabis or cannabis products that may be possessed by an individual, we recommend amending the respective sections to read "not in excess of a limit as established by the authority by rule pursuant to chapter 91."

Additionally, the bill does not exempt or deschedule cannabis from the State Controlled Substances Act (CSA). While section A-111 states "it shall be lawful" to possess cannabis, possession would still be a violation of the CSA. We recommend amending page 53, line 21, through page 54, line 2, to state: "notwithstanding any other law to the contrary, and except as limited by this part, it shall be lawful for persons twenty—one years of age or older, without a prescription, to:"

Finally, we note that section A-111 is entitled "[p]ossession of cannabis by persons twenty-one years of age or older" but also authorizes an individual of age to smoke or ingest cannabis or cannabis products (page 54, lines 18-19). For clarity, we recommend the title of section A-111 be amended to "[p]ossession and use of cannabis by persons twenty-one years of age or older".

Expungement of Criminal Records Will Require Time and Resources

The bill adds a new section to chapter 706, HRS, to establish a criminal record expungement program to be run by the Department. See page 66, line 13, through page 71, line 6. The program would require the Attorney General, by January 1, 2026, to "order the automatic expungement of the records relating to the arrest, criminal charge, or conviction, as appropriate" (page 67, lines 11-13). The term "automatic" is misleading and can be construed that the expungement process takes a minimal amount of time to complete. The current expungement process is not automated, but a manual process that can take anywhere from two hours to multiple days for staff to research one expungement application to determine if a complete expungement or a partial expungement is granted. Creating a computerized process is estimated to require at least two years and a minimum of one-thousand hours to develop to complete.

We recommend that the expungement process not be changed or altered, requiring the individuals who qualify under this proposed bill to apply for an expungement, either to the Department of the Attorney General or courts, in order to seal the expungement record.

Furthermore, records of convictions are necessary for law enforcement, prosecutors, and judges to evaluate the past behavior of defendants and to predict the future behavior of defendants when evaluating charging decisions, setting bail amounts and conditions of bail, and fashioning appropriate sentences for defendants. Having convictions automatically expunged from a defendant's criminal record would hamper law enforcement and the judiciary's ability to address criminal suspects and defendants and could jeopardize public safety.

Confidentiality of Records Unclear

We note that the bill states "[t]he authority granted to the director of health and Hawaii cannabis authority under this section shall not conflict with section 231-18 and shall not extend to the inspection of any documents not directly related to this chapter" (page 103, lines 7-10). It is unclear what the words "shall not conflict with section 231-18" are intended to do. If the intent is to preserve the confidentiality of tax records while permitting the agency limited access to a person's tax returns, we recommend amending the wording on page 103, lines 7-10, as follows:

The director of health and the Hawaii cannabis authority shall have the authority granted to a duly accredited tax official of the State pursuant to section 231-18 to inspect the tax returns of any taxpayer for the limited purposes set forth in this section, provided that this authority shall not extend to the inspection of any documents not directly related to this chapter.

Similarly, proposed section B-13, on page 104, lines 3-16, entitled "[o]ther provisions applicable," provides for the application of chapters 235 and 237, HRS, to this new section as long as not inconsistent with this new chapter, "except that returns, return information, or reports under this chapter and relating only to this chapter may be made known to the director of health and Hawaii cannabis authority by the department of taxation, if not in conflict with section 231-18" (page 104, lines 12-16). As noted

above, it is not clear what the words "if not in conflict with section 231-18" are intended to do. If the words on page 103, lines 7-10, are amended as requested above, the Director of Health and the HCA would be permitted to inspect any tax returns, including returns required to be filed pursuant to chapters 235 and 237, provided the inspection of the returns were limited to the purposes set forth in the bill. This would render the inclusion of a reference to section 231-18, HRS, on page 104, lines 12-16, unnecessary. Accordingly, to avoid confusion, the Department recommends that the wording on page 104, lines 12-16, starting with "except that returns, return information, or reports . . ." be deleted.

Possible Conflict with Tax Procedures

Section 231-7, HRS, currently provides procedures for the Director of Taxation to conduct audits, investigations, and hearings, and issue subpoenas, which may conflict with the proposed section B-14, on page 104, line 17, through page 106, line 13, of the bill. For clarity and consistency, the Department recommends amending section B-14 to track the current wording in section 231-7, HRS. Alternatively, the Committee may wish to amend section B-14 to read as follows:

§B-14 Investigations; contempt; fees. The director of taxation, and any representative of the director duly authorized by the director, has the authority to conduct any civil audit or criminal investigation, investigation, or hearing relating to the taxes in this section in the manner provided in section 231-7.

The Department is available to assist with drafting wording that would address the comments and recommendations offered in our testimony.

The Department opposes the passage of this bill for the law enforcement concerns stated above and respectfully requests that this bill be held.

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**THE HONORABLE JOY SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

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

**Thirty-Second State Legislature
Regular Session of 2023
State of Hawai`i**

February 15, 2023

RE: S.B. 375; RELATING TO CANNABIS.

Chair San Buenaventura, Chair Keohokalole, Vice-Chair Aquino, Vice-Chair Fukunaga, members of the Senate Committee on Health and Human Services, and members of the Senate Committee on Commerce and Consumer Protection, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **strong opposition** to S.B. 375.

The purpose of S.B. 375 is to legalize the use of cannabis for adults, to create a new revenue source for the State. While this bill makes a good effort at providing a more comprehensive plan than some other measures, the Department firmly believes that S.B. 375 does not provide sufficient preparation for—nor sufficient data collection provisions to gauge—the public health, public safety, and societal impacts of cannabis legalization. Rather than following the recommendations of the Legislature’s own Dual Use Cannabis Task Force (established by Act 169 (2021))—whose report was just issued in December 2022—S.B. 375 would seek to rush-in to legalization without even attempting to establish any of the report’s task force or working group recommendations, thereby foregoing all of the difficult and labor-intensive multi-disciplinary discussions, groundwork, and further proposed legislation that is presumably needed to formulate a safe path towards legalization.

“Given the *broad scope and complexity* of potential considerations and the *critical role of social equity* in the legalization of cannabis,”¹ the Dual Use Legal Cannabis Task Force

¹ See Dual Use Cannabis Task Force’s “Report of the Dual Use Cannabis Task Force to the Thirty-Fourth Legislature (“Report”), bottom of pg. 15. Emphasis added. Available online at <https://health.hawaii.gov/opppd/files/2022/12/Act-169-SLH-2022-Dual-Use-of-Cannabis-Task-Force-FINAL-REPORT.pdf> or https://www.capitol.hawaii.gov/sessions/session2023/bills/DC192_.pdf. Last accessed February 14, 2023.

unanimously recommended further study on a number of matters, rather than immediately adopting any recommendations immediately, stating that:

Without integrated social equity policies, the experience of other states, as well as a variety of scholarly research sources, have shown that these inequities only increase in emerging cannabis industries.

* * *

In lieu of approving specific recommendations made by the Social Equity Working Group, the Dual Use Task Force requests legislators convene a new properly resourced Working Group to research Social Equity while considering a legal adult-use cannabis industry.

Per the Report, the Legalized Cannabis Social Equity Task Force is needed to provide recommendations on...

the level of legalization; resentencing and record clearance; remediation; funding the identification and processing of applicable records; removal of law enforcement oversight...civil asset forfeiture equity...equity in employment; custody; housing; insurance; real estate; banking; professional services; and community reinvestment...[as well as] social equity licensing; state support for social equity license applications; transition period; social equity license product sales during the transition; state support for social equity licensee businesses; affirmative action type protections; and qualifying for social equity designation.²

Clearly, there are a large number of issues that still need to be worked through, if the Legislature wishes to guide Hawaii wisely—rather than rashly—towards the legalization of cannabis.

To the extent that some of these policy matters are aimed at not wanting “big marijuana” to dictate the agenda nor the landscape for this potential future industry in Hawaii, the Department shares that concern. Having seen the level of influence that “big tobacco” had on America for so many generations—to the extent that, at times, actual science has been drowned out by the tune of commercial profits—the Department is deeply concerned that other states (that have legalized cannabis) are reportedly seeing a steady consolidation of ownership, despite any incentives or safeguards put in place to support small and/or disenfranchised business owners.

With regards to emerging science, the Department is **very concerned that potency levels are not addressed** in this bill, whether in terms of limits, regulations, oversight, or data collection. For public health and safety purposes, potency is emerging as a primary concern in other states (that have legalized cannabis), and it is our understanding that commercially-produced items are now reaching historically high levels of Delta-9 THC. As published in the Journal of the Missouri State Medical Association, and featured on the National Institute for Health website:

The primary problem with the current available cannabis in dispensaries in Colorado is that the THC content is not like it used to be. Prior to the 1990s it was less than 2%. In the 1990s it grew to 4%, and between 1995 and 2015 there has been a 212% increase in THC content in the marijuana flower. In 2017 the most popular strains found in dispensaries in Colorado had a range of THC content from 17–28% such as found in the popular strain named “Girl Scout Cookie.

* * *

The flower or leaves that are generally smoked or vaped are only one formulation. We now have concentrated THC products such as oil, shatter, dab, and edibles that have been able to get the THC concentration upwards of 95%.³

² *Id.*, at pg. 32

³ Missouri Medicine: The Journal of the Missouri State Medical Association, “The Problem with the Current High Potency THC Marijuana from the Perspective of an Addiction Psychiatrist,” *Mo Med.* 2018 Nov-Dec; 115(6): 482–486. Available online at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6312155/>. Last accessed February 14, 2023.

By removing “marijuana concentrates” from the definition of “harmful drug,” (*see* pg. 82, lns. 13-15), and removing marijuana concentrates from the offense of Promoting a harmful drug in every degree (*see* pgs. 82-84), this bill would essentially encourage the production and sale of the highest possible concentrations, which is a significant risk to public health and safety. This also ties-in to the Department’s **concerns about cannabis infused edible products**, particularly given the dramatic increase in exposure to children—see the Report’s reference to “pediatric poisoning”⁴—and potential effects on the future health and development of children.⁵

From 2017 to 2021, reported cannabis exposure to children rose from 207 to 3054, which represents a 1375% increase within 5 years.⁶ More generally, among all emergency room visits attributed to specific drugs in 2021, cannabis was the fourth most commonly cited drug, seen only 0.10% less frequently than methamphetamine use.⁷ Interestingly, cannabis accounted for more emergency room visits than heroin and fentanyl combined.⁸ For this and many other reasons, the American Medical Association expressly “continues to oppose legalization of cannabis. Legalization of cannabis *for adult use* is associated with increased traffic fatalities, exposures reported to poison control (*including infants and children*), emergency department visits, and cannabis-related hospitalizations.”⁹

Given the notable health risks associated with using cannabis at a young age, and the limited time that our Family Courts have to get troubled youth back on-track, the Department believes it would be a great disservice to those youth, not to take every opportunity to provide (community-based) treatment and counseling that could steer them away from this dangerous behavior. Yet the way S.B. 37 legalizes the possession or sale of “personal use” amounts of cannabis would severely limit our Family Courts’ ability to require that juvenile offenders attend treatment, as they would no longer qualify as “law violators.” (*See* HRS § 571-11(1) and 571-2, where the definition of “status offender” contains more information about “law violators.”)

Another area of great concern is the correlation between the legalization of adult-use cannabis and a **4.8% increase in traffic fatalities, and 5.8% increase in traffic injuries**. Reportedly, marijuana use by a driver increases the odds of being in a traffic collision by 32%.¹⁰

Given the many ways in which the legalization of cannabis would have both direct and indirect effects on public safety and welfare, the Department strongly recommends that any future task forces—particularly those aimed at social equity and other legal reforms—**include**

⁴ *See* the Report at pg. 31; available online at <https://health.hawaii.gov/opppd/files/2022/12/Act-169-SLH-2022-Dual-Use-of-Cannabis-Task-Force-FINAL-REPORT.pdf>. Last accessed February 14, 2023.

⁵ Pursuant to the National Poison Data System, managed by the American Association of Poison Control Centers in America. Available online at: https://www.thenmi.org/wp-content/uploads/2023/01/peds_MJ-Edible-Exposure_17_21_NDPS.pdf. Also *see* https://www.thenmi.org/wp-content/uploads/2022/07/052722_cannabis-use-characteristics-and-psychopathology.pdf (regarding early age of cannabis use and adverse mental health issues); and <https://www.thenmi.org/marijuana-youth-the-developing-brain-a-new-study-of-risks/> (regarding permanent brain damage caused by marijuana use during one’s teen years). Last accessed February 14, 2023.

⁶ *Id.*

⁷ Substance Abuse and Mental Health Services Association, “Findings from Drug-Related Emergency Department Visits, 2021,” pg. 12. Emphasis added. Available online at: <https://www.thenmi.org/wp-content/uploads/2023/01/DAWN-2021-Report.pdf>. Last accessed February 14, 2023.

⁸ *Id.*

⁹ American Medical Association Press Releases: “Expunge records of people convicted of now-legal cannabis charges” (June 14, 2022). Available online at: <https://www.ama-assn.org/press-center/press-releases/ama-expunge-records-people-convicted-now-legal-cannabis-charges>. Last accessed February 14, 2023.

¹⁰ *See* https://www.thenmi.org/wp-content/uploads/2023/02/Changes-in-Traffic-Crash-Rates-After-Legalization_JSAD_July-2022.pdf

representatives from the Judiciary, the Department of the Attorney General, and the various criminal justice and corrections agencies (e.g. probation, parole, Public Defender, county prosecuting attorneys, police). By involving people from these various fields, who understand the way things work now, the laws behind the system, and the way things could most effectively be changed, that will provide the best-informed outcomes.

In 2019, the Legislature did create the Marijuana Evaluation Task Force (Act 273), with a goal of examining other states' laws, penalties, and outcomes pertaining to cannabis use, in order to make recommendations on amending cannabis use penalties and outcomes in Hawaii. That task force was comprised of numerous stakeholders, including but not limited to the Department of the Attorney General, a Prosecuting Attorney selected by the co-chairs of the task force, and the Public Defender's Office. Due to the intervening COVID pandemic, that task force was not able to complete its report in 2020, and thereafter, requested more time in 2021 (S.B. 1010) to issue its report. To date, it does not appear that any report was ever issued, yet these recommendations would be critical to any well-reasoned transition to legalizing cannabis in Hawaii. As such, the Department **strongly recommends awaiting and/or prompting the task force's final report and recommendations on these matters.**

As a final note, the Department is concerned that SB. 375 would give primary responsibility for and oversight of the cannabis legalization process to the Hawaii State Department of Health. In 2022, the Hawaii Cannabis Industry Association enlisted the help of well-known economist Paul Brewbaker, to produce a report regarding "Hawaii's emergency medical cannabis industry: policy, performance, and economic impacts."¹¹ As stated in the report, Hawaii's existing, licensed medical dispensaries only control about 31% of the registered patient market share, meaning that 69% of authorized cannabis patients are obtaining their cannabis from other, unregulated sources (e.g. black market or homegrown). If one of the goals of legalizing cannabis is for the state to profit from tax revenues collected from the sale of cannabis, it seems highly unlikely that future cannabis users would be inclined to purchase their cannabis from established and regulated sources, when they can still obtain cannabis more cheaply or more easily from other sources, or potentially even grow their own. To date, there is no indication that the Department of Health has been able to identify or control the existing black market cannabis industry, and no reason to think this would change under the provisions of S.B. 375. Notably, in other states that have legalized cannabis, legalization actually prompted the *growth* of the black market cannabis industry, rather than reducing it.¹²

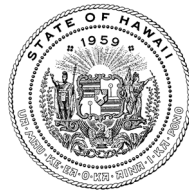
Before any changes are made to legalize the use of cannabis in Hawaii, the Department believes a concerted, multi-disciplinary effort is needed, to develop a comprehensive system that orchestrates recommendations from all of the proposed tasks forces and working groups. Given the strong potential for widespread abuse and negative effects on the community, the Department also maintains that a properly-funded foundation for social services is needed to ensure appropriate safeguards. S.B. 375 provides neither a comprehensive system nor safeguards.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **strongly opposes** S.B. 375. Thank you for the opportunity to testify on this matter.

¹¹ Available online at: [https://irp.cdn-website.com/774e86c9/files/uploaded/HICIA%20Analysis%20of%202022%20Industry%20Report\(FINAL\).pdf](https://irp.cdn-website.com/774e86c9/files/uploaded/HICIA%20Analysis%20of%202022%20Industry%20Report(FINAL).pdf). Last accessed February 14, 2023.

¹² Detrano, Joseph, "Cannabis Black Market Thrives Despite Legalization," Rutgers Center of Alcohol & Substance Use Studies. Available online at: <https://alcoholstudies.rutgers.edu/cannabis-black-market-thrives-despite-legalization/>. Last accessed February 14, 2023.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
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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 HEALTH AND HUMAN SERVICES AND
COMMERCE AND CONSUMER PROTECTION
ON
SENATE BILL NO. 375

February 15, 2023
9:30 a.m.
Room 229 and Videoconference

RELATING TO CANNABIS

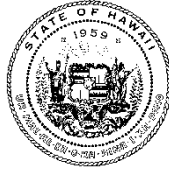
The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 375: 1) establishes the Hawai'i Cannabis Authority (HCA) within the Department of Health (DOH) for administrative purposes only; 2) establishes the HCA Special Fund; 3) requires adult-use cannabis cultivators, distributors, manufacturers, and retailers be licensed and specifies the requirements for license holders of each class; 4) requires HCA and DOH to establish grant and loan programs to provide financial assistance, loans, grants, and technical assistance to social equity applicants; 5) specifies the lawful and prohibited uses of cannabis without a prescription for individuals 21 years of age or older; 6) appropriates an unspecified amount of general funds for FY 24 and FY 25 to be deposited into the HCA Special Fund; 7) appropriates an unspecified amount out of the HCA Special Fund for FY 24 and FY 25; 8) clarifies the legality of adult-use cannabis with the Uniform Controlled Substances Act and the Hawai'i Penal Code; 9) imposes an additional tax on the sale of cannabis and manufactured cannabis products for adult use and exempts sales of

cannabis and manufactured cannabis products from the general excise tax; and
10) specifies that for the medical use of cannabis, qualifying out-of-state patients have the same rights and privileges as qualifying patients.

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. 375, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.



STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEES
ON
HEALTH AND HUMAN SERVICES
AND
COMMERCE AND CONSUMER PROTECTION
February 15, 2023, 9:30 am

SENATE BILL 375
RELATING TO CANNABIS

Chair Buenaventura, Chair Keohokalole, Vice Chair Aquino, Vice Chair Fukunaga, and members of the committees, thank you for the opportunity to submit testimony on Senate Bill 375. The State Procurement Office (SPO) opposes the exemption language on page 32, Part IV Licensee Operations and Testing, lines 1-3 set forth below.

“(2) The procurement of the computer software tracking system established pursuant to this subsection shall be exempt from chapter 103D; provided that:”

The SPO testifies that the computer software tracking system for this program should be competitively procured.

Exemptions to the procurement code have always been a concern of the SPO. As stated in the National Association of State Procurement Officials (NASPO) white paper on “Ethics and Accountability,” “Maintaining the integrity of public procurement is one of the most important pillars of government.”

The bill does not cite a justification why the computer software tracking system needs to be exempt from Hawaii Revised Statutes (HRS) chapter 103D, “Hawaii Public Procurement Code” (Code). The SPO recommends that the bill including compelling reasons for this exemption, otherwise, the agency should adhere to the Code.

Chapter 103D, Hawaii Revised Statutes, Hawaii Public Procurement Code (Code), is the State's single source of public procurement policy to be applied equally and uniformly, while providing

fairness, open competition, a level playing field, government disclosure, and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both Chapter 103D and 103F, HRS, conveys a sense of disproportionate equality in the law's application.

Exemptions to the Code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the code. It means that there is no requirement for due diligence, proper planning, or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials states that "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies are removed from the Hawaii Public Procurement Code, it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

The agency should either competitively solicit or considering using SPO contracts such as the SPO Vendor List 17-18 NASPO ValuePoint Cloud Solutions (offers PaaS, SaaS and IaaS solutions) and SPO Price List 23-08 NASPO ValuePoint Software Value-Added Resellers, which are posted on the SPO's website at <https://spo.hawaii.gov/for-vendors/contract-awards/price-vendor-lists/>.

Senate Bill 375
Committee on Health and Human Services
Committee on Commerce and Consumer Protection
February 15, 2023
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Thank you.



TESTIMONY BY:
EDWIN H. SNIFFEN
DIRECTOR

Deputy Directors
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO
JAMES KUNANE TOKIOKA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

LATE

February 15, 2023
9:30 A.M.
State Capitol, Teleconference

S.B. 375
RELATING TO CANNABIS

Senate Committees on Health and Human Services
and Commerce and Consumer Protection

The Department of Transportation (DOT) offers **comments** on S.B. 375, which legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use. This measure also exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax; clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law; and allows qualifying out-of-state patients to cultivate medical cannabis.

DOT's top priority is keeping Hawaii's roadway users safe and reducing the number of serious injuries and fatalities on our roads. We have concerns regarding the legalization of marijuana for personal use as it could result in increases in impaired driving-related injuries and fatalities on our roadways.

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 tetrahydrocannabinol (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.

In passing any legislation to legalize marijuana, Hawaii should closely observe the impacts decriminalization and legalization has had in other states. “According to an October 2018 report from the Insurance Institute for Highway Safety (IIHS), an examination of police-reported crashes of all severities showed that “the legalization of retail sales in Colorado, Washington and Oregon was associated with a 5.2% higher rate of police-reported crashes compared with neighboring states that did not legalize retail sales.” Furthermore, the Colorado Department of Transportation and the National Highway Traffic Safety Administration reported that the rate of traffic fatalities involving drivers who tested positive for marijuana in Colorado rose from 55 in 2013 to 138 people killed in 2017, and over one-fifth of all traffic fatalities in 2017 included a driver testing positive for marijuana.

The following recommendations could mitigate impacts to traffic safety:

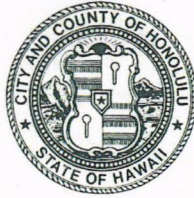
- An approximate \$4.5 million should be allocated towards resources and services to ensure public safety, including enforcement; DRE-related trainings for law enforcement; maintenance of an in-state forensic toxicology testing laboratory; public education; community outreach; etc. A 2018 study conducted by the Centennial Institute found that in Colorado, for every dollar gained in tax revenue, taxpayers spent approximately \$4.50 to mitigate the effects of legalization.
- As stated in the Chicago High Intensity Drug Trafficking Areas 2022 Marijuana Legalization Illinois Impact Report, “a study conducted by the University of Southern California-Leonard D. Schaffer Center of Health Policy and Economics supports the idea that taxes based on potency, rather than price or weight, do a better job of incentivizing moderate THC consumption.”
- The National Transportation Safety Board’s recently released report, “Alcohol, Other Drug, and Multiple Drug Use Among Drivers,” includes a recommendation to “require a warning label on cannabis products advising users to not drive after cannabis use due to its impairing effects.”
- In Section 3 of the bill, §A-52 Education should include education on the dangers of driving while impaired.
- In Section 3 of the bill, §A-92 allows responsible, adult-use cannabis retail locations to permit the consumption of cannabis or manufactured cannabis products on the premises. How will retail locations ensure that customers do not drive while impaired after smoking or ingesting the cannabis? In that same paragraph, there may be a typo as it currently reads “persons twenty-years of age or older on the premises”

DOT is primarily concerned about improving highway safety and protecting the lives of our community members and visitors. DOT coordinates specialized training and certifies law enforcement officers to recognize impairment in drivers under the influence of drugs through its DRE program to combat this issue.

Thank you for the opportunity to provide testimony.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
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DEPUTY CHIEFS

OUR REFERENCE PO-HR

February 15, 2023

The Honorable Joy A. San Buenaventura, Chair
and Members
Committee on Health and Human Services
The Honorable Jarrett Keohokalole, Chair
and Members
Committee on Commerce and
Consumer Protection
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawaii 96813

Dear Chairs San Buenaventura and Keohokalole and Members:

SUBJECT: Senate Bill No. 375, Relating to Cannabis

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

The HPD opposes Senate Bill No. 375, Relating to Cannabis.

The HPD opposes legislation that seeks to legalize, regulate, and tax cannabis and manufactured cannabis products for responsible adult use. Although Hawaii has legalized marijuana for medical purposes, the Federal Schedule of Controlled Substances continues to list marijuana as a Schedule I controlled substance.

The HPD is concerned that increasing the availability of marijuana in the state will have a negative impact on public safety. Some areas of concern include the likelihood of an increased number of impaired drivers and the product's diversion. The passage of this bill would lead to the increased availability of marijuana, which will make it easier for everyone to access, including juveniles.

The Honorable Joy A. San Buenaventura, Chair
and Members
The Honorable Jarrett Keohokalole, Chair
and Members
February 15, 2023
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The HPD urges you to oppose Senate Bill No. 375, Relating to Cannabis.

Thank you for the opportunity to testify.

Sincerely,


for Paul Okamoto, Acting Major
Narcotics/Vice Division

APPROVED:


Arthur J. Logan
Chief of Police



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

TESTIMONY IN SUPPORT OF SB 375

TO: Chair San Buenaventura, Vice-Chair Aquino, and HHS Committee Members
Chair Keohokalole, Vice-Chair Fukunaga, and CPN Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: February 15, 2023 (9:30 AM)

Drug Policy Forum of Hawai'i (DPFH) **strongly supports** SB 375, which would legalize, regulate, and tax cannabis and manufactured cannabis products for responsible, adult use. It is welcome to see that Hawai'i now has a governor who supports adult-use legalization, which also has longstanding bipartisan support.

There should be clarification that quantity threshold of personal cannabis possession that is decriminalized under should be at least 113.4 grams (4 ounces), which is the threshold identified in the proposed Section A-93. The provision establishing the composition of a prospective Hawai'i Cannabis Authority, Section A-11, is especially commendable for including those who work in public health, civil rights, and the Native Hawaiian affairs.

As the legislature moves forward in its deliberations, it should carefully consider how best to forward social justice measures that ensure meaningful levels of participation in every segment of the emerging adult-use cannabis economy for those who have been marginalized and criminalized through cannabis prohibition and the larger drug war.

[The current regime of cannabis prohibition deepens the already extensive impact of the criminal legal system on Native Hawaiians](#) and residents from under-resourced communities. Cannabis prohibition lengthens terms of probation or parole apart from a more calibrated determination of increased 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. [A 2020 report from the Pew Charitable Trusts found that this state has the longest average term of probation at almost five years.](#)

Social equity centers impacted communities in every stage of production and distribution, from the growth of cannabis plants to the distribution and delivery of cannabis flower and manufactured cannabis products, as well as licensing and the provision of technical assistance. Employment opportunities should be made available to formerly incarcerated persons and those otherwise involved in the criminal legal system. Businesses should be required to develop social responsibility programs that include equity initiatives.

The participation of [craft cannabis growers](#)—and businesses owned and operated by Native Hawaiians, women, and other groups underrepresented in other commercial sectors—is a vital way to promote social equity and help Hawai'i develop products that will command a premium in prospective national and international markets. [Interstate cannabis commerce may soon be on the horizon.](#)

Craft cannabis can also serve as a centerpiece of cannabis tourism in our state. Last year, *Forbes* [valued the cananbis tourism sector at \\$17 billion](#). The availability of legal cannabis products will be attractive to many visitors from domestic and international jurisdictions that do not permit legal adult use. This is currently the case with Hawai'i residents who visit Nevada, every other state with a Pacific coastline, and other states that now include Montana and Missouri.

Social equity also includes baseline statutory provisions providing for the expungement of cannabis-related offenses on a person's criminal records. [Long term arrest data](#) indicate 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.

Recent domestic and international developments in the cannabis industry indicate that a system of workable regulations can provide new opportunities for prospective investors and local business owners to facilitate well-paid regular employment for kama'aina in the production and distribution of a range of quality consumer products. Once established, these businesses can attract an increased level of capital investment that might not otherwise be available to Hawai'i's economy. [Even a smaller state like Alaska, which has a modest adult-use cannabis sector that has been online for three years, now sees \\$25 million in excise tax revenue.](#)

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.

As a general matter, DPFH supports evidence-based education for all persons, from students to seniors, that includes science-based information on alcohol and other drugs and the promotion of resilience through harm reduction.

DPFH also supports treatment upon request for those with diagnosed substance use disorders, including alcohol and other drugs, mental health issues, and sufficient numbers of stabilizaiton beds that can facilitate a person's successful treatment. As noted by the American Public Health Association (APHA):

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.](#)")

DPFH also supports APHA in "ending the criminalization of drugs and drug consumers, prioritizing proven treatment and harm reduction strategies, and expanding (and removing barriers to) treatment and harm reduction services." (*Id.*)

Thank you for the opportunity to testify in support of this timely reform. Hawai'i can uniquely position itself to participate in an emerging industry that will likely experience protracted growth on a domestic and international basis in the coming years.



February 15, 2023

Chair, Sen. San Buenaventura
Vice Chair, Sen. Aquino
Chair, Sen. Keohokalole
Vice Chair, Fukunaga

Joint Hearing of Senate Health and Human Services and Commerce and Consumer Protection
Committees

TESTIMONY IN SUPPORT OF SB 375 – RELATING TO CANNABIS

Dear Chairs, Vice Chairs and members of the Health and Human Services and Commerce and Consumer Protection committees:

Aloha, my name is DeVaughn Ward and I am the senior legislative counsel at the Marijuana Policy Project ("MPP") — 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 in strong support of **SB 375 – Relating to Cannabis**.

SB 375 contains provisions for legal cannabis possession for adults over 21, cultivation rights, and social equity measures — market opportunities and expungement of prior cannabis convictions, which MPP strongly support. However, SB 375 can be strengthened to achieve its intended goals.

I. Cannabis legalization and regulation is far better approach than prohibition

More than eight decades of marijuana prohibition has not worked. Instead, it has derailed lives, torn families apart, wasted vast sums of taxpayer dollars, and put consumers and those selling cannabis at risk of arrest and violence.

Only legalization allows for regulation and control. Potency testing and labeling, child-resistant packaging, consumer education, and rules to prohibit hazardous pesticides and contaminants are only possible in a legal, regulated market. Environmental and worker protections are only possible in a legal, regulated industry.

II. MPP has several recommendations for amendments to SB 375

A. Medical Licensee Conversion Provisions

Section 5 of SB 375 of the bill requires the regulatory authority to issue licenses to Hawaii's eight current medical cannabis businesses for a period of three years prior to any other applicants being allowed to apply for licenses. We recommend reducing the head start to no more than 1.5 years before other applications can be filed. Missing are proper safeguards to ensure medical cannabis patients will have

adequate access when the eight medical businesses convert to also sell to adults over 21. In New Jersey and Connecticut, medical licensees were required to inform regulators of medical patient preservation plans or meet production thresholds to ensure the licensees had adequate supply before they could start adult use sales. We strongly recommend adding the following language to ensure medical cannabis patients' access is not adversely affected by a dual use cannabis model. For example, it could provide,

"The license conversion application shall, at minimum, require a medical cannabis dispensary to submit to, and obtain approval from the department for a detailed medical preservation plan for how it will prioritize sales and access to medical marijuana products for qualifying patients, and to avoid price increases, including, but not limited to, managing customer traffic flow, preventing supply shortages and price increases on patients, and ensuring appropriate staffing levels."

Notably, Section 5 of the bill does not include a licensing fee for the eight current medical licenses to exclusively serve the adult-use market access. There should be a significant licensing fee that would be used to set up regulatory infrastructure and to support training and technical assistance for new market entrants — including those hardest hit by prohibition.

Several other states, including Connecticut and Illinois, take this approach to foster equitable licensing. In Connecticut, medical licensees paid fees between \$750,000 and \$1 million dollars for the ability to convert to hybrid or dual use cannabis establishments and service consumers over the age of 21. In Illinois, medical cannabis businesses paid a fee of approximately \$750,000 to convert to dual use or hybrid cannabis businesses. We strongly recommend amending the language as follows:

"(a) The license conversion fee for a medical cannabis dispensary to become a dual use cannabis dispensary shall be two hundred fifty thousand dollars for medical cannabis dispensaries that owns and operates three or more retail dispensing locations. (b) The license conversion fee for a medical cannabis dispensary to become a dual use cannabis dispensary shall be one hundred fifty thousand dollars for a medical cannabis dispensary that owns and operates two or fewer retail dispensing location."

Also, SB 375 is silent on when new retail licenses will be issued and does not address medical licensees who have multiple retail locations and how they will fit into the "one license each class" framework or the requirement for individual licenses for each location. We strongly recommend clarifying these issues within the bill.

B. Regulatory Framework

Section A-11 establishes a new, all-volunteer regulatory authority for adult-use cannabis. Unlike almost every other legalization state, however, it does not move regulation of medical businesses to the authority. We strongly suggest regulating medical dispensaries and adult use cannabis with a single regulatory authority, or at least including provisions to set up a path for harmonization over time. It could create myriad issues to have one industry regulated by two different authorities. Other legalization proposals introduced this legislative session included such a transition period and plan to have both programs regulated under a single entity.

Additionally, we strongly recommend that regulators be paid, full time and have one person “in charge” or at the top of the hierarchy. Giving an unpaid, part-time commission final authority to write rules, issue licenses, and discipline licensees is a significant task and will likely cause delay, litigation, and unformed decision making. Alternatively, a commission could be established with more of an advisory oversight function with unpaid members and have one to three paid regulators at the helm who consider input on rules. We also suggest applying the revolving door language and limits on immediate family involved in cannabis or liquor industry to all authority members, not just those from the public health sector. (P13, L13-20). To address these issues, we offer the following language:

[Change “commission” “division” throughout the bill, and define “division” as the Division of Cannabis Regulation within the department of commerce and consumer affairs]

(a) There is established a Hawaii cannabis advisory commission within the department of commerce and consumer affairs to advise the Division of Cannabis Regulation and legislature on regulating and licensing of the Hawaii cannabis industry.

(b) The commission shall consist of 13 members who shall be residents of the State and of which:

(1) Four persons appointed by the governor; one of whom shall be designated by the Governor as the chair and is an executive branch official, one of whom shall be from a community that has been disproportionately harmed by cannabis prohibition and enforcement, one of whom has a public health background, and one of whom has experience in the cannabis industry.

(2) Two persons appointed by the president of the senate; one who has a professional background of working in the field of either social justice or civil rights, and one who is a medical cannabis patient;

(3) Two persons appointed by the speaker of the house of representatives; who has a professional background of working in the field of economic development, and one who is a member of an organization that advocates for cannabis consumers;

(4) One person to be appointed by the chairperson of the board of trustees of the office of Hawaiian affairs; and

(5) Four persons, one each to be appointed by the respective mayors of the counties.

(c) All appointments shall be made not later than thirty days after the effective date of this act and the Governor shall appoint the Chair and select the initial Executive Director no less than sixty after the effective date of this act.

(d) Each member shall without compensation. Except the actual and necessary traveling expenses incurred in connection with the performance of the member’s official duties shall be paid by the department, upon the presentation of vouchers approved by the department.

(e) The members shall serve for terms of five years; provided that, for the two members appointed by the Governor, both shall be appointed for a term of four years. The chair and the other members shall serve in their respective capacities throughout their entire term and until their successors shall have been duly appointed and qualified. Any vacancy in the commission occurring for any reason other than the expiration of a term, including a vacancy occurring during the term of the initial chair or another initial member, shall be filled in accordance with the requirements for subsequent appointments set forth in paragraph (3) of this subsection for the

remainder of the unexpired term only. The appointing authority shall fill any vacancy for the unexpired term.

(f) Any member of the commission may be removed from office by appointing authority, for cause, upon notice and opportunity to be heard at a public hearing. Any member of the commission shall automatically forfeit the member's office upon conviction for any crime.

§A-X Hawaii cannabis advisory commission; organization. (a) The commission shall elect one member as vice-chairperson annually. In the absence of both the chairperson and the vice—chairperson to preside at a meeting, the members present shall select a chair pro tern.

(b) The commission shall meet not less than quarterly at a time and place determined by the authority.

(c) The majority of the members shall constitute a quorum. The concurrence of a majority of the members shall be necessary to make any action taken by the authority valid. The authority shall conduct its meetings in accordance with chapters 91 and 92.

§A-X Hawaii division of cannabis regulation; organization.

(a) There is a Division of Cannabis Regulation within the department of commerce and consumer affairs. The Division shall be led by an executive director, appointed by the governor pursuant to section 26-34. The executive director shall have the training, knowledge, and experience necessary to direct the work of the Division. Thereafter every subsequent executive director shall be appointed by the Governor with the advice and consent of the Senate. The executive director shall serve at the pleasure of the appointing Governor during the Governor's term of office and until a successor has been duly appointed and qualified. Any vacancy in the office occurring for any reason other than the expiration of a term, including a vacancy occurring during the term of the initial executive director, shall be filled for the unexpired term only in the same manner as the appointment of any subsequent executive director as set forth herein.

(b) The Division director, all Division staff, and the staffers immediate family member may not have a financial interest in the cannabis industry. No person who has served as a commissioner on a county liquor commission shall be eligible to sit as a member of the authority until at least five years have expired between the person's termination from service as a commissioner on a county liquor commission and the person's appointment to the authority.

For purposes of this subsection:

“Cannabis industry” means a business or profession related to cannabis in which the person is lawfully engaged and that is in compliance with the provisions of state law, including this chapter and rules adopted under this chapter.

“Financial interest” means holding directly or indirectly, a legal or equitable interest in the operation of a business licensed under this chapter.

“Immediate family member” means a spouse, child, or parent.

(c) No later than December 31, 2025, all powers, duties and responsibilities of the department of health, including the office of medical cannabis control and regulation, with respect to the regulation, administration and enforcement of the provisions of chapter 329D shall be

transferred to the division, except for the administration of registry identification cards to qualified patients and primary caregivers and powers delegated to the department of health pursuant to this act or by the agency's rules.

(d) The employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under the jurisdiction of the office of medical cannabis control and regulation shall be transferred to the division subject to the approval of the director of health and to applicable personnel laws.

(e) The division shall report annually to the governor and the legislature on the regulation of cannabis establishments, including but not limited to the number and location of cannabis establishments licensed by license type, the total licensing fees collected, the total amount of taxes collected from cannabis establishments, and any licensing violations determined by the commission.

§A-X Hawaii division of cannabis regulation; powers generally;

The agency shall have all the powers necessary and reasonable to carry out and effectuate its purposes, including, but not limited to, the power to:

- (1) Sue and be sued;*
- (2) Adopt, use and alter at will a common seal;*
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;*
- (4) Make and alter bylaws for its organization and internal management;*
- (5) Adopt, amend or repeal rules and regulations for the implementation, administration, and enforcement of this chapter, which rules shall be in conformance with chapter 91;*
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76;*
- (7) Determine which applicants shall be awarded licenses;*
- (8) Deny an application or limit, condition, restrict, revoke or suspend any license;*
- (9) Appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;*
- (10) Review data and market conditions prior to the adoption of rules pursuant to this chapter and on a periodic basis thereafter to determine the number of licenses, and the total square footage of cannabis cultivation, that will be issued in order to meet estimated production demand and facilitate a reduction in the unauthorized distribution of cannabis with affordable prices;*
- (11) Conduct and administer procedures and hearings in compliance with chapter 91 for the adoption of rules and review of the issuance, denial or revocation of licenses or violation of this chapter or the rules adopted pursuant to this chapter;*
- (12) Impose and collect fees, sanctions and administrative penalties, as authorized by this chapter and established by rule, and for a violation of any rule adopted by the agency;*
- (13) Conduct investigations into the qualifications of all applicants for employment by the agency and all applicants for licensure pursuant to this Chapter;*
- (14) Inspect cannabis establishments and have access to all equipment and supplies in a cannabis establishment for the purpose of ensuring and enforcing compliance with this chapter, and all rules and regulations adopted pursuant to this chapter;*

- (15) Require that the books and financial or other records or statements of a licensee be kept in a manner that 'the agency deems proper;*
- (16) Establish adjudicatory procedures and conduct adjudicatory proceedings pursuant to chapter 91;*
- (17) Maintain an official Internet website for the agency;*
- (18) Form advisory boards and submit any matter to an advisory board for study, review or recommendation;*
- (19) Delegate any administrative, procedural or operational matter to the executive director;*
- (20) Issue temporary emergency orders, directives or instructions, with or without prior notice or hearing, in an instance in which the public health or safety is in substantial or imminent danger as it relates to the activities, conduct or practices of a licensee or as a result of a defective or dangerous product offered for sale by a licensee; and*
- (21) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.*

We also recommend adding more specificity to the rules that the division is required to develop, including to promote health and safety. We suggest amending section A-16 to the following:

The authority shall adopt rules pursuant to chapter 91 to effectuate this chapter and to:

- (1) Establish standards for employee training and badges;*
- (2) Create prohibitions on additives to cannabis and cannabis-infused products, including but not limited to those that are toxic or designed to make the product more addictive;*
- (3) Create standards for product packaging and labeling to prevent designs to make the products more appealing to children, including prohibiting the use of any images designed or likely to appeal to minors, including cartoons, toys, animals, or children, and any other likeness to images, characters, or phrases that are popularly used to advertise to children;*
- (4) Restrict the use of pesticides that are injurious to human health;*
- (5) Regulate visits to cannabis cultivation facilities and cannabis product manufacturing facilities, including requiring the cannabis establishment to log visitors;*
- (6) Define the amount of tetrahydrocannabinol that constitutes a single serving in a cannabis product;*
- (7) Establish standards for the safe manufacture of cannabis extracts and concentrates;*
- (8) Develop and mandate the distribution and posting of educational materials to consumers who purchase cannabis and cannabis-infused products;*
- (9) Create standards for the operation of cannabis testing facilities, including requirements for equipment and qualifications for personnel; and*
- (10) Develop operating standards for on-site consumption establishments, including for security, ventilation, odor control, consumption by patrons, and responsible vendor training.*

C. Specific Business Controls and Regulations

P.41, L1-3 states that no facility shall be located within seven hundred fifty feet of a playground. We suggest adding the word "preexisting" to the buffer zone to ensure cannabis businesses are not uprooted if a school or playground is sited next to their business after they begin operations.

Section A-53 requires adult use cannabis retailers and cultivators to enter into labor peace agreements with a bona fide labor organization. We suggest adding an exemption for smaller businesses with less than 15 employees. *"All responsible adult-use cannabis cultivator licensees and responsible, adult use cannabis retailer licensees with more than ten employees shall enter into, maintain, and abide by the terms of a labor peace agreement, and shall submit to the authority an attestation by a bona fide labor organization stating that the applicant meets this section's requirements,"*

Section A-63 requires all cultivation "sites" be out of public view. This is somewhat ambiguous on whether the building or the cannabis must be out of public view. For clarity cannabis, we suggest requiring that cultivation sites must keep the cannabis out of public view. "All responsible, adult-use cannabis cultivation sites shall be secure and all cannabis shall be hidden from public view..."

Section A-71 of SB 375 creates a distributor license type. We support the creation of an additional license type designated for the transportation of products amongst licensees. However, we caution cultivators and manufacturers should also be allowed to transport their own product, if they comply with rules. Requiring businesses to use a third party distributor would drive up costs for consumers and businesses.

Section A-91 (b) Prohibits off-premises delivery. We strongly recommend allowing home delivery, with appropriate regulations — such as ensuring there are no identifying logos or similar indicia on vehicles. Many legalization states allow home delivery, which is important to displacing the illicit market — and which is allowed for alcohol and prescription medications.

Section A-93 sets a 14-day purchase limit for adult use transactions. We suggest amending SB 375 to set a purchase limit per transaction. Purchase limits over a certain period can be difficult to enforce and track across licenses, and it would be intrusive to do so with adult-use consumers. We recommend the following language: *"A person twenty-one years of age or older shall be allowed to purchase no more than 1.5 ounces of cannabis, or its equivalent, per transaction."*

Section A-111 allows the regulatory authority to set personal possession limits. We strongly recommend that a clear, explicit possession limit for cannabis, concentrates, and infused products be established in statute. This approach ensures little confusion about what quantity is allowed and what isn't. Moreover, legal possession shouldn't have to wait for rulemaking, so cannabis related arrests don't continue. Suggested language: *"Possession limit" means:*

- (1) Two-and-a-half ounces of cannabis in a form other than concentrated cannabis or cannabis products;*
- (2) Fifteen grams of concentrated cannabis, which includes hashish and pre-filled cartridges of cannabis extracts intended for vaporization;*
- (3) Cannabis products other than concentrated cannabis containing no more than 2,500 milligrams of THC;*
- (4) Six cannabis plants; and*

(5) Any additional cannabis produced by the person's cannabis plants provided that the possession of any amount of cannabis in excess of 2.5 ounces of cannabis, 15 grams of concentrated cannabis, and cannabis products containing no more than 2,500 milligrams of THC must be limited to the same property where the plants were cultivated.

Section A-114 and A-116 establishes a civil fine and forfeiture as the penalty for unlawful cultivation and sales activity, respectively. Unlawful cultivation has proved to be extremely problematic in other legalized states and often contributes to poor labor conditions, unsafe products, and environmental concerns. While a civil penalty is appropriate for first-offense, low-level sales and cultivation, we suggest a more significant penalty for subsequent offenses and large-scale illegal sales.

D. Expungement and Record Clearance

Section 12 of SB 375 establishes expungement and record clearance for past cannabis convictions. Restorative justice is concept that has been supported by the Judiciary Committee this session in its recent approval of SB 903. We strongly support restorative justice measures, which are included in most legalization laws in some form. For example, Illinois' 2019 legalization law resulted in the expungement of over 800,000 cannabis convictions. Connecticut's 2021 legalization law automatically expunged over 40,000 cannabis convictions. As Hawaii considers cannabis legalization it's important that we use this opportunity not just for economic development, but also to remove the scarlet letter of cannabis convictions that for decades have denied many Hawaii residents chances for upward mobility.

We suggest adopting automatic release and expungement provisions similar to SB 1043, such as:

"Each person arrested or convicted for an offense under chapter 329, Hawaii Revised Statutes, or under part IV of chapter 712, Hawaii Revised Statutes, for possession or cultivation of marijuana, shall be entitled to: (1) Release from the custody of law enforcement or incarceration no later than 90 days after the effective date of this Act, unless the person is also in custody or incarcerated for an offense that is not permitted by the new chapter of the Hawaii Revised Statutes; and 2) An expungement order, issued within days after the effective date of this Act, from the court in which the person was arraigned or convicted, that annuls, cancels, and rescinds the record of arrest and record of conviction, as applicable, for the relevant offense; provided that an expungement order shall not be issued for a person if the State, the department of the attorney general, or the applicable prosecuting attorney demonstrates good cause against the issuance of the order for that person."

And:

"Any person convicted or arrested for distribution of marijuana may petition at any time for: (1) Release from the custody of law enforcement or incarceration; and 2) an expungement order; and relief shall be granted unless the prosecutor objects within 14 days and proves that relief would not be in the interests of justice.

Furthermore, we recommend including a provision that requires the state's lead actor in the record clearing process to issue a report on a regular basis (yearly, quarterly, etc.) on key metrics related to the fulfillment of automatic expungement for qualifying cannabis offenses. In shifting the process of record clearance away from the individual to the agencies that hold the criminal record, Hawaii should establish

transparency requirements that allow lawmakers and citizens to monitor the state's progress towards implementation.

E. Social Equity Licensing

P. 22, L12-20 of SB 375 would allow an entity to qualify as a social equity applicant both based on the applicants meets criteria and if they employ 10 or more employees who reside in a disproportionately impacted area or have a cannabis arrest or conviction or a family member with an arrest or a conviction. We strongly urge the committee to remove the language allowing applicants to qualify based on their employees. Practically, a business will often not have employees when they apply and their employees would surely change over time. Similar provisions have been criticized by the Minority Cannabis Business Association as violating the ownership and control principles of social equity.

We also suggest removing cannabis *arrest* — as opposed to a conviction — as a qualifier for social equity status. Allowing individuals with only a cannabis arrest to qualify could dilute the intent of social equity , to center the individuals **most** harmed by cannabis prohibition in legalization policy. An analysis of data from the Hawai'i Criminal Justice Data Center, controlling for age, gender, and type of charge, found that for any given determination of guilt, Native Hawaiians are much more likely to get a prison sentence than almost all other groups, except for Native Americans¹. Prioritizing individuals that were convicted of a cannabis related offense and not just arrested will ensure the intended individuals receive licensing.

We strongly suggest adding a provision to designate at least 50 percent of each license type exclusively for social equity applicants. The Dual Use Cannabis Taskforce that convened this summer stated in their final report "The history of cannabis enforcement in Hawaii has engendered a diverse set of inequities across racial, economic, and geographic spectrums, and as the rest of the country is discovering as well, explicit policies must be put in place to redress these harms. Without integrated social equity policies, the experience of other states, as well as a variety of scholarly research sources, have shown that these inequities only increase in emerging cannabis industries." To accomplish that goal, Hawaii should follow the lead of New York, Connecticut, and New Jersey which have all taken this approach in their licensing scheme.

We also recommend adding a provision to ensure Native Hawaiians qualify for social equity status. We know that Native Hawaiians are disproportionately represented in Hawaii's prison population. Moreover, the relationship between Native Hawaiians and cannabis is longstanding and well documented. The first recorded reference to cannabis in the Hawaiian Islands was published in the Honolulu newspaper Ka Nonanona in 1842, where it was referred to as "pakalolo." The criminalization of cannabis came shortly after the U.S. government took over the Hawaiian Islands. As the considers cannabis legalization it's important to not forget this history as the state decides who should obtain priority in the future licensing rounds. We urge the committee to amend section A-31 to the following:

"(1) Disproportionately impacted area" means a census tract or comparable geographic area that has a poverty rate of at least twenty per cent according to the latest federal decennial census.

¹ Office of Hawaiian Affairs, The Impact of the Criminal Justice System on Native Hawaiians, 2014
https://www.oha.org/wp-content/uploads/2014/11/factsheets_final_web_0.pdf

(2) Social equity applicant" means an applicant that is a resident of the State that meets one or more of the following criteria:

(a) An applicant with at least fifty-one per cent ownership and control by one or more individuals who have resided for at least five of the preceding ten years in a disproportionately impacted area;

(b) An applicant with at least fifty-one per cent ownership and control by one or more individuals who: Have been convicted of, or adjudicated delinquent for any marijuana related offense under Hawaii Revised Statutes;

(c) An applicant with at least fifty-one per cent ownership and control by one or more individuals who are "Native Hawaiian" as defined in section 10H-3 of the Hawaii Revised Statutes.

(3) The authority and department shall establish grant and loan programs for the purposes of providing financial assistance, loans, grants, and technical assistance to social equity applicants.

(4) For social equity applicants, the authority shall waive fifty per cent of any nonrefundable license application fees; any nonrefundable fees associated with purchasing a license to operate a business licensed under this chapter; and any surety bond or other financial requirements for the first five years of the applicant's operations; provided that the social equity applicant meets the following qualifications at the time the payment is due:

(a) The applicant, including all individuals and entities with ten per cent or greater ownership and all parent companies, subsidiaries, and affiliates, has less than a total of \$750,000 of income in the previous calendar year; and

(b) The applicant, including all individuals and entities with ten per cent or greater ownership and all parent companies, subsidiaries, and affiliates, has no more than two other licenses under this chapter.

(5) The division shall issue at least fifty per cent of licenses issued in each round, of each license type, exclusively for social equity applicants.

P.27, L19-21, P.28,L-7 allows an applicant that applied as social equity to pay the full fee if they are later determined to not qualify. We believe this penalty is very light and could encourage applicant to falsify or misstate their application information. To address this, we suggest amending this language require that all benefits including the actual license and any social equity benefits be taken from the applicant and awarded to a bona fide social equity applicant.

F. Non-discrimination Protections for Cannabis Consumers

Lastly, we strongly suggest including non-discrimination protections for cannabis use. Many legalized states prohibit the denial of state benefits, parole, probation, or pretrial release determinations, medical care and organ transplant eligibility, or child custody decisions based on lawful cannabis use. As the state seeks to legalize cannabis for adults 21 and over, it's important that we reduce the discrimination and stigma associated with using a product that has been scientifically proven to be safer than alcohol and tobacco. We suggest the following language:

Non-discrimination for personal use of cannabis.

(a) A person shall not be subject to arrest, prosecution, or penalty in any manner, or be denied any right or privilege, including but not limited to disciplinary action by a business, occupational, or professional licensing board or bureau, solely for conduct permitted under this chapter.

(b) It is unlawful for an state or local governmental employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person, if the discrimination is based upon either of the following:

(1) The person's use of cannabis off the job and away from the workplace.

(2) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

(c) Nothing in this section permits an employee to possess, to be impaired by, or to use cannabis on the job, or any other rights or obligations of an employer specified by federal law or regulation.

(d) This section does not preempt federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants or employees to be tested, or the manner in which they are tested, as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.

(e) (1) 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 21 years of age or older.

(2) Except as provided in this section, neither the state nor any of its political subdivisions may deny a driver's license, a professional license, housing assistance, social services, or other benefits based on cannabis use 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 21 years of age or older.

(f) A person shall not be denied custody of or visitation with a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(g) For the purposes of medical care, including organ and tissue transplants, the use of cannabis does not constitute the use of an illicit substance or otherwise disqualify a person from needed medical care and may only be considered with respect to evidence-based clinical criteria.

(h) 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.

(i) No state or local agency, and no employee or agent of any state or local agency, may:

(1) restrict, revoke, suspend, or otherwise infringe upon a person's right to own, purchase, or possess a firearm, ammunition, or any related firearms certification based solely on the person's possession, use, or purchase of cannabis, or for other actions allowed by this chapter; or

(2) directly or indirectly inform a federal agency or federal official that a person owns, possess, purchases, or may attempt to own, possess, purchases a firearm or ammunition while possessing or using cannabis, or for other actions allowed by this chapter.

Conclusion

In conclusion, we strongly support the legalization of cannabis possession and cultivation rights for adults over 21. However, SB 375 can be strengthened to meet cannabis policy best practices. We urge you to amend SB 375 to include a significant fee for medical operators to convert to adult use, non-discrimination protections for cannabis use and strengthened social equity provisions and then pass it.

Mahalo for the opportunity to comment. I can be reached at the contact below and I'm happy to answer any questions you may.

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

SB-375

Submitted on: 2/13/2023 8:46:34 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
TY Cheng	Testifying for Aloha Green Holdings Inc.	Support	In Person

Comments:

To: Senator Joy A. Buenaventura, Chair HHS

Senator Jarrett Keohokalole, Chair CPN

Senator Henry J.C. Aquino, Vice-Chair, HHS

Senator Carol Fukunaga, Vice-Chair CPN

Members of the Joint Committee on Health and Human Services, and Commerce and Consumer Protection

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

RE: Testimony in SUPPORT with COMMENTS of Senate Bill (SB) 375

RELATING TO CANNABIS.

Legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use. Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax. Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allows qualifying out-of-state patients to cultivate medical cannabis.

Dear Chairs, Vice-Chairs and Members of the Joint Committee:

Aloha Green Apothecary is a state licensed medical cannabis dispensary licensee operating on Oahu since 2016. Aloha Green Apothecary SUPPORTS the intent of this bill to establish a program to allow for the responsible adult-use of cannabis. We look forward to the day when adults 21-years and older can use cannabis without stigma and persecution. We hope this day comes as soon as possible for Hawaii and urge the Committee to consider the most efficient and lowest cost path to a successful adult-use program. As with any new initiative, the State should consider the financial costs to develop an efficient program. SB375 is an ambitious adult-use cannabis bill which attempts to standup a program for Hawaii based on mainland issues and approaches.

Aloha Green Apothecary's greatest concern is the cost and delay of such an ambitious program. Our comment is to consider providing the Department of Health with the authority for the adult-use program instead of a wholly new regulatory authority as proposed in SB375. A wholly new cannabis regulatory authority would delay implementation and require the State to appropriate funding which will likely lead to undue delays. Delays in adult-use program implementation from law passage to implementation have shown to provide first mover advantage to the illicit cannabis market which threatens the future success of the taxed and regulated market (ex. California).

Therefore, we urge the Committee to consider language from bill SB669 Relating to Cannabis (2023) which would allow for a more cost effective and streamlined adult-use implementation structure, including improved state oversight and rulemaking through building upon the existing Department of Health Office of Medical Cannabis Control & Regulation, while working in tandem with a newly proposed Governor appointed cannabis office manager position (czar) who can coordinate the regulator and the various stakeholders towards a successful program implementation. The original 329 medical dispensary program would have been worse off if not for the Department of Health's interim rule making powers and the trickle of legislative changes adopted each year incrementally improving the 329 program. Each iteration course corrected the 329 program to better deal with new issues and market changes. Without the ability to make changes to see what works for Hawaii, we are setting up a adult-use program based on current biases vs operational facts. Program changes will need to be made to better attract legacy stakeholders into the new legal market, combat the evolving illicit market, and to craft a program that fits and benefits Hawaii's market.

Respectfully, we submit that the Committee consider a more flexible adult-use program vs following other States' regimes, which allows for a greater chance of program success especially when Hawaii faces unique challenges unlike other States.

Thank you for the opportunity to testify. I am available for any questions.



To: Senator Joy San Benaventura, Chair of the Senate Committee on Health and Human Services

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

Members of the Joint Senate Committee on Health and Human Services and Commerce and Consumer Protection

Fr: Randy Gonce, Executive Director of the Hawaii Cannabis Industry Association

Re: **Testimony In Strong Support of Senate Bill (SB) 375**

RELATING TO CANNABIS.

Legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use.
Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax.
Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allows qualifying out-of-state patients to cultivate medical cannabis.

Dear Chairs, Vice-Chairs, and Members of the Joint Committee:

The Hawai'i Cannabis Industry Association is the trade association for the state's licensed medical cannabis dispensaries. HICIA **supports SB 375 with comments** as an important bill for cannabis reform in the State of Hawai'i.

This measure would implement an Adult-Use of cannabis program and legalize cannabis for anyone over the age of 21 in the State of Hawai'i. This policy is extremely important to finally safeguard our communities and youth from the already large and existent illicit market that exists statewide that operates unregulated, untaxed, and untested.

As written SB 375 could potentially create difficulties for implementation of a new program such as requiring the state to appropriate funding up front and delays in licensing leading to a period of time where there is a gap in regulation leading to the strengthening of the illicit market.



HICIA prefers the language in SB 669 but if the Senate decides to move this measure forward, HICIA is available to work with lawmakers and stakeholders to amend SB 375 to fix the issues stated above.

Thank you for considering this extremely important and timely piece of legislation and the opportunity to testify.



To: Senator Joy San Buenaventura, Chair of the Senate Committee on Health and Human Services

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

Members of the Joint Senate Committee on Health and Human Services and Commerce and Consumer Protection

From: Bill Jarvis, CEO of Noa Botanicals

Re: Testimony **In Support** of **Senate Bill (SB) 375**
RELATING TO CANNABIS.

Legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use. Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax. Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allows qualifying out-of-state patients to cultivate medical cannabis.

Dear Chairs, Vice-Chairs, and Members of the Joint Committee:

Noa Botanicals **supports SB 375 with comments** as an important bill for cannabis reform in the State of Hawai'i.

This measure implements an Adult-Use of cannabis program and legalizes cannabis for those over the age of 21 in Hawai'i. This policy is extremely important to finally safeguard our communities and youth from the already large illicit market that is unregulated, untaxed, and sells untested products.

As written however, SB 375 could create difficulties in implementing a new program by requiring the state to appropriate funding in advance and creating delays in licensing leading to an extended gap in regulation which merely strengthens the illicit market.

As a platform for advancing conservative policy around adult-use legalization, Noa Botanicals prefers the language in SB 669. If the Senate decides to move this measure forward, Noa Botanicals is available to work constructively with lawmakers and stakeholders to amend SB 375 to mitigate or fix the issues stated above.

Thank you for considering this extremely important piece of legislation and the opportunity to testify.



To: Senator Joy A. Buenaventura, Chair HHS
Senator Jarrett Keohokalole, Chair CPN

LATE

Senator Henry J.C. Aquino, Vice-Chair, HHS
Senator Carol Fukunaga, Vice-Chair CPN

Members of the Joint Committee on Health and Human Services, and Commerce and Consumer Protection

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

RE: Testimony in **SUPPORT** with **COMMENTS** for Senate Bill **(SB) 375**

RELATING TO CANNABIS.

Legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use. Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax. Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allows qualifying out-of-state patients to cultivate medical cannabis.

Dear Chairs, Vice-Chairs and Members of the Joint Committee:

Big Island Grown Dispensaries is one of eight medical cannabis dispensary licensees in the State. We operate a production facility and 3 retail locations on the Big Island of Hawaii. Our medical cannabis operation currently employs and contracts with over 80 Big Island residents.

Mahalo for the opportunity to provide **comments** for **SB375**.

Big Island Grown supports and appreciates the intent of this bill which would establish a program to allow for the adult-use of cannabis. While we are supportive of many of the provisions in this measure, other jurisdictions across the country have had difficulty implementing complex regulations causing substantial delays in the issuance of new licenses resulting in the proliferation of criminal activity. The time period between legalization and decriminalization beginning, and access to legal channels must be addressed. As written, SB375 provides a gap that requires attention.

<https://nypost.com/2023/01/18/1400-illegal-pot-shops-now-open-in-nyc-already-wreaking-havoc/>

Please consider language in SB669 which would allow for more cost-effective state oversight, and streamline implementation through rule making.

Thank you for the opportunity to testify.

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

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



Testimony from Gracie Johnson
State Policy Director
Last Prisoner Project

RE: Last Prisoner Project Calls on the Hawaii Legislature to Prioritize Criminal Justice Measures in SB 375 This Session

February 15, 2023

Dear Members of the Health and Human Services Committee and Members of the Commerce and Consumer Protection Committee,

When a state legalizes adult-use cannabis, it is acknowledging that public interest has shifted on the criminalization of cannabis. The magnitude of this shifting perception is clear in the landscape of national legalization, as adult-use cannabis is now legal in 21 states. 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.

Over the course of last year the Last Prisoner Project (LPP) worked with members of the Dual Use of Cannabis Task Force to outline [evidence-based policy recommendations](#) for inclusion in any legalization proposal to ensure retroactive relief for those who have been criminalized by prohibition. The Task Force's Social Equity Working Group fully embraced LPP's recommendations, [endorsing them in their official report](#). We were thrilled to see that SB 375 provides an avenue for retroactive relief through the creation of a state-initiated record clearance process. We would like to offer our technical assistance to ensure that the record clearance process that is outlined in SB 375 is implemented with fidelity and that an equally as effective state-initiated resentencing process is incorporated within the bill so that every person who has been harmed by cannabis criminalization is guaranteed relief.

State-initiated resentencing is a cornerstone of comprehensive cannabis policy. The War on Drugs and the criminalization of cannabis-related activities have created a racially inequitable criminal legal system where people of color are nearly four times more likely than their white counterparts to be arrested for cannabis, despite similar consumption rates. Requiring Hawaii courts to reconsider cannabis-related sentences upon prohibition's repeal provides a pathway to relief for individuals whose continued incarceration will no longer be in the interests of justice.

We urge the Hawaii legislature to ensure that SB 375 includes a state-initiated record clearance process for cannabis records and guarantees the reconsideration of cannabis-related sentences in light of prohibition's repeal. It is essential that Hawaii's legalization allows those trapped in jails, prisons, or on supervision for cannabis-related activities to have a fair pathway to relief.

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 Hawaii.



To: Senator Joy San Buenaventura, Chair of the Senate Committee on Health and Human Services

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

Members of the Joint Senate Committee on Health and Human Services and Commerce and Consumer Protection

Fr: Casey Rothstein, CEO Green Aloha Ltd.

Re: **Testimony In Strong Support of Senate Bill (SB) 375**

RELATING TO CANNABIS.

Legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use.
Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax.
Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allows qualifying out-of-state patients to cultivate medical cannabis.

Dear Chairs, Vice-Chairs, and Members of the Joint Committee:

Green Aloha Ltd is the Kauai Medical Cannabis Dispensary License. Green Aloha **supports SB 375 with comments** as an important bill for cannabis reform in the State of Hawai'i.

This measure would implement an Adult-Use of cannabis program and legalize cannabis for anyone over the age of 21 in the State of Hawai'i. This policy is extremely important to finally safeguard our communities and youth from the already large and existent illicit market that exists statewide that operates unregulated, untaxed, and untested.

As written SB 375 could potentially create difficulties for implementation of a new program such as requiring the state to appropriate funding up front and delays in licensing leading to a period of time where there is a gap in regulation leading to the strengthening of the illicit market.

Green Aloha prefers the language in SB 669 but if the Senate decides to move this measure forward, Green Aloha is available to work with lawmakers and stakeholders to amend SB 375 to fix the issues stated above.

Thank you for considering this extremely important and timely piece of legislation and the opportunity to testify.



LATE

February 13, 2023

In support of the SB 375, with amendments

To: Hawaii Senate Judiciary and Ways and Means Committees:

I recently retired after 23 years as the Distinguished Professor of Alcohol and Drug Abuse Research at the University of Texas Southwestern Medical Center and over 30 years as an addiction psychiatrist in the Department of Veterans Affairs, having served as the director of substance abuse programs at both the Charleston, South Carolina and Dallas VA Medical Centers. I have published and spoken widely on the biological effects and treatment of addictive disorders (with 200 publications and chapters) and I am the Editor-in-Chief of *The American Journal of Drug and Alcohol Abuse*. I have been honored as Distinguished Fellow by the American Psychiatry Association and American Academy of Addiction Psychiatry. My research has been funded by the National Institute on Drug Abuse (NIDA), the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the Department of Veterans Affairs.

Through my extensive clinical work and research with individuals with substance use disorders I have come to believe that cannabis prohibition has done far more harm than good, and that it should be replaced with thoughtful, science-based regulation for adults 21 and older. Laws against cannabis possession used to be far harsher. These laws did not stop cannabis use back then and they do not stop it now. I have never had a cannabis user tell me that the penalty for cannabis possession influenced their decision as to whether to use it or not. What influences cannabis use or addiction is its cost, the perception of harm, and availability, as well as a user's genetic make-up, personality, environment and co-occurring medical and psychiatric problems. The penalty for use plays little role in this decision. Yet these penalties (including up to 30 days' incarceration and/or \$1,000 fine for ½ ounce in Hawaii) can cause lifelong problems in employment, housing, receiving student loans, and child custody.

As the California Medical Association (CMA) explained in its 2011 white paper endorsing cannabis regulation:¹

“Thus far, the criminalization of cannabis has proven to be a failed public health policy for several reasons, including:

- a) The diversion of limited economic resources to penal system costs and away from other more socially desirable uses such as funding health care, education, transportation, etc.;
- b) The social destruction of family units when cannabis users are incarcerated, rather than offered treatment and other social assistance;
- c) The disparate impacts that drug law enforcement practices have on communities of color;
- d) The continued demand for cannabis nationally, which supports violent drug cartels from Mexico and other international sources;
- e) The failure to decrease national and international supplies of cannabis from criminal and unregulated sources;
- f) The failure of the federal government's limited actions through the 'War on Drugs' in mitigating substance abuse and addiction.”

712 H Street NE, Suite 1290, Washington, DC 20002
(202) 930-0097 | info@dfcr.org

Voters in California agreed with the CMA, and California is now one of 21 states and — including the entire West Coast — three U.S. territories where voters or lawmakers have chosen to regulate cannabis. In Hawaii, there is no citizen’s initiative process, so state cannabis policy is in your hands. I urge you to support and advance S.B.375 — with some amendments — so that Hawaii can replace eight decades of prohibition with regulation.

Marijuana Is a Relatively Safe Drug

From a pharmacologic perspective, botanical cannabis is a relatively safe drug. In the U.S., tobacco kills almost 500,000 Americans per year,ⁱⁱ alcohol almost 150,000.ⁱⁱⁱ The opioid epidemic was responsible for over 90,000 overdose deaths in 2020.^{iv} In Hawaii, there were 274 overdose deaths in 2020, 75% of which involved an opioid.^v

In contrast, to my knowledge, even though medical cannabis was legalized in the first state 27 years ago and the plant is now legal (for medical purposes) in 37 states, nobody has ever died from a cannabis overdose. A review of over 60 studies reported, “Research suggests that people may be using cannabis as an exit drug to reduce use of substances that are potentially more harmful, such as opioid pain medication.”^{vi}

It is also important to note that cannabis is already widely consumed in Hawaii. 10.47% of Hawaii residents over 18 admit to having used marijuana in the past month.^{vii}

Rates of Cannabis Use in Adolescence Do Not Increase With Legalization

Some were concerned that the cannabis legalization would lead to an increase in use in adolescents. If anything, the opposite is true. As National Institute on Drug Abuse Director Nora Volkow testified in March 2022 in response to a committee before the Senate Health, Education Labor & Pensions Committee, “Specifically in the United States, legalization by some states of marijuana has not been associated with an increase in adolescents’ marijuana use.”^{viii}

Use by people ages 12-17 years old has remained relatively stable in the Monitoring the Future (MTF), Youth Risk Behavior Surveillance System (YRBSS), and National Survey on Drug Use and Health (NSDUH) surveys since the late 1990s throughout the liberalization of cannabis laws in the U.S. A large number of studies have now consistently shown that medical and adult use cannabis legalization is associated with no difference in adolescent use compared to non-legal states.^{ix}

Some studies have even shown a *decrease* in adolescent use in association with legalization and/or decriminalization.^x This robust literature indicates that the outcomes predicted by legalization proponents — that cannabis regulation would make it more difficult for minors to obtain cannabis — has been successful.

These findings may be due, in part, due to the strict observation of age restrictions by cannabis dispensaries. One study of dispensaries in Colorado and Washington found 100% compliance with laws requiring checking identification cards (IDs).^{xi}

Commented [KOI]: Stopped here.

Concerns about the effects of cannabis upon the adolescent brain, particularly in younger adolescents, is understandable. While not as dangerous to the adolescent as alcohol and nor as detrimental as some posit, the use of cannabis in adolescents should be protected against. I believe the optimal approach to protect adolescents from cannabis is to limit their access through regulatory mechanisms. S.B. 375 wisely requires cannabis retailers verify the age of consumers to prevent underage sales. It also requires labels providing, “For responsible, adult use only.”

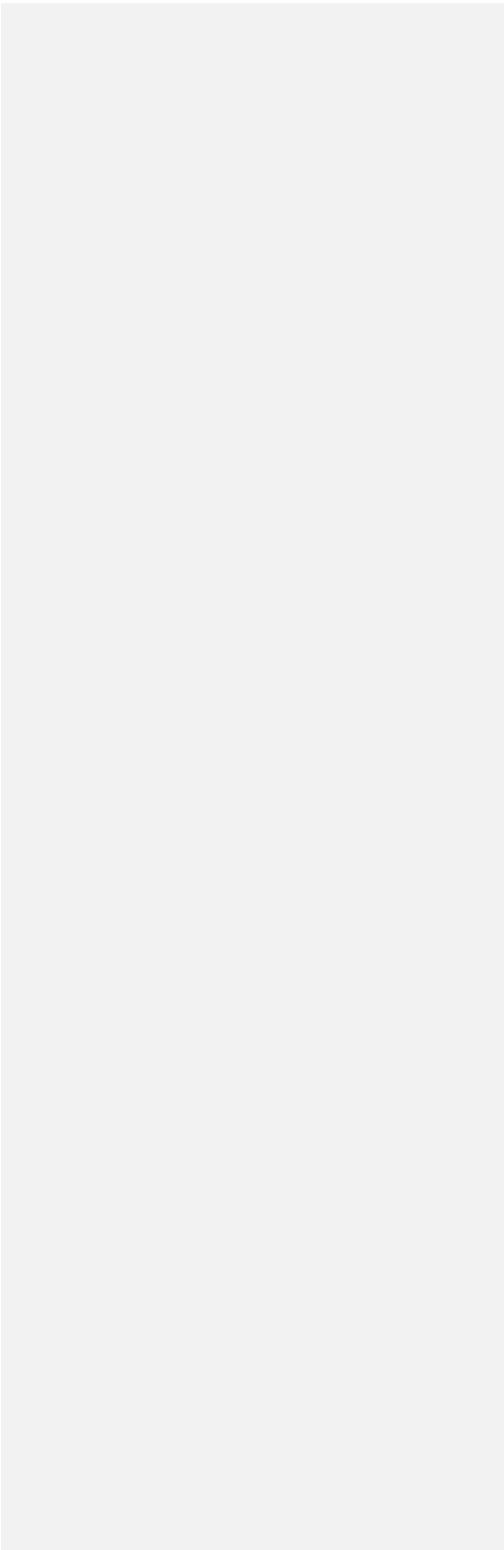
Legal Regulation Promotes Public Health

Only with legalization is regulation possible. On the illicit market, E. Coli, salmonella, heavy metals, toxic pesticides, and other contaminants are common.^{xiii} Regulation allows the state to prohibit the use of hazardous pesticides and to mandate labels on potency and serving-size restrictions. Only legal, regulated cannabis is lab-tested for contaminants that are far more harmful than cannabis itself.

Thank you for your attention to this important issue. I hope that you will join me in concluding that regulating cannabis for adults’ use — not relegating it to the illicit market — is the best approach to protecting public health while removing the damage caused by cannabis prohibition.

Sincerely,

Bryon Adinoff, M.D.
President, Doctors for Cannabis Regulation



ⁱ California Medical Association. *Cannabis and the Regulatory Void*, 2011. <https://dfcr.org/wp-content/uploads/2020/01/CA-Medical-Assn-Cannabis-and-the-Regulatory-Void-White-Paper.pdf> (accessed Feb 28, 2020).

ⁱⁱ Center for Disease Control and Prevention. Smoking and Tobacco Use: Diseases and Death. July 2022. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/diseases-and-death.html (accessed Feb. 9, 2023)

ⁱⁱⁱ Center for Disease Control and Prevention. Alcohol and Public Health Deaths from Excessive Alcohol Use in the United States. July 2022. <https://www.cdc.gov/alcohol/features/excessive-alcohol-deaths.html> (accessed Feb. 9, 2023)

^{iv} Center for Disease Control and Prevention. Drug Overdose. Death Rate Maps & Graphs. June 2022. <https://www.cdc.gov/injury/budget/policystatesnapshots/Hawaii.html> (accessed Feb. 9, 2023)

^v Center for Disease Control and Prevention. Hawaii Overdose Investment Snapshot. April 2022. <https://www.cdc.gov/drugoverdose/deaths/index.html> (accessed Feb. 9, 2023)

^{vi} Walsh Z, Gonzalez R, Crosby K, M ST, Carroll C, Bonn-Miller MO. Medical cannabis and mental health: A guided systematic review. *Clin Psychol Rev* 2017; 51, 15-29.

^{vii} National Survey on Drug Use and Health, Table 3 Marijuana Use in the Past Month, by Age Group and State: Percentages, Annual Averages Based on 2018 and 2019. <https://www.samhsa.gov/data/sites/default/files/reports/rpt32805/2019NSDUHsaeExcelPercents/2019NSDUHsaeExcelPercents/2019NSDUHsaeExcelPercents.pdf>

^{viii} Starting around 1:23:55: <https://www.help.senate.gov/hearings/strengthening-federal-mental-health-and-substance-use-disorder-programs-opportunities-challenges-and-emerging-issues>.

^{ix} See, i.e.: Smart R, Pacula R. Early evidence of the impact of cannabis legalization on cannabis use, cannabis use disorder, and the use of other substances: Findings from state policy evaluations. *American Journal of Drug and Alcohol Abuse* 2019;; Jennifer A. Bailey, et al, Effects of Cannabis Legalization on Adolescent Cannabis Use Across 3 Studies, *American Journal of Preventive Medicine*, 2022; Barrett Wallace Montgomery et al, Estimating the effects of legalizing recreational cannabis on newly incident cannabis use. *PLOS ONE*, 2022.

^x Midgette G, Reuter P. Has Cannabis Use Among Youth Increased After Changes in Its Legal Status? A Commentary on Use of Monitoring the Future for Analyses of Changes in State Cannabis Laws. *Prev Sci* 2020; 21 (1), 137-145.

^{xi} David B. Buller et al. Compliance With Personal ID Regulations by Recreational Marijuana Stores in Two U.S. States. *J Stud Alcohol Drugs*. 2017

^{xii} Ashley Southall "What's in New York's Illicit Cannabis: Germs, Toxins and Metals," *New York Times*, Dec. 1, 2022.



Kuakini Hawaiian Civic Club of Kona

Kona, Hawai'i

SB 375

RELATING TO CANNABIS

Senate Committees on Health and Human Services and Commerce and Consumer Protection

February 15, 2023 9:30 a.m. Room 229

The Kuakini Hawaiian Civic Club of Kona **STRONGLY SUPPORTS SB375**, which legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use. Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax. Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allos qualifying out-of-state patients to cultivate medical cannabis.

We support this measure based on the following bullet points:

- According to the American Civil Liberties Union (ACLU), enforcing cannabis prohibition laws costs taxpayers approximately \$3.6 billion a year.
- Legal cannabis sales totaled \$20 billion in 2020 with a projection to reach \$40.5 billion by 2025.
- Native Hawaiians and people of color have been historically targeted by discriminatory sentencing practices resulting in receiving drug sentences that are 13% longer than others.
- The ability to capitalize on the potential industry that diversifies our economy and strengthen our state's agricultural heritage.

Kuakini Hawaiian Civic Club of Kona is chartered by the Association of Hawaiian Civic Clubs, whose strategic point include "advocating for preservation, protection, and stewardship of land, watersheds, ocean resources, significant cultural sites, traditional practices, and cultural intellectual property, while balancing our use of resources for housing, employment, economic opportunity, health and wellness, and education."

We urge you to **PASS** this measure.

Mahalo nui,
Shane Palacat-Nelsen
President

SB-375

Submitted on: 2/12/2023 5:11:32 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeff Nash	Testifying for Habilitat, Inc	Support	Written Testimony Only

Comments:

Dear Hawaii State Senate,

I am writing to express my support for the legalization of cannabis in our state. Prohibition has been a dismal failure. People have continued to use cannabis despite legal consequences. Failure to legalize the plant leaves the profits in the hands of organized crime, much like the alcohol prohibition from 1920 to 1933. As a resident of Hawaii, I believe that the legalization of cannabis would bring benefits to our community, and I strongly encourage you to consider this important issue.

Firstly, the legalization of cannabis would provide much-needed tax revenue for our state. This new source of income could be used to fund various programs and initiatives that would improve the lives of our residents. It would be great if some of the tax revenue was used to help fund prevention of other, more harmful substances. Furthermore, it would create new jobs in the cannabis industry, which would boost our economy and provide new opportunities for our citizens.

In addition to the economic benefits, the legalization of cannabis would also have a positive impact on our public health system. Currently, people who use cannabis often purchase it on the black market, which can be dangerous and may expose them to harmful substances. Legalization would allow for the production and sale of safe, regulated cannabis products, which would protect the health and safety of our citizens.

Furthermore, the legalization of cannabis would allow law enforcement to focus on more serious crimes, rather than wasting time and resources on non-violent cannabis offenses. This would free up resources that could be used to tackle more pressing criminal issues and would reduce the burden on our criminal justice system. Let's face it, we have many more pressing crime issues to contend with.

In conclusion, I believe that the legalization of cannabis would bring numerous benefits to our state, and I strongly encourage you to consider this important issue. Thank you for your time and consideration.

Sincerely,

Jeff Nash

Habilitat, Inc



Working to Reform Marijuana Laws

Hawaii 2023: SB 375 and HB 237, Testimony in Support of Cannabis Legalization and Regulation Efforts

My name is Jax James, and I serve as the State Policy Manager for the National Organization for the Reform of Marijuana Laws (NORML). I would like to thank the Senate Committee on Health and Human Services for considering Senate Bill 375. NORML supports cannabis legalization, decriminalization, and regulation, as well as protecting cannabis consumers from an unregulated cannabis market.

Never in modern history has there existed greater public support for repealing the nation's nearly century-long experiment with marijuana prohibition. **86% of Hawaii residents who participated in a public opinion poll by the Hawaii Cannabis Industry Association believe cannabis should be legal.**

SB 375 and its companion HB 237 seek to allow adults 21 years and older will be permitted to purchase the equivalent of four ounces of cannabis within a consecutive period of fifteen days

Adults can also home cultivate up to 10 plants. In addition, provisions in the bill would expand home cultivation rights to out-of-state patients. Permitting limited home cultivation allows the ability for patients and adults to have reliable, affordable, and consistent access to the medicine they rely on. Hawaiians deserve the option to legally grow a botanical product that is objectively safer than the litany of pharmaceutical drugs, alcohol, or tobacco, including those that may not be able to afford or do not live within a reasonable distance from a retail outlet.

There are equity provisions for retail licensing. The regulated marijuana industry cannot be successful without actively working to repair the harms caused by the failed war on drugs. Ensuring that communities disproportionately impacted by prohibition are able to benefit from and add to the cannabis industry is in the best interest of public welfare. It should be standard practice in states with a legal cannabis market. This legislation is paramount to the success of the industry and the restoration of our communities that have seen the most harm inflicted upon them.

There is one issue that we would like for you to consider adding to the legislation through amendment. **It is important to include language to protect consumers from discrimination regarding the denial of state benefits, parole, probation, or pretrial release determinations, medical care, organ transplant eligibility, or child custody based on the use of legal cannabis products.** It's important that we reduce the discrimination and stigma associated with using a product that has been scientifically proven to be safer than alcohol and tobacco.

The ongoing prohibition of marijuana financially burdens taxpayers, encroaches upon civil liberties, engenders disrespect for the law, impedes legitimate scientific research into the plant's medicinal properties, and disproportionately impacts communities of color. **Additionally, the Hawaii Cannabis Industry Association's president says there is over \$81 million in tax potential.**

NORML urges Hawaii lawmakers to thoughtfully consider, and support, SB 375 to ensure a safe and regulated cannabis market for responsible adult consumers.



Aloha Senators,

On behalf of the Associated Students of the University of Hawai'i and the full-time students we represent, ASUH expresses strong support for SB 375, which proposes the decriminalization of cannabis in Hawai'i. It is not our place to impose our personal beliefs on others or to deprive people of their given rights. **The framework in SB 375 is a matter of personal freedom, responsibility, and choice, striving to create a value-based legal system, and aligning to Hawaiian tenets that prides itself on laulima (working together), pono (doing what is right), and ahupua'a (sustainable management of resources).**

For far too long, the "war" of this plant has done more harm than good by having people be unfairly prosecuted and imprisoned for possessing small amounts of cannabis. Nationwide, this has disproportionately impacted communities of color, low-income individuals, and those with mental health conditions. Decriminalizing cannabis will reduce the negative impact of these policies and will enable individuals to access hemp for medical and recreational purposes, while also regulating its use. **Provisions in SB 375 provides extensive guidance to reduce the illicit market and ensure that cannabis is sold safely and responsibly to those over 21 years.** In other words, currently Hawaii falls behind where many states have led because this proposed law will reduce the number of people needlessly incarcerated, free up law enforcement resources, create jobs, and incrementally generate much-needed tax revenue affected by the covid-19 pandemic.

Additionally, the decriminalization of cannabis establishes individual freedom and personal responsibility. The government should not dictate what people can and cannot put into their bodies if they are not harming others. Decriminalization of cannabis is not an endorsement of its use, but rather a recognition that adults should be able to make their own decisions without fear of criminalization. **SB 375 allows individuals, 21 years and over, to make their own choices about cannabis use and creates a legal market that operates according to transparent rules and regulations, leading to a more free and prosperous society.** Also, by treating cannabis use as a health issue rather than a criminal offense, we can promote a more balanced approach to substance use and reduce the stigma associated with drug use which embodies pono, emphasizing balance, harmony, and well-being.

In conclusion, **ASUH urges you to support SB 375 and provide comprehensive and effective regulatory efforts for generating tax revenue in Hawai'i regarding cannabis.** This is an opportunity to align our values and improve the lives of our residents and out-of-state guests.

Mahalo,


Rudy Ramirez
ASUH President



ASUH

Associated Students of the University of Hawai'i

YOUR STUDENT GOVERNMENT



SB 375, RELATING TO CANNABIS

FEBRUARY 15, 2023 · SENATE HEALTH AND HUMAN SERVICES AND CONSUMER PROTECTION COMMITTEES · CHAIRS SEN. JOY A. SAN BUENAVENTURA AND SEN. JARRETT KEOHOKALOLE

POSITION: Support.

RATIONALE: Imua Alliance supports SB 375, relating to cannabis, which legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use; exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax; clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law; and allows qualifying out-of-state patients to cultivate medical cannabis

It is high time that Hawai'i stopped criminalizing people for smoking small amounts of a plant. 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 more stark 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?

Furthermore, 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. Therefore, passage this measure will prevent more people from becoming victims of our unjust and racially discriminatory prison system.

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 in January and would produce substantial additional criminal justice savings that could be spent delivering a quality public education to our keiki, expanding access to healthcare and mental health programs, and building truly affordable housing. Even the more conservative \$50 million revenue estimate produced by the Hawai'i Department of Taxation last year is enough

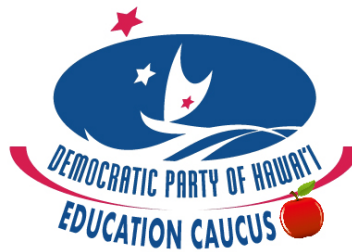
to “stand up” a local cannabis industry. Many states have established well-regulated recreational cannabis industries that include restorative justice components for less than \$5 million.

This measure employs a social equity model for cannabis legalization, which is essential for Hawai’i. 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 centers both social equity and criminal record expungement to rectify the harm endured by those who have been prosecuted for cannabis and their families.**

Finally, this proposal includes protections for local cannabis operations to prevent multistate corporations—the so-called “Walmarts of cannabis”—from controlling our islands’ cannabis industry, including language that would allow a Hawai’i Cannabis Authority to set fees for non-local operators that far exceed those charged to local businesses (which should cost no more than a contractors’ license), and provisions that would give people of Native Hawaiian ancestry preference in obtaining licenses to participate in the recreational cannabis industry.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org



SENATE BILL 375, RELATING TO CANNABIS

FEBRUARY 15, 2023 · SENATE HEALTH AND HUMAN SERVICES AND CONSUMER PROTECTION COMMITTEES · CHAIRS SEN. JOY A. SAN BUENAVENTURA AND SEN. JARRETT KEOHOKALOLE

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports SB 375, relating to cannabis, which legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use; exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax; clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law; and allows qualifying out-of-state patients to cultivate medical cannabis

It is high time that Hawai'i stopped criminalizing people for smoking small amounts of a plant. 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 more stark 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?

Furthermore, 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. Therefore, passage this measure will prevent more people from becoming victims of our unjust and racially discriminatory prison system.

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 in January 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 the more conservative \$50 million revenue estimate produced by the Hawai'i Department of Taxation last year is enough to “stand up” a local cannabis industry. Many states have established well-regulated recreational cannabis industries that include restorative justice components for less than \$5 million.

This measure employs a social equity model for cannabis legalization, which is essential for Hawai'i. 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 centers both social equity and criminal record expungement to rectify the harm endured by those who have been prosecuted for cannabis and their families.**

Finally, this proposal includes protections for local cannabis operations to prevent multistate corporations—the so-called “Walmarts of cannabis”—from controlling our islands' cannabis industry, including language that would allow a Hawai'i Cannabis Authority to set fees for non-local operators that far exceed those charged to local businesses (which should cost no more than a contractors' license), and provisions that would give people of Native Hawaiian ancestry preference in obtaining licenses to participate in the recreational cannabis industry.

Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · kriscoffield@gmail.com



American Cancer Society
Cancer Action Network
2370 Nu'uau Avenue
Honolulu, HI 96817
808.460.6109
www.fightcancer.org

Senate Committee on Health and Human Services
Senator Joy San Buenaventura, Chair
Senator Henry Aquino, Vice Chair

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

Hearing Date: Wednesday, February 15, 2023

ACS CAN OPPOSES SB 375 – RELATING TO CANNABIS.

Cynthia Au, Government Relations Director – Hawaii Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to OPPOSE SB 375 – RELATING TO CANNABIS.

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN supports efforts to invest in comprehensive policies that would strengthen the health infrastructure in Hawaii to prevent kids from starting to use tobacco and help adults already addicted to tobacco to quit. ACS CAN advocates for everyone's right to breathe smoke-free air.

ACS CAN is opposing this bill specific to section §A-92 "Consumption at retail locations authorized" on page 47. Allowing consumption of marijuana at retail locations would undermine the effectiveness of our current 100% smoke-free laws.

We recommend eliminating the entire section §A-92 "Consumption at retail locations authorized" on page 47, lines 16 to 21.

Smoking marijuana in public places unnecessarily exposes individuals to secondhand smoke, posing potential health risks. Marijuana smoke, like tobacco smoke, is a lung irritant and can pose significant risks to people who use and to those in close proximity to 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.

Marijuana smoking affects lung function including inflammation of the large airways, increased airway resistance, and lung hyperinflation.ⁱ Marijuana smoke contains the same fine particulate matter found in tobacco smoke that can cause heart attacks.ⁱⁱ 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.ⁱⁱⁱ 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.^{iv}

ACS CAN supports the prohibition of the 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. Allowing the smoking or aerosolizing of marijuana in public places also undermines the effectiveness of 100% smoke-free laws. Comprehensive smoke-free laws are effective at protecting individuals from exposure to secondhand smoke, reducing initiation, especially among youth, and increasing quit attempts by people who smoke.^v These laws have led to lower smoking rates and improved health status, including fewer heart attacks and cancers.

ACS CAN also supports the need for more scientific research and encourages the state to collect baseline data and monitor trends on the impact of marijuana legalization on the use of marijuana as well as other substances including tobacco, alcohol, opioids, etc. and tracking psychosis and other mental health conditions as well as the health equity impact.

ⁱ Gracie, K., & Hancox, R. J. (2021). Cannabis Use Disorder And The Lungs. *Addiction*, 116(1), 182-190.

ⁱⁱ 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.

ⁱⁱⁱ 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>.

^{iv} 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.

^v U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

To: omccr@doh.hawaii.gov

02-14-23

Regarding : SB375

Stance : Testimony in opposition

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Kai Luke, a representative of Cannabis Society of Hawai'i a diverse group of Community members made up of Native Hawaiians, People of Hawai'i, 329 Patients, Health Care Professionals, Dispensary workers, Previous Dispensary workers, Industry Professionals, Concerned Citizens, and Advocates in Health and Wellness.

We are writing in strong opposition to SB375.

While we are in favor for expanding our Cannabis Industry, however we cannot support bills that will put the Community at a disadvantage or in a compromising situation. Our goal is to work with DoH and provide information and resources to expand in a healthy and mature way.

Currently industry gatekeepers have only looked out for their own well-being and bills like this scream it.

We are hoping for any and all Cannabis related issues to include Social Equity, Inclusion, and the ability for the program to benefit Native Hawaiians just as Indigenous People in the United States of America.

Let's continue this discussion and provide more thoughtful and consideration as we expand these services for the Community and People of Hawai'i and put forth bills we can all support !

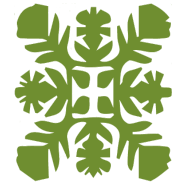
Please accept our current stance in opposition.

Please consider a NO vote.

Mahalo,
Kai Luke, Cannabis Society of Hawai'i
cannabissocietyofhawaii@gmail.com



ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII
DIOCESE OF HONOLULU
Witness to Jesus



Online Submittal: February 13, 2023

HEARING: February 15, 2023

TO: Senate Committee on Health & Human Svcs Senate Committee on Cons. Protection
Sen. Joy San Buenaventura, Chair Sen. Jarrett Keohokalole, Chair
Sen. Henry Aquino, Vice-Chair Sen. Carol Fukunaga, Vice Chair

FROM: Eva Andrade, Executive Director, Hawaii Catholic Conference

POSITION: Opposition to SB375 Relating to Cannabis

Honorable members of the Senate Health & Human Services and Consumer Protection Committees, I am Eva Andrade, representing Bishop Larry Silva and the Hawaii Catholic Conference, the public policy voice for the Roman Catholic Church in the State of Hawaii. Thank you for the opportunity to provide testimony in opposition to SB 375.

While the Catholic Church does not teach that the use of marijuana specifically is inherently sinful, paragraph 2291 of the Catechism describes the use of drugs in general, describing it as a “grave offense” when used apart from strictly therapeutic reasons. It also states in paragraph 2211 that the political community has a duty to protect the security and health of families, especially with respect to drugs.

Legalizing marijuana for recreational usage will adversely affect families, communities, workers, and health outcomes. In fact, the American Medical Association (AMA) believes that cannabis is a “dangerous drug and...is a serious public health concern” and that the sale of cannabis for adult recreational use should not be legalized.¹

Once you go this route, you will ultimately send a message to children that drug use is socially and morally acceptable. We have witnessed the rise of vaping among our youth, and thereby we remain strongly concerned that this attempt to raise revenue will ultimately come at a social cost that will permanently harm our community. As people of faith, we must speak out against this effort and the damaging effects its passage would have on children and families.

Please do not pass this bill. Mahalo for the opportunity to submit written testimony in opposition.

¹ <https://www.ama-assn.org/system/files/2019-05/a19-y-ps-resolution-05.pdf> (accessed 02/10/23)

HAWAII CATHOLIC CONFERENCE

(The public policy voice for the Roman Catholic Church in the State of Hawaii)

February 14, 2023

Re: SB375

COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, 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 SB375

Aloha, my name is Greg Tjapkes, and I am the Executive Director of the Coalition for a Drug-Free Hawaii (CDFH), we do not find that the legalization of cannabis for personal or recreational use is a natural, logical, nor a reasonable outgrowth of the current science of cannabis.

Today's cannabis is not natural. Natural cannabis would have 1-3% THC, whereas today's genetically engineered cannabis can contain up to 30% THC.

Failing to account for public safety, administrative, and social costs of this policy is not logical. According to the Centennial Institute, for every dollar gained in tax revenue, Coloradans spent approximately \$4.50 to mitigate the effects of legalization

It is not reasonable to consider legalizing recreational cannabis with all of the warnings, research, and other states' experience with:

- increases in **THC impaired driving deaths: up 138%** in Colorado
- increase in psychosis, 29% suicide with THC up from 14%
- **pediatric poisonings, up 1375%** nationally
- premature birth and early infant death from heavy cannabis using mothers
- **48% increase** in seizures of marijuana, EPIC, CO

Please consult the science, work the numbers, and consider the human costs, and you should find that the legalization of cannabis for personal or recreational use is far from natural, logical, or reasonable.

Thank you for the appreciate the opportunity to provide this testimony.

Greg Tjapkes
Executive Director
Coalition for a Drug-Free Hawaii



Submitted Online: February 13, 2023

HEARING: Tuesday, February 15, 2023

TO: Senate Committee on Health & Human Services
Sen. Joy San Buenaventura, Chair
Sen. Henry Aquino, Vice Chair

Senate Committee on Commerce & Consumer Protection
Sen. Jarrett Keohokalole, Chair
Sen. Carol Fukunaga, Vice Chair

FROM: Eva Andrade, President

RE: Opposition to SB375 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 with regards to 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 major policy change for our community.

Let’s fix the vaping problem in Hawaii before we create a situation that may very well be exacerbated by legalized recreational marijuana. On February 16, 2021, Governor David Ige presented a report on the Hawaii Student Health Behaviors. Although some positive results were mentioned, he also expressed great concern regarding “the high number of youth who have tried electronic smoking devices, with 31% (or almost 1 in 3) of high school students using electronic vapor products”ⁱ News stories at that time referred to an effort by the State Department of Health to reduce that number,ⁱⁱ but it continues to grow.

If the youth in Hawai’i are already dabbling in an illegal substance at such high rates, even with the attempt to provide deeper restrictions, do we really believe that marijuana will somehow escape their attention and use? Marijuana concentrates are being used in vaping devices and even the DEA has recognizedⁱⁱⁱ that the marijuana used in vaping contains a higher concentrate. Because marijuana is a performance-degrading drug, school aged keiki who access it will most certainly be put at a disadvantage.

The use of edible products is another way that our youth could access marijuana and that could be a huge unintended consequence. According to Smart Approaches to Marijuana^{iv}, youth drug use has risen in every state that has legalized recreational marijuana.^v We must do everything in our power to ensure that does not happen Hawaii.

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 does alcohol.”^{vi}

Legalization and the perceived societal acceptance are detrimental to the overall safety and wellbeing of our keiki. Family factors can serve both protective and risk functions in adolescents’ substance use. We hear stories of access to illegal substances because of an adult in their own family network. These same individuals have been the connection for their ability to gain easy access to marijuana purchased by adults for “medicinal” use. Legalization of recreational marijuana will make this worse.

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.”^{vii}

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 our strong concerns.

ⁱ [21-026-New-findings-show-promising-trends-in-Hawaii-student-health-behaviors.pdf](#) (February 16, 2021) (accessed 02/10/23)

ⁱⁱ (2022, October 29). *Hawaii DOH launches new campaign to stamp out teen vaping*. KITV 4. Retrieved February 10, 2023, from https://www.kitv.com/video/news/hawaii-doh-launches-new-campaign-to-stamp-out-teen-vaping/video_49d69be0-7890-5c29-99a3-d8e712fb4007.html

ⁱⁱⁱ (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

^{iv} 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>

^v (n.d.). *SAM Frequently Asked Questions*. SAM Smart Approaches to Marijuana. Retrieved February 10, 2023, from <https://learnaboutsam.org/faq/#sam19>

^{vi} 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>

^{vii} 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>

SB-375

Submitted on: 2/14/2023 10:41:43 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Alex Wong	Testifying for Kauai Farm Planning	Oppose	Written Testimony Only

Comments:

Aloha e State of Hawaii Senators,

Mahalo for all your effort and thorough work on drafting this bill. The social equity sections are a very solid start, and can easily be built upon to reinforce against continued gentrification and forced exodus of Native Hawaiians and multigenerational local families out of the cannabis market/community and out of Hawaii altogether.

The primary concern and opposition to this bill is its lack of protections and assurance for the continued growth and security of the existing Medical cannabis community and scientific progress of cultivating and improving the caregiver to patient relationships in Hawaii in perpetuity. If the intention of this adult-use legalization bill is to force medical patients to also buy from the dispensary, that is absolutely unethical and will not be tolerated by the community. Medical patients and caregivers/growers have already established a working model for delivering quality medication (privately grown cannabis) to Hawaii's medical community at an affordable and accessible means for years.

These relationships are much more meaningful and profound than the dispensary-customer relationship. Medical cannabis' singular purpose is to heal, not to make exorbitant profits and create more customers. Enough to cover costs of cultivation, lease/mortgage arrangements, and progression of research and quality control. That is why it should not be taxed. Taxing medical growers and patients is unethical and would cripple the medical community. Prohibiting the continuation of caregivers, in perpetuity, and expecting medical patients with chronic, terminal, and limiting disabilities is unethical.

Here are the pages where I have concerns with SB375.

1. Page 22, Move minimum number of years to legally be from a disproportionately impacted area from 5 years to 10 years minimum. Must live there full time, and that must be their primary residence! Prevents rich haoles from moving in and claiming they are from that community. Prevents further haole gentrification of Hawaii and discourages corporate and haole cannabis players from moving into our disproportionately affected communities for ulterior motives.

2. Page 56, Only 10 plants per private residence? What if there are multiple adults living in one house?

3. Page 63, There are no protections from other State or County laws and ordinances for medical patients and caregivers. Only medical dispensaries. Need to add protections for medical patients and caregivers' grow sites.

4. Page 98 and 99, Tax revenue generated from Adult-use cannabis should be required to have a nexus with directly supporting Hawaii's agriculture community. This is where tax revenue from adult-use cannabis sales should be earmarked, and State funding for giving MedQuest/Health insurance for Hawaii's farmers can be sourced. In addition to sourcing MedQuest for Hawaii's farmers from the proposed "Green Fee" to be levied on Hawaii's tourists.

5. Page 107 and 108, There are no protections from the IRS/Internal Revenue Code for medical patients and caregivers. Only medical dispensaries and adult-use dispensaries. Again, it is unethical to tax medical patients and caregivers/growers for medical cannabis cultivation.

6. Page 114 and 115, Limits the amount of patients per grow site to 5 only (Anti-medical grow cooperative). Also, prohibits primary caregivers for medical patients after December 31, 2024. No law should limit how much food and medicine you can legally grow for your own community. Many of Hawaii's medical patients are too sick and/or physically unable to cultivate their own medicine. Cannabis cultivation is farming, it is physical labor. This right to affordable access shall not be infringed upon.

Mahalo nui loa,

Alex Wong



SB375 Legalize Cannabis

COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Wednesday, Feb 15 2023: 9:30 : Room 229 Videoconference

Hawaii Substance Abuse Coalition Opposes SB375 Until

- **Prevention funding is increased to help kids and**
- **Media Campaign to inform kids is required**
- **Add Funding for treatment cannabis use disorder**

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 and prevention agencies and recovery services.

Opposition - Recommendation

We **strongly urge that significant prevention funds** be added to this bill because a growing number of youth are having problems with cannabis as well as significant data indicates cannabis is harmful to youth's developing brain

Moreover, we **strongly urge Hawaii to follow other states who developed a short-term media campaign** to inform kids about the dangers of using before adulthood.

As cannabis use increases, so will the **need for treatment for cannabis use disorders**. Please include funding for much needed treatment.

Data

In Hawaii, substance use disorder treatment agencies report that 63.5% of kids presenting for treatment do so because of problems stemming from overuse of cannabis. (Department of Health: Alcohol and Drug Abuse Division 2015)

In 2019, 37% of US high school students reported lifetime use of marijuana and 22% reported use in the past 30 days.¹

The **teen brain is actively developing** and continues to develop until around age 25. Marijuana use during adolescence and young adulthood may harm the developing brain.²

Negative effects of teen marijuana use include³:

- Difficulty thinking and problem-solving,
- Problems with memory and learning,
- Reduced coordination.
- Difficulty maintaining attention,
- Problems with school and social life.

How marijuana can impact a teen's life:

- **Increased risk of mental health issues.** Marijuana use has been linked to a range of mental health problems, such as depression and social anxiety. People who use marijuana 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 marijuana and schizophrenia is stronger in people who start using marijuana at an earlier age and use marijuana more frequently.
- **Impaired driving.** Driving while impaired by any substance, including marijuana, is dangerous and illegal. Marijuana negatively affects several skills required for safe driving, such as reaction time, coordination, and concentration.
- **Potential for addiction.** Approximately 3 in 10 people who use marijuana have marijuana use disorder.⁷ Some signs and symptoms of marijuana use disorder include trying but failing to quit using marijuana or giving up important activities with friends and family in favor of using marijuana. The risk of developing marijuana use disorder is stronger in people who start using marijuana during youth or adolescence and who use marijuana more frequently.

While adults experience short term effects, youth can also experience long term effects:³

Long-Term Effects

Marijuana also affects brain development. When people begin using marijuana as **teenagers**, the drug **may impair thinking, memory, and learning functions and affect how the brain builds connections** between the areas necessary for

¹ Jones CM, Clayton HB, Deputy NP, Roehler DR, Ko JY, Esser MB, Brookmeyer KA, Hertz MF. Prescription Opioid Misuse and Use of Alcohol and Other Substances Among High School Students – Youth Risk Behavior Survey, United States, 2019. MMWR Suppl. 2020 Aug 21;69(1):38-46.

² Centers for Disease Control and Prevention (CDC) Marijuana and Public Health <https://www.cdc.gov/marijuana/health-effects/teens.html>

³ NIDA. 2019, December 24. Cannabis (Marijuana) DrugFacts. Retrieved from <https://nida.nih.gov/publications/drugfacts/cannabis-marijuana> on 2023, February 11

these functions. Researchers are still studying how long marijuana's effects last and whether some changes may be permanent.

A study by researchers at Duke University showed that people who started smoking marijuana heavily in their **teens** and had an ongoing marijuana use disorder **lost an average of 8 IQ points** between ages 13 and 38. The lost mental abilities didn't fully return in those who quit marijuana as adults. Those who started smoking marijuana as adults didn't show notable IQ declines.⁴

We recommend the bill identifies significant resources for prevention funding as well as funding for treatment and clearly describes the state's role and responsibilities for a communication/media campaign to inform youth.

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

⁴ Meier MH, Caspi A, Ambler A, et al. Persistent cannabis users show neuropsychological decline from childhood to midlife. *Proc Natl Acad Sci U S A*. 2012;109(40):E2657-E2664. doi:10.1073/pnas.1206820109.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, GENERAL EXCISE, New Tax on Responsible, Adult-Use Cannabis, Exempt from GE Taxation

BILL NUMBER: SB 375, HB 237

INTRODUCED BY: SB by LEE, AWA, CHANG, KEITH-AGARAN, KEOHOKALOPE, MCKELVEY, Ihara, Kim; HB by KAPELA, GANADEN, HUSSEY-BURDICK, LOWEN, MARTEN, PERRUSO, POEPOE, TARNAS

EXECUTIVE SUMMARY: Legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use. Exempts sales of cannabis and manufactured cannabis products for medical use from the general excise tax. Clarifies that qualifying out-of-state patients have the same rights and privileges under the medical cannabis law. Allows qualifying out-of-state patients to cultivate medical cannabis.

SYNOPSIS: Adds two new chapters to the HRS. The first one is to regulate responsible, adult-use cannabis, and the second one is to tax it.

The new tax chapter imposes tax on the gross proceeds of sales of cannabis or manufactured cannabis products at retail for responsible, adult use. The tax rate is:

Effective Date	Tax Rate
January 1, 2024	5%
January 1, 2026	10%
January 1, 2028	15%

Amends section 237-24, HRS, to add exemptions for medical use cannabis and for responsible, adult-use cannabis (taxed under the new tax chapter).

Makes various technical and conforming amendments.

EFFECTIVE DATE: July 1, 2023.

STAFF COMMENTS: The question that should be asked is the purpose of this new tax. If the goal is to make people stop using cannabis by making it cost-prohibitive, then why are we legalizing it?

Certainly, the same can be said of other “sin taxes” that we impose on tobacco, liquor, and fossil fuel use.

As the Foundation’s previous President, Lowell Kalapa, wrote in the Tax Foundation of Hawaii’s weekly commentary on October 28, 2012:

Lawmakers seem to have a simplistic reaction to solving problems the solution to which plagues their constituents – tax it.

Probably the best example is what people like to call sin taxes, those excise taxes that are levied on tobacco and alcohol products. After all, smoking causes cancer and alcohol causes all sorts of problems including driving under the influence. Lawmakers and community advocates shake their heads and push for higher tax rates, arguing that making these products more expensive will deter folks from using these products.

The problem is that lawmakers also like the revenues that are generated from the sales of these products and, in some cases, they have tried to link the use and sale of these products with noble causes such as the funding of the Cancer Research Center that is currently being built. Again, the argument is that smokers should pay for programs and projects which seek to cure the related ill which in this case is cancer caused by smoking.

The irony is that arguments to increase the tax on tobacco and, more specifically, cigarettes, is a goal of getting smokers to quit while depending on the revenues from tobacco and cigarette taxes to fund an ongoing program, in this case the Cancer Research Center. So, which is it folks, stop smokers from smoking and if successful, there won't be any revenues to fund the Cancer Research Center?

he fact of the matter is that it appears that both locally and nationally, higher taxes on cigarettes are influencing smokers as tax collections on the sale of cigarettes have fallen. Certainly some of the decline is due to smokers actually quitting, but to some degree one has to suspect that some purchases were made via mail order from exempt Indian reservation outlets while others may be what is called gray market purchases, that is from sources outside the country.

What should come as a surprise is that most of the folks who have quit are of some means as they are more likely to recognize the health hazard caused by use of this product. That means most of those who are still smoking are among the lower-income members of our community. Thus, the tax is regressive, generating less and less collections from middle and higher-income individuals.

Kalapa, "Finding the Blame for What Ails You," at <https://www.tfhawaii.org/wordpress/blog/-2012/10/finding-the-blame-for-what-ails-you/> (Oct. 28, 2012).

If the policy choice is to legalize the activity, then it should be sufficient to tax it like any other business. If we add an extra tax to discourage the activity, isn't it being hypocritical? If we add an extra tax to pay for societal damage this activity causes, why aren't we accepting that we are causing the damage by allowing the activity?

Digested: 2/12/2023



Tuesday, February 15, 2023

Chairwoman Joy A. San Buenaventura
Hawaii Senate Committee on Health and Human Services

Chairman Jarrett Keohokalole,
Hawaii Senate Committee on Commerce and Consumer Protection

Senate Bill 375 Does Some Things Well, But Has Shortcomings

Dear Chairpersons and Members of the Committees:

On behalf of the Reason Foundation, I thank you for accepting these comments and making them part of the public record. Among other things, the Reason Foundation is committed to ensuring that state-regulated cannabis markets are designed in such a way that they remain dynamic and offer genuine economic opportunity to individuals from a range of backgrounds. We have reviewed Senate Bill 375 and believe it does some things well but has key shortcomings and absent provisions that should be included.

Strengths

1. **Workplace protections.** Section A-4 includes workplace protections that allow employers to enforce a drug-free workplace or enforce uniform standards regarding employee drug use. This provision is vital for employers who may hold federal contracts or are engaged in physically dangerous activities.
2. **Automatic expungement.** Section 12 would automatically expunge convictions for activities that would no longer be considered crimes following the bill's passage, establishing intertemporal justice.
3. **Ordinary deductions.** Section 30 allows cannabis licensees to deduct ordinary and necessary expenses from gross income under the state corporate income tax, allowing these legal businesses to be treated as similarly situated legal businesses in other industries.
4. **Medical marijuana reciprocity.** Sections 32 and 33 would establish universal recognition of medical marijuana cards issued by other states so that patients can gain access to medically needed cannabis products while they are away from home.

Shortcomings

1. **Cannabis Authority would be slower than agency.** Sections A-12 and A-13 charge the proposed Hawaii Cannabis Authority with adopting rules, establishing fees and making decisions regarding the award of cannabis licenses to applicants. Section A-14 clarifies that these functions cannot be delegated. However, the Hawaii Cannabis Authority may meet as infrequently as once per quarter. This means that license applications may linger for extended periods while applicants are forced to consume working capital that may deplete their resources. If an applicant is instructed to cure a small deficiency within its application, then that application may not be considered again for three

DRUG POLICY PROJECT CONTACTS:

Geoffrey Lawrence, Director (geoff.lawrence@reason.org)
Michelle Minton, Sr. Policy Analyst
(michelle.minton@reason.org)

Reason Foundation is a national 501(c)(3) public policy research and education organization with expertise across a range of policy areas, including public sector pensions, transportation, infrastructure, education, and criminal justice. For more information about Reason Foundation's approach to education and transportation policy, visit reason.org



months. This structure could substantially slow licensing and cause disharmony in the market. Michigan began its adult use market with a similar board in charge of licensing decisions, but quickly scrapped it in response to frequent complaints about how slowly the board moved and the arbitrary nature of its decisions. Instead, Gov. Gretchen Whitmer created the Marijuana Regulatory Agency as a permanent state agency using a rules-based framework to evaluate license applications. Almost immediately, the state became more responsive to the needs of market participants.¹

2. **License types.** Section A-21 specifies the types of cannabis licenses to be issued by the Hawaii Cannabis Authority. It does not list license types available in many other states with adult use cannabis markets, including those for hosting cannabis events, consumption lounges, or retail delivery. In fact, Sections A-91 and A-92, respectively, expressly prohibit retail delivery and on-site consumption. Retail delivery and on-site consumption offer options that may allow consumers to more easily avoid driving while under the influence of cannabis.² Lawmakers should consider the public safety implications of these provisions.
3. **Labor peace agreement requirement is unconstitutional.** Section A-53 would require license applicants to enter into a labor peace agreement as a condition of receiving a license. Maintenance of the labor peace agreement would also be an “ongoing material condition of the license.” This provision would intrude on the exclusive jurisdiction of the National Labor Relations Board to regulate private-sector labor relations. U.S. Supreme Court precedent has made clear that state and local governments cannot condition the issuance of any privileged business license on entrance into a labor peace agreement.³ Through the Supremacy Clause of the U.S. Constitution, this provision is unconstitutional.⁴ Lawmakers should strongly consider removing it because it would imperil the entire state-regulated cannabis market.
4. **Providing capital to licensees could involve the state in federal racketeering.** Section A-32 provides for a series of loans or grants that could be offered to qualified social equity applicants. However, these applicants will be engaged in the manufacture and distribution of a Schedule 1 controlled substance, as defined by the federal Drug Enforcement Agency. As organized entities, these businesses constitute federal criminal enterprises. If the state provides capital directly to these businesses, it will enlist itself as an affiliate of one or more federal criminal enterprises. In the event federal enforcement policies toward state-licensed marijuana businesses change, this could implicate the state itself in federal racketeering and subject the state’s assets to seizure and officers and employees to arrest. Hawaii should refrain from providing direct financial support to any cannabis licensee at least until federal law allows for the legal manufacture and distribution of cannabis products.

Absent Provisions

1. **Enforceable contracts.** Senate Bill 375 contains no express provisions to clarify that contracts entered into by cannabis licensees are enforceable under Hawaiian law. This provision is required to hold counterparties to their commitments with cannabis licensees.
2. **Occupational licensing protection.** There is no express provision to protect holders of professional

¹ Geoffrey Lawrence, “Michigan’s Marijuana Regulators Are Running Ahead of Schedule,” Reason Foundation commentary, July 2, 2019, <https://reason.org/commentary/michigans-marijuana-regulators-are-running-ahead-of-schedule/>.

² Spence Purnell, “Marijuana Delivery: Addressing Concerns and Public Policy Issues,” Reason Foundation policy brief, June 2019, <https://reason.org/wp-content/uploads/public-policy-cannabis-delivery-services.pdf>.

³ *Golden State Transit Corp. v. City of Los Angeles*, 660 F. Sipp. 571 (C.D. Cal., 1987).

⁴ Geoffrey Lawrence, “Michigan Tries to Force Marijuana Businesses to Reach Labor Peace Agreements,” Reason Foundation commentary, January 3, 2020, <https://reason.org/commentary/michigan-tries-to-force-marijuana-businesses-to-reach-labor-peace-agreements/>.

DRUG POLICY PROJECT CONTACTS:

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licenses from censure by state licensing boards simply because they offer services to a cannabis business. Since cannabis businesses are federal criminal enterprises, lawyers, accountants and other credentialed professionals should enjoy this protection under Hawaiian law.

3. **Parent protections.** There is no express provision clarifying that individuals cannot be stripped of their parental rights solely on the basis of their lawful cannabis consumption. Lawmakers should consider adding a provision to this effect.

Reason Foundation is committed to ensuring that cannabis legalization is done correctly and that state-regulated markets function properly. We are ready and eager to provide additional feedback on this or similar proposals as necessary.

Sincerely,
Geoffrey Lawrence
Research Director
Reason Foundation

DRUG POLICY PROJECT CONTACTS:

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Michelle Minton, Sr. Policy Analyst
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ON THE FOLLOWING MEASURE: SB375, RELATING TO CANNABIS

COMMITTEE ON HEALTH AND HUMAN SERVICES
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 15, 2023 TIME: 9:30AM

TESTIFIER: Brian Goldstein

POSITION: STRONG SUPPORT

Chairs San Buenaventura and Keohokalole, Vice Chairs Aquino and Fukunaga
and Members of the Committee:

This bill takes the next important step in the reform of Hawaii cannabis laws and legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use.

I urge you to support this measure.

SB-375

Submitted on: 2/13/2023 10:31:48 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Clair Mason	Individual	Support	Written Testimony Only

Comments:

Aloha chair, vice chair, and members of the community,

My name is Clair Mason, I am from Kailua-Kona, and I stand in **strong support of SB375**. While not a cannabis user myself, I see nothing but incredible benefits to come from legalization - from tax revenues to jobs to agricultural economic development. It's time for Hawai'i to follow suit of the rest of progress-forward states and nations that have legalized cannabis. We have seen how beneficial it is for states to make this change - we're behind when we should be ahead. I had the great privilege of visiting Hawai'i's biggest cannabis operation, Big Island Grownin Hilo while working for Rep Kapela, and I was so amazed at the incredible work they are doing. They are creating honorable jobs with upward movement in engineering, sciences, marketing, business development, and agriculture. They're creating safe products for people who suffer from chronic illnesses and chronic pain. We should be creating better access to this, and all legislators in Hawai'i should know by now that legalizing cannabis is the only way to save our medical cannabis industry. Regardless, it's an important step in creating a more equitable, safe, and economically sustainable Hawai'i. Mahalo for your work and for considering my testimony.

Clair Mason

808-741-0124

info@clairmason.com

SB-375

Submitted on: 2/11/2023 12:38:35 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Anthony F Chelte	Individual	Support	Written Testimony Only

Comments:

Honorable State Senators: Aloha. I am writing in support of SB375 providing (1) responsible adult recreational sale and use of cannabis; and (2) exempting medical marijuana (and manufactured cannabis products for medical use) from the State's General Excise Tax. Hawaii, as you know, was the eighth state in union to legalize cannabis for medical use. This was an important early step forward, demonstrating the commitment to exploring and developing innovation to help Hawaii attain a first mover status. I have been a medical card holder (329 card) for several years. Cannabis, along with other traditional treatment options, has helped tremendously in reducing. And/or alleviating the severe pain that I suffer due to damaged spinal system. I urge you to approve the legislation, and move it forward for a vote on the Senate Floor. Hawaii should be leading the way...Demonstrate your commitment to vitality, vote to move this forward with a positive recommendation out of Committee. Mahalo.

SB-375

Submitted on: 2/11/2023 11:51:45 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kaitlin Schell	Individual	Support	Written Testimony Only

Comments:

Please pass this bill. This bill will finally allow us to do legally what thousands are already doing. Legalization and regulation will turn a black market industry that punishes Native Hawaiians and people of color disproportionately into a profitable enterprise for our state. Please stop punishing otherwise law abiding Hawaiians for exercising what should be a personal choice.

SB-375

Submitted on: 2/11/2023 12:06:58 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
John Fitzpatrick	Individual	Support	Written Testimony Only

Comments:

Aloha Honorable Senators,

My name is John Fitzpatrick and I am in strong support of SB 375 which would legalize recreational use and recognize the need for social equity in the locally grown cannabis industry. I personally do not use marijuana but have grown up around it because my dad uses it to treat his PTSD from being a paramedic. His best friend was shot and murdered and he was the paramedic that responded to the scene of the crime. Marijuana has helped him cope with that tragedy and many other devastating accidents that he has witnessed. He has never gotten angry or violent while using marijuana. I have also never seen anyone get angry or violent under the influence of marijuana.

Many people say marijuana is a gateway drug. But if it is illegal like heroine, cocaine, and crystal meth to name a few of course it will be considered a gateway drug because those illegally selling marijuana are likely selling other schedule I and schedule II drugs. There are so many beneficial uses of marijuana that I have seen and for this reason we should no longer consider it a schedule I or schedule II drug because it does not have the harmful side effects of those drugs. I have never heard of anyone overdosing and dying from the use of marijuana.

Lastly, the current dispensary method with just 5 dispensaries and you have to be rich in order to get one is socially unequal because there are so many people that could grow marijuana for recreational use and have been doing so for decades, yet only a handful of people actually can sell the product legally. We need to make sure our local growers can grow and sell their crops legally.

There are far too many people locked up for non-violent marijuana related offenses, it was wrong when I was a kid and it is wrong now.

This industry could be a multibillion dollar industry for the state of Hawaii and we could provide so much for the people of Hawaii if we legalize recreational marijuana.

Please support SB 375 and "**finish the job**" President Biden has started at the federal level.

Mahalo,
John "Fitz" Fitzpatrick

SB-375

Submitted on: 2/12/2023 6:46:13 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Angela Huntmer	Individual	Support	Written Testimony Only

Comments:

I urge support if this bill. Cannabis should be available to the adult population. It is a lot safer than alcohol and tobacco. Mahalo.

SB-375

Submitted on: 2/13/2023 5:57:39 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Drew Erickson	Individual	Support	Written Testimony Only

Comments:

Please pass this bill as it looks better thought out to share the production of cannabis with a wider base and does not give a monopoly to existing dispensaries.

SB-375

Submitted on: 2/13/2023 6:58:09 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Alan R. Spector	Individual	Support	Written Testimony Only

Comments:

I support this measure. Legalization of marijuana for responsible adult use has been tried in multiple states and has been successful. Additionally, it is source of tax revenue.

SB-375

Submitted on: 2/12/2023 1:38:39 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

As of 2022, 37 states and four U.S. territories allow the use of cannabis for either or both medical and personal purposes. Hawaii enacted Chapter 329, part IX, Hawaii Revised Statutes to create a medical use of cannabis exemption from criminal sanctions and chapter 329D, Hawaii Revised Statutes, was enacted to authorize medical cannabis dispensaries to operate beginning July 2016.

In addition to medical cannabis laws, some states and jurisdictions have legalized or decriminalized cannabis. In each state, cannabis users no longer face jail time for the possession or use of cannabis in the amount permitted by statute. As of 2020, 21 states and three United States territories have legalized recreational cannabis.

Colorado was the first state to remove the prohibition on commercial production of cannabis for general use. During the first year of legal cannabis sales in 2014, Colorado collected \$67,594,323 in taxes and fees from medical and retail cannabis. As of November 2020, Colorado has collected \$1,563,063,859 in total revenue from cannabis taxes and fees.

The federal government has also signaled its approval of decriminalization at the federal level. On December 4, 2020, the United States House of Representatives passed the Marijuana Opportunity Reinvestment and Expungement Act, or MORE Act, which removes cannabis from the list of federally controlled substances and facilitates cancelling low—level federal convictions and arrests related to cannabis. This was the first time Congress has acted on the issue of decriminalizing cannabis.

Legalization of cannabis for personal or recreational use is a natural, logical, and reasonable outgrowth of the current science of cannabis and attitude toward cannabis. Cannabis cultivation and sales hold potential for economic development, increased tax revenues, and reduction in crime. Please pass SB375.

SB-375

Submitted on: 2/10/2023 10:06:22 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Dakin retzlaff	Individual	Support	Written Testimony Only

Comments:

The task force the legislature created and governor Green both recommend the legislature pass a bill to legalize cannabis. Please follow the task force recommendations and pass this bill.

SB-375

Submitted on: 2/11/2023 4:47:17 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Phil Robertson	Individual	Support	Written Testimony Only

Comments:

I think it is time to end the prohibition of cannabis at the state level of government.

I do not know of many responsible individuals who would serve on a jury who believe Harry J. Anslinger's 1937 testimony to Congress regarding marijuana. The jury is much more inclined to believe research like the LaGuardia report in 1944 by the New York Academy of Medicine, which refuted most of Anslinger's testimony. If you have not read Anslinger's testimony, then please do so to see if you believe the hogmanure.

I do not think people should be incarcerated based on lies like Anslinger's 1937 testimony.

I have previously testified in the last two years on SB 767 and HB 2260, in 2021 and 2022 respectively. I want to say that the Dark Side tried to offer me \$40,000 to change my testimony about marijuana, but I do not want to change my basic testimony that we, the jury, do not believe Harry J. Anslinger. I could probably sue the Dark Side for trying to defraud me and something like negligence per se--bribery.

Thank you.

Phil Robertson

SB-375

Submitted on: 2/13/2023 10:27:31 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor

SB-375

Submitted on: 2/14/2023 8:08:55 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Thomas Iwanicki	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs and members of the committee,

My name is Tom Iwanicki and I support this bill that would legalize recreational cannabis. It is high time Hawai'i removes cannabis from felony statutes and expunges and seals arrest and criminal charges and conviction records. It is a failure of the justice system to continue to penalize people for a plant that is now widely regarded as safe for consumption and legal in many jurisdictions. Furthermore, this bill is the only vehicle for cannabis legalization that has a focus on social equity. For that reason I strongly support this measure.

Mahalo nui

Tom

SB-375

Submitted on: 2/14/2023 5:46:57 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Bret Mossman	Individual	Support	Written Testimony Only

Comments:

Aloha chair and members of the committee,

I am writing in support of SB375. Cannabis is here whether we want it to be or not. It is more ubiquitous than tobacco, and we need to take action to regulate its safety for consumers. We also need to capture tax revenue and cut down on the number of illegal grows in our forests. This bill will help achieve all of those things, and relieve significant burden on our already over encumbered legal system.

Please move this bill forward.

Bret Mossman

SB-375

Submitted on: 2/14/2023 9:15:28 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
jessica gray	Individual	Support	Written Testimony Only

Comments:

I support this bill because it accounts for social justice impacts. Marijuana charges disproportionately affect native hawaiins and poor people of color. This bill would bring us closer to a world that is safer, more just.

SB-375

Submitted on: 2/14/2023 9:55:05 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo. I'm born and raised in the Hawaiian Kingdom a Kanaka Maoli.

I'm writing in SUPPORT of SB375.

me ke aloha 'āina,
Nanea Lo, Mō'ili'ili

SB-375

Submitted on: 2/14/2023 5:25:31 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Afsoon Shirazi	Individual	Support	Written Testimony Only

Comments:

Dear Chair Rhoads, Vice Chair Gabbard, and members of the Committee,

I am testifying in support of S.B. 375. I believe that Hawai'i must follow its peers across the U.S. by adopting recreational adult-use of cannabis – to promote consumer protection, public health, and economic opportunity. As a law student, public health professional, and former budtender – I believe everyone has the liberty to safely use recreational cannabis. Furthermore, no one should be deprived of their rights for possessing cannabis in a state where there is a legal medical marijuana industry is operating.

We currently live in a disparate situation – Americans in states like California, Arizona, and Illinois enjoy greater protections from cannabis criminalization than those of us in Hawai'i. Cannabis prohibition is an obsolete goal of a different era. We should work towards creating a permissive legal environment, one that promotes restorative justice and where adult use consumers and patients can acquire the health information they need to consume cannabis products safely. More and more Americans are preferring to consume cannabis over alcohol, however, illicit use puts individuals and communities, particularly minority communities, at risk of criminalization and political disenfranchisement. There are also many missed opportunities under our current cannabis laws. For example, the cannabis industry in Hawai'i could become a model for environmental sustainability in agriculture by building partnerships with Native Hawaiian farmers, environmental engineers, and local businesses. One day at the Hawai'i Cannabis Expo will show you that home gardeners, plant geneticists, and cannabis consumers are excited about the myriad economic opportunities that could arise in a state with such perfect conditions to grow *cannabis sativa*. Legalization, decriminalization, and record expungement will help us reach these opportunities.

The Legislature should enact S.B. 375 so we can join our fellow Americans to collectively pressure Congress to finally amend the Controlled Substances Act by decriminalizing cannabis. Hawai'i helped lead the way with medical marijuana; Hawai'i can make a big difference in peoples' lives, both at home and around the United States, by enacting adult recreational use.

I humbly request your support for this measure. Thank you for your time and consideration of this testimony.

Sincerely,

Afsoon Shirazi, MPH

J.D. Candidate, William S. Richardson School of Law

shirazi@Hawaii.edu

SB-375

Submitted on: 2/14/2023 9:40:07 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Alec Marentic	Individual	Support	Written Testimony Only

Comments:

I support this legislation. Other State's that have enacted similar legislation have seen significant tax income related to the sale of cannabis that can be used to improve the commonwealth.

SB-375

Submitted on: 2/13/2023 8:14:33 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Chad Miller	Individual	Oppose	In Person

Comments:

The thing the state needs to be focussing on is fixing the already broken system in place. The dispensaries and DOH have had over 5 years to figure this stuff out and communicate with the state. Both entities failed at this. Failed at getting info to legislators to make effective change for the patients, not for their vested interests. Unfortunately that's all that has happened, more hours, more locations, more ability to sell product offerings, no residual testing on cartridges that are full of residual ethanol, A state testing facility that was approved by the DOH on a non proven methodology. Yes Medical cannabis never should've even happened in 2016, look up the facts, Steep Hill did not have the correct equipment nor methodology to even pass dispensaries. Same lab that has OSHA violations. Seriously how is no one talking about the real facts of the sad reality of our patients. The medicine they sell isn't even the best medicine, from how they have to grow to the testing. Dispensaries and the DOH/State have failed the people of Hawaii and the medicinal patients of Hawaii. and for what? we could tax this medicine and get it out there and be wayyy better off as a state. From the road ways to our schools to the rail and failing ability to support the community. We have to figure out a clear plan to be an example in Cannabis like we were in 2000. 23 years later and we have one of the worst examples in the US. About to be the world, when we used to be a world leader. Really sad.

A decriminalization and legislation bill cannot be tied to a dispensary commercialization bill. Dispensaries cannot be the only people profiting in the cannabis industry and this bill does not support local cannabis jobs and small business licensees for the people of Hawaii. I support decriminalization, but not on bartering cannabis legalization for commercialization.

SB-375

Submitted on: 2/14/2023 2:17:32 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
jason hanley	Individual	Oppose	In Person

Comments:

On behalf of Oahu Farms Cannabis Alliance.

Similar to bill SB366 we are trading legalization for commercialization. We do support the social equity part of the bill, but the rest of the bill is bad. Also, once again, there are laws attacking medical patients rights and the number of 329 cards that can be at a property. Not acceptable and unlawful. Thank you

SB-375

Submitted on: 2/12/2023 10:52:49 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
shayne pung	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha, I as a native Hawaiian Homestead born and raised in Hawaii cannot support this bill.. our elders cannot afford to lose anything more and we as Hawaiian people cannot afford to lose our most valuable medicine we've been using for hundreds and hundreds of years.

Thank you - Shayne Pung

SB-375

Submitted on: 2/14/2023 8:10:18 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Daniel Carroll	Individual	Oppose	Remotely Via Zoom

Comments:

Strongly oppose SB 375. More time is needed for research and fixing medical cannabis before recreational is legalized.

SB-375

Submitted on: 2/14/2023 10:51:05 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark Tamosiunas	Individual	Oppose	Written Testimony Only

Comments:

I oppose legalization of commercial cannabis but support decriminalizing.

SB-375

Submitted on: 2/12/2023 7:49:35 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
adam	Individual	Oppose	Written Testimony Only

Comments:

No opportunity for local people to contribute there skills .

SB-375

Submitted on: 2/13/2023 12:28:33 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Terri Yoshinaga	Individual	Oppose	Written Testimony Only

Comments:

Legalizing marijuana is a big mistake that will lead to many more problems in the future. Do we want our children to be introduced to a gateway drug that will definitely lead to worse drugs? Have you really weighed all the pros and cons? The legislature will be held accountable for passing any bill that is not in the public's best interest. Please be mindful of what is the best interest of the public, especially for future generations. Mahalo, for your consideration.

Terri Yoshinaga

SB-375

Submitted on: 2/10/2023 10:21:31 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose SB 375. How do you evaluate "responsible adult use?" We already have drivers running through "red lights" at intersections and impaired (alcohol and drug related) drivers causing traffic accidents on the road. This is another factor for more impaired driving individuals on the road.

Please defer SB 375 this legislative session. Thank you.

SB-375

Submitted on: 2/13/2023 9:02:40 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Loretta Black	Individual	Oppose	Written Testimony Only

Comments:

This does not help the people of Hawaii in the cannabis industry move forward

I strongly oppose this bill

SB-375

Submitted on: 2/13/2023 10:59:06 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Tricia Mills	Individual	Oppose	Written Testimony Only

Comments:

Decriminalization and legalization cannot be tied to dispensary commercialization bills. Dispensaries cannot be the only people profiting in the cannabis industry and this bill will strengthen an already monopolized system. This bill does not support local cannabis jobs and small business licenses for the people of Hawaii. I support decriminalization, but bill SB375 barter cannabis legalization for commercialization. Mahalo

SB-375

Submitted on: 2/13/2023 10:54:56 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Leilani Nevarez	Individual	Oppose	Written Testimony Only

Comments:

Oppose this bill. Dispensaries are in it for the money & not the patients of Hawaii. In providing jobs, affordable medicine & the Cannabis community. The patients are the ones that should say what they need. Not a company that's only in it for their own wallets. Mahalo Leilani Nevarez 329 card holder

SB-375

Submitted on: 2/10/2023 11:12:55 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Victor K. Ramos	Individual	Oppose	Written Testimony Only

Comments:

OPPOSE: PROTECT OUR CHILDREN! The negative impact of legalization of recreational cannabis useage in all the states mentioned in the bill is readily available to you, our legislature, and to the public. Particularly, the negative affects on the children have been heartbreaking.

SB-375

Submitted on: 2/10/2023 12:10:13 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Keohokalole, Vice Chair San Buenaventura, and Committee Members,

I STRONGLY oppose SB375 that legalizes, regulates, and taxes cannabis and manufactured cannabis products for responsible, adult use.

“Recreational” cannabis, unlike “medical” cannabis, does not contain CBD to modulate the adverse effects of THC. Some in the general public, without doing research, may not understand the difference. Recreational cannabis is just another way to get high.

The THC in cannabis is known to affect the heart, lungs, and mental health of individuals.

Health Effects Listed by the CDC can be found here: <https://www.cdc.gov/marijuana/health-effects/index.html>

Legalizing will increase cannabis use in our community, including our youth. The effects vary from person to person, depending on the type, the mode of use, the amount, and frequency. It can cause anxiety, paranoia, psychosis, and other mental disorders. There is evidence linking it to depression and suicide. There are already so many that need mental health care and are not getting it due to the lack of services and facilities.

Regulation will not work. Recent media showed an authorized “medical” cannabis grower exceeded the amount of plants allowed, so how do we expect to control the “recreational” type? Individuals will illegally grow and start selling their own stash. The THC in cannabis today is much stronger than years past. People will steal plants, causing a need to protect them. This will cause a rise in crime that is already out of control.

There will be an increase of impaired drivers and vehicle accidents.

Effects of secondhand smoke listed by the National Institute on Drug Abuse and other concerns can be found here: <https://nida.nih.gov/publications/research-reports/marijuana/what-are-effects-secondhand-exposure-to-marijuana-smoke>

Secondhand cannabis smoke is as bad as tobacco and contains the same toxic and cancer-causing chemicals, some in higher amounts. Secondhand smoke has also caused THC to be detected in the blood or urine of those who do not use cannabis. It has also been detected in children and

infants in homes where cannabis is used. How will this secondhand smoke affect developing brains? A “contact high” resulting in mild impairment can be experienced by non-users when in a confined space around someone smoking.

Addictions will grow and may lead to the use of other drugs. We already DO NOT have enough drug treatment programs to treat those that need help.

Any amount of taxes collected is NOT worth the risk to our community. Other states legalizing is a poor justification to follow suit. It will NOT reduce crime or prison space. What are the statistics of people spending extended time in jail for cannabis possession? Our prison is known to be a revolving door. It is also outdated and overcrowded.

Please OPPOSE SB375.

Thank you for the opportunity to testify

To: The Honorable Senator San Buenaventura, Chair
The Honorable Senator Henry J.C. Aquino, Vice Chair
Members of the Senate Committee on Health and Human Services
The Honorable Senator Jarrett Keohokalole, Chair
The Honorable Senator Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

Re: Opposition to SB 375 Relating to Cannabis

Hrg: Wednesday, February 15^h, 2023 at 9:30am, Conference Room 229

I am submitting testimony in **opposition of SB 375**, which would legalize cannabis in Hawaii.

We are moving too fast to legalize without enough consideration of the costs of such a policy.

- In states that have legalized, the black market in illegal cannabis has only grown.¹
- The costs, both fiscal and social, connected to legalization will outweigh any potential revenue projection. Other states have found that claims of high cannabis tax revenues have fallen far short of what they were promised.²
- We do not need to legalize cannabis to reform the criminal justice system. Hawaii has already decriminalized cannabis, which eliminated arrests for possessing small amounts of cannabis. We can remove criminal penalties, expunge records, and offer justice without commercializing high potency cannabis products.
- Cannabis is already available to those who have a medical need in Hawaii.

The only people who benefit from a rush to legalize are a small number of investors and the large corporations that have moved into this industry.

The health and well-being of our keiki should be our priority. The bill doesn't take into account the cost to our children.

- The Academy of Pediatrics opposes legalization because of the potential harms to children and adolescents.³
- Substance use disorders, the development of psychosis, and suicide risk among heavy users are serious mental health concerns associated with adolescent marijuana use. Cannabis use has been associated with a negative impact on brain development, cognition, and academic performance.⁴
- Marijuana-related ER visits by Colorado teens has been on the rise since legalization.⁵

¹ Detrano, J. (n.d.). Cannabis Black Market Thrives Despite Legalization. Rutgers Center of Alcohol & Substance Use Studies. <https://alcoholstudies.rutgers.edu/cannabis-black-market-thrives-despite-legalization/>

² Becker, B. (2019). Cannabis Was Supposed to be a Tax Windfall for States. The Reality Has Been Different. *Politico*. Retrieved February, 10, 2023.

³ COMMITTEE ON SUBSTANCE ABUSE, COMMITTEE ON ADOLESCENCE, Seth D. Ammerman, Sheryl A. Ryan, William P. Adelman, Sharon Levy, Pamela K. Gonzalez, Lorena M. Siqueira, Vincent C. Smith, Paula K. Braverman, Elizabeth Meller Alderman, Cora C. Breuner, David A. Levine, Arik V. Marcell, Rebecca Flynn O'Brien; The Impact of Marijuana Policies on Youth: Clinical, Research, and Legal Update. *Pediatrics* March 2015; 135 (3): 584–587. 10.1542/peds.2014-4146

⁴ Kristie Ladegard, Christian Thurstone, Melanie Rylander; Marijuana Legalization and Youth. *Pediatrics* May 2020; 145 (Supplement_2): S165–S174. 10.1542/peds.2019-2056

⁵ Wang GS, Davies SD, Halmo LS, Sass A, Mistry RD. Impact of Marijuana Legalization in Colorado on Adolescent Emergency and Urgent Care Visits. *J Adolesc Health*. 2018 Aug;63(2):239-241. doi: 10.1016/j.jadohealth.2017.12.010. Epub 2018 Mar 30. PMID: 29609916.

- As more states legalize cannabis, there has been a sharp increase in calls to the Poison Control Center, as children unintentionally ingest products marketed to look like candy or snacks. A recent analysis by the American Academy of Pediatrics found in states where cannabis was legalized there was a 1375% increase in calls to the Poison Control centers due to children 5 and under being exposure to cannabis products. They also found an increase in acute toxicity and severity among cases, with nearly quarter of the children being hospitalized after consuming edible cannabis products. Drowsiness, breathing problems, fast hear rate, and vomiting were the most common symptoms.⁶

Our kids are watching everything we do and discuss as adults, and it impacts their behavior. The intention of the law may be to make cannabis legal for those 21 and older, but the real impact is that legalization will make cannabis more accessible to kids. It will also change the perception of harm kids have regarding marijuana use.

“In the national conversation regarding legalization, many legalization proponents portray marijuana use as harmless. Research has shown that perception of harm is a potential indicator of marijuana use and that a reduction of perceived harm is commonly associated with an increase in marijuana use.⁷ A study that used Monitoring the Future data showed that eighth-grade students from schools located close to medical marijuana dispensaries (short traveling distance, <5 miles) were more likely to have recently used marijuana compared with those from schools located farther from dispensaries (>25 miles).⁸”
(K. Ladegard, MD, C. Thurstone, MD, & M. Rylander, MD, American Academy of Pediatrics)⁹

Cannabis use places drivers at risk

- Cannabis can impair coordination, distort perception, and lead to memory loss and difficulty in problem-solving. When driving, THC can slow reaction times and reduce the ability to make decisions.
- Both Washington and Colorado have experienced increases in marijuana-impaired drivers on the road and marijuana-impaired fatalities since legalization.^{10 11}

Please consider the safety of our community and our children and do not pass SB 375.
Mahalo for your time and consideration.

Dr. Colleen Fox
Honolulu (Makiki), Hawaii

⁶ Marit S. Tweet, Antonia Nemanich, Michael Wahl; Pediatric Edible Cannabis Exposures and Acute Toxicity: 2017–2021. *Pediatrics* February 2023; 151 (2): e2022057761. 10.1542/peds.2022-057761

⁷ Johnston LD, O’Malley PM, Miech RA, Bachmen JG, Schulenberg JE. Monitoring the Future National Survey Results on Drug Use 1975-2016. 2017. Available at: <http://monitoringthefuture.org/pubs/monographs/mtf-overview2016.pdf>. Accessed August 23, 2019

⁸ Shi Y. The availability of medical marijuana dispensary and adolescent marijuana use. *Prev Med.* 2016;91:1–7

⁹ Kristie Ladegard, Christian Thurstone, Melanie Rylander; Marijuana Legalization and Youth. *Pediatrics* May 2020; 145 (Supplement_2): S165–S174. 10.1542/peds.2019-2056

¹⁰ Migoya, D. (2017, August 25). Exclusive: Traffic fatalities linked to marijuana are up sharply in Colorado; Is legalization to blame? Denver Post. Retrieved February 10, 2023, from <https://www.denverpost.com/2017/08/25/colorado-marijuana-traffic-fatalities/>

¹¹ Johnson, T. (2016, May 10). Fatal road crashes involving marijuana double after state legalizes drug. AAA NewsRoom. Retrieved February 10, 2023, from <http://newsroom.aaa.com/2016/05/fatal-road-crashes-involving-marijuana-double-state-legalizes-drug/>

SB-375

Submitted on: 2/11/2023 7:49:04 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Dr Marion Ceruti	Individual	Oppose	Written Testimony Only

Comments:

I do not think that we should legalize a drug that may be harmful, but if this bill passes, does the legislature plan to decrease other taxes to make up for the taxes collected from the sale of cannabis?

With a budget surplus and with Hawaiians leaving the islands, the legislature should find ways to decrease taxes until the budget comes out revenue neutral.

SB-375

Submitted on: 2/11/2023 3:51:35 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Dara Yatsushiro	Individual	Oppose	Written Testimony Only

Comments:

Opposed

SB-375

Submitted on: 2/12/2023 10:17:01 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Rebecca Ching	Individual	Oppose	Written Testimony Only

Comments:

I am submitting testimony in opposition of sb375.

I do not support this bill and do not believe it is in the best interest of cannabis patients.
aloha

SB-375

Submitted on: 2/13/2023 7:09:44 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Pat Fondren	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill

sb 375 is not good for anyone in hawaii except the licensed dispensary.

Passing a bill like this shows Hawaii people that the gov runs on special interest money

Dispensary in Hawaii want a monopoly on cannabis and this law will allow that .

Commercialization of cannabis should support local communities and small farms . This bill does neither

SB-375

Submitted on: 2/13/2023 8:04:53 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Anthony italiano	Individual	Oppose	Written Testimony Only

Comments:

Aloha

It has been a dream for years& years to be able to farm like a regular farmer. I don't wanna be called a criminal. I work hard and have helped the aina through regenerative sustainable agricultural farming techniques. We make local fertilizers to help our natural microbe populations and heal our aina. Keep the jobs here lets continue to strengthen the local economy and keep our family's intact here on island, not move to the mainland looking for work, because there is room for all to work and for growth in industry that we love. We want to be able to take cleared lab sampleed products from our harvests. and sell it to the dispensary's. It will help hawaii thrive. It will make so many jobs for the people. We must keep the farming local ! We cannot allow out of state rich people to come here and buy up land and use there money to push local farmers out. We must allow small scale cultivation licenses, 8000 sq feet and under. We must support the Hawaiian people, and the people of this state with allowing cannabis cultivation for all family's and residents. Keeping the application fees and yearly fees 2500\$ so it's accessible to be an option for people to feed there family. Hawaii is a GLOBAL leader in cannabis. People from all over the world think of " Maui wowie" and the like. We have a product here in Hawaii that the entire globe will demand one day when we're allowed global shipments. Every single smoke shop owner/ gas station / dispensary on the planet would want there to be an option on there shevels for there customers to be able to buy Hawaiian grown cannabis. It's a treat to the rest of the world. Anything from Hawaii holds value to anyone not here. We have a very very special product. All city's in the US and in the world will be ordering products from our islands. Please allow us and not big businesses to do this. This is for the love of all of Hawaii. God bless America, and bless your decision making process. Please vote for the people and the small businesses.

-Anthony Italiano

Aloha 🙏

Health and Human Services Committee

Senator Joy A. San Buenaventura, Chair

Commerce and Consumer Protection Committee

Senator Jarrett Keohokalole, Chair

Re: **SB 375**, Relating to Cannabis

Hearing: February 15, 2023 9:30 am.

IN OPPOSITION TO SB375

I am a physician with 40 years of experience as a psychiatrist and am currently in the Masters of Public Health program at the University of Hawai'i, Mānoa, and **I oppose SB375**.

There is significant research suggesting that the use of moderate to high doses of cannabis will increase the lifetime risk of psychosis 2-4 fold compared to non users. This is especially of concern in young people where the risk may be even higher and represents a serious long term public health issue.

Although there are clear measures for alcohol intoxication and resulting cognitive impairment, there are no standard measures of cannabis intoxication that would identify dangerous levels of impairment that would put the public at risk. Can you imagine having to make the personal decision of whether or not to stay on board a plane after seeing your pilots

smoking cannabis as you board? Would you allow your daughter to drive the family car when you know she had just been using marijuana with her friends?

It is my strong, professional opinion that it is premature to legalize the recreational use of marijuana until adequate research can be conducted to clarify the risks to the user and to the public. Before we can support this bill, we have to have a tool to assess the level of cannabis intoxication (like we have the breathalyzer to assess the level of alcohol intoxication), and more research is needed to determine the level of cannabis intoxication that would compromise one's capacity to drive safely.

Thank you for your attention to this matter.

Walter F Anderson, MD, FAPA

wfa22@hawaii.edu

SB-375

Submitted on: 2/13/2023 8:12:08 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Debbie Silk	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE ALL BILLS SB375 / SB465 / SB669 - that are attempting to give "preferential treatment" to "established" dispensaries who are already in possession of licenses to dispense cannabis.

How can you get away with passing laws to penalize small farmers and/or growers when there is clearly much hypocrisy and may tether on a fine line of all anti-trust laws? (Acres of cannabis growing on LEASED LANDS since 2015 that YOU ALL KNOW ABOUT) I believe the Attorney General should be involved in any and all "BILLS" going forward that ARE attempting to silence any and all small businesses and/or farmers!

Jenner.com a mainland law firm states: "Though cannabis companies may not be recognized as legal enterprises by the federal government, that doesn't mean they are not subject to the federal antitrust laws. Antitrust is an area of the law where a company can quickly find itself in trouble with law enforcement and regulators at both the federal and state level, as well as facing substantial civil liability." - Andrew Bail, Partner - JENNER & BLOCK

Decriminalize cannabis and tax cannabis as any other commodity, BUT to leave OUT and SHUT DOWN small businesses and farmers by trying to CRIMINALIZE them, but allow dispensaries to have their way is another of your latest incidents of deceptive practices! Example: Holding hearings while the Cannabis Expo and Cannabis Cup were holding their respective events! I remain, Debbie Silk

SB-375

Submitted on: 2/13/2023 11:27:57 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Patrick Rorie	Individual	Oppose	Written Testimony Only

Comments:

Dear Hawaii State Senators and members of the HHS/CPN committees,

Please vote 'No' to Senate Bill 375 which will legalize recreational marijuana in the State of Hawaii

Why? Here are 6 good reasons...

1) It is illegal on the Federal level, and in 29 of 50 United States the use of recreational marijuana is illegal - let's not become a part of the radical minority.

2) Legalized marijuana creates steep costs for society and taxpayers that far outweigh its tax revenues.

3) We already have enough problems with drunk drivers on our roads. If this bill is passed, we will have drivers under the influence of marijuana who might crash and kill themselves (and perhaps others, **including you and your family**). The State of Colorado, where recreational marijuana use is legal, has reported that marijuana-related traffic deaths rose 62 percent.

4) What are we telling our children? And how many of them will become addicted to marijuana, which, studies show, harms the brain and will increase mental health problems?

5) The use of marijuana can lead to the use of other, more harmful drugs like cocaine or heroin.

6) It is **opposed by the Honolulu and Maui Police Departments, the state Department of Transportation, the Honolulu Department of the Prosecuting Attorney, the Coalition for a Drug-Free Hawaii, and Hawaii Family Forum.**

Mahalo nui for your time and consideration.

Most sincerely and with Aloha,

Patrick Rorie (Hawaii resident since 1987, tax payer, voter)

SB-375

Submitted on: 2/14/2023 1:32:20 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Abir Amirdash	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. projected revenue numbers have been proven to be inflated and incorrect.

Aloha Kakou Chair Belatti, Vice Chair Takenouchi, and members of the Committee,

I Prema Tanaka am in strong opposition of Bill SB375. I am in support of medical cannabis farms providing cost effective medicine to their patients. Medical Cannabis Care Taker Farms allow for patients to receive locally grown medicine, from a farm that they trust. Dispensaries often cost patients twice the price of legal Care Taker Farms, which reduce access to medicine and create unnecessary barriers to patient care. Hawai'i is already one of the most expensive states in the nation to live, and residents struggle on a daily basis. The most vulnerable of patients, many of whom qualify for medical marijuana, should not have to pay exorbitant prices for medicine in the treatment of their condition. Since medical marijuana is not a covered cost, the burden lies on patients to cover their 329 cards and medicine. In addition, the future of legal cannabis cultivation should include local farmers, not simply be subjected to the dispensary distributors. If we have established that medical marijuana is a legal treatment option and is helping patients, we need to create viable solutions for patients, not more barriers. Please allow patients the right to choose where they can obtain their medicine.

Warmest Mahalo,

Prema Tanaka

Certified Integrative Nutritional Chef & Double Certified
Clinical Herbalist

SB-375

Submitted on: 2/13/2023 7:29:49 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
J. Kawika kahiapo	Individual	Oppose	Written Testimony Only

Comments:

I support the decriminalization of cannabis use. I strongly oppose the commercialization of cannabis through a dispensary model as written in SB699. I believe that with better planning and foresight, we can create a medical marijuana economy that can both serve and protect Hawaii's economy, and take care of our ailing members of society.

SB-375

Submitted on: 2/14/2023 8:45:25 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Daniel Thomas	Individual	Oppose	Written Testimony Only

Comments:

Legalization is good if all who want to participate are allowed ,please don't pass these unfair bills we will vote you out of office if your name is on these bills

SB-375

Submitted on: 2/14/2023 8:52:03 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael karlovich	Individual	Oppose	Written Testimony Only

Comments:

I believe in equal opportunity for current medical growers and dispensaries. Mahalo.

Aloha Kākou Chair Belatti, Vice Chair
Takenouchi, and members of the Committee,

I, Ku'uleikūponookealoha Nāahi'elua, am in
strong opposition to Bill SB375

Warmest Mahalo,

Ku'uleikūponookealoha Nāahi'elua

MSN, APRN-R_x, AGNP-C, BC-ADM,
PMINP-BC

SB-375

Submitted on: 2/14/2023 6:47:19 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Henry Bell	Individual	Oppose	Written Testimony Only

Comments:

I'm a native Hawaiian and I'm against this bill.

mahalo

SB-375

Submitted on: 2/15/2023 12:18:34 AM

Testimony for HHS on 2/15/2023 9:30:00 AM



Submitted By	Organization	Testifier Position	Testify
Derek Shirley	Testifying for Medical Patients	Oppose	Written Testimony Only

Comments:

My name is Derek Shirley, I am a medical cannabis lobbyist living in Maine, and I am here today representing medical cannabis patients not only in Hawaii but all over the United States.

Little back ground about myself, I'm a cannabis patient who practices their right to homegrow, a proud cannabis felon for 4 ounces of flower back in 2013. In Maine, I sat on the Maine Cannabis Coalition board a little over 3 years, where we wrote and passed bills in our VLA committees, and later on in senate .. I'm on my towns Zoning Board of Appeals and i lobby in Maine State House and local level to preserve and protect our medical rights as patients and caregivers

Here's a quote from someone living in Hawaii that will be effected by this bill directly

"The primary concern and opposition to this bill is its lack of protections and assurance for the continued growth and security of the existing Medical cannabis community and scientific progress of cultivating and improving the caregiver to patient relationships in Hawaii in perpetuit» the intention of this adult-use legalization bill is to force medical patients to also buy from the dispensary, that absolutely unethical and will not be tolerated by the community. Medical patients and caregivers/growers have already established a working model for delivering quality medication (privately grown cannabis) to Hawaii's medical community at a affordable and accessible means for years."

Just by reading and talking to several people in Hawaii it's very very clear what they want. Maybe you should listen too. I live all the way in Maine and I can even hear the message Hawaiian patients are saying, maybe it's time you open your eyes, ears and hearts too.

thanks for your time,

im a person, not a party

Derek Shirley

SB-375

Submitted on: 2/14/2023 9:32:08 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Lorraine Martinez	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill. Patients have rights!

SB-375

Submitted on: 2/14/2023 9:52:13 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Rusty Tapp	Individual	Oppose	Written Testimony Only

Comments:

Oppose

SB-375

Submitted on: 2/14/2023 9:53:00 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

LATE

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

Comments:

Oppose

LATE

SB-375

Submitted on: 2/15/2023 6:29:20 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Connor Terrel	Individual	Oppose	Written Testimony Only

Comments:

Medical cannabis along with the ongoing recreational issues our nation and globally our community is facing is in no way the definition of what cannabis is as a medicine and what it means in terms of bringing people together. Making any amount illegal. Along with creating a law around no decrim. No expungements and no equity for our veterans, drug war victims and no opportunity for native Hawaiians to reap the benefits of this potential commodity income in no way shape or form represents what the cannabis community is. That is why I and many others very much disagree with this legislation and oppose it whole heartedly. You may already notice the shortcomings in other states with over regulation and how it doesn't do any good except for those that have deep pockets and certain connections. In addition this over regulation only aids the faulty system of big agriculture and pharma that are plaguing the world and making people sick while also pitting others against one another. HB 1217 is a misconduct of the loving community I am apart of and I know local growers of the Hawaiian islands will also agree, along with already established shop owners in the medical scene. Please listen to the outcry's of the people rather than catering to the 1%. It is doing no benefit for the common good and only hurting its citizens. Rather a more open market and freedom of prejudice from the use of this medicinal plant is what everyone is looking for and desires in the future. SB375 and SB669, which I was unable to submit a testimony should not be approved by any means, as I reiterate! These bills along with HB1217 do not do any good what so ever for the local people of Hawaii or the greater cannabis market as a whole. If you need any examples of short comings just look at Massachusetts, Canada, Nevada. Legal big corp. operations are plagued with under compensation of workers, in consumable moldy products and faulty SOPS that bring disease and negligence to the facilities whom are supposed to "uphold" certain standards for safe use. Do not let Hawaii fall into the same hole. It will only collapse on itself and the black market will prevail as it always has.

SB-375

Submitted on: 2/13/2023 8:54:33 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Judiah McRoberts	Individual	Comments	Remotely Via Zoom

Comments:

I support parts of this bill as the general intent seems to be aimed at creating social equity within the cannabis space and to amend some of the harms of the war on drugs.

However I do have concern that many of the provisions in this bill will result in further monopolization of the cannabis industry. Specifically, the clause that only allows the current medical dispensaries three years of being the only recreational dispensaries in the state. Thus forcing any new cultivation license to sell to them for three years. This will not lend to an equal playing field which will likely result in a failed social equity program.

If the true intent is no have equity within the space you need to create policy that reflects that in practice. I recommend revisions be made that **ALL** categories of licenses be released at the same time with additional resources/priority given to those most affected by the war on drugs.

Thank you.

SB-375

Submitted on: 2/12/2023 6:46:24 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Martin	Individual	Comments	Written Testimony Only

Comments:

Hello, I have been a cannabis industry professional (grower and compliance/licensing expert) for the past 25 years, and a Maui resident for over 10 years. I have a personal interest in obtaining a cultivation license when they become available.

I could support this bill if a few key provisions were altered. Here are my suggestions:

Page 42, Labor Peace Agreement. I suggest you only require this for businesses with over 10 or 20 employees, which is similar to how some other recently legalized states are doing it. This reduces the burden on small businesses, thereby encouraging smaller businesses.

Page 28 - Social Equity- The bill places excessive burdens on social equity license holders for reporting and maintaining their status. This raises the cost of doing business, and it gets in the way of business operators being able to hire the best people for the job.

page 44 - 3000 plant limit. Cannabis plants can be tiny or gigantic. Limiting licenses based on canopy square footage makes much more sense. For a clone/nursery operation, for example, 3000 plants can be fit into 32 square feet of floor space, stacked 4 levels high, which is the industry standard way of doing it. I suggest a canopy size limit of 10,000 square feet of flowering plants. This allows for plenty of cultivation space (and profit) without making the opportunity attractive to venture capital and out-of-state big businesses.

Page 63- Gives unwarranted 3-year head start for pre-existing dispensary license holders for retail activity. They are already wealthy companies who have enjoyed an oligopoly for the past 7 years. The last thing they need is more advantage over new industry entrants. My assumption in reading that section is that the dispensaries themselves had a big hand in writing this bill.

Thanks for your time.

Jennifer Martin, Owner, CannabisCultivationConsulting.com



February 15th, 2023

Hawai'i 32nd Legislature, Senate Committee on Health and Human Services and Senate Committee on Commerce and Consumer Protection

Mark Barnett
Maine Craft Cannabis Association
146 Capitol St, Augusta, ME 04330

SB 375: OPPOSE

Honorable Chairs and Members of the Committees,

The Maine Craft Cannabis Association (MCCA) is pleased to submit comments on SB 375. We submitted comments during the last Dual Use Task force hearing as well, and many of these policy points are relevant to the content of SB 375 before you. We urge you to not to pass this bill.

MCCA members are small cannabis businesses from across the supply chain including cultivators, retailers, manufacturers, medical practitioners, medical patients, and businesses in Maine's newer Adult Use market. We have decades of collective experience in legal regulated cannabis markets. Our group is a member of the National Craft Cannabis Coalition (NCCC), a coalition of state-level organizations working to promote state and federal policies that support small producers and a business ecosystem that supports craft cannabis cultivation. Our testimony today represents only the opinions of the MCCA.

We believe Maine, a state which also has a dual-use system of regulation for cannabis and which has had a robust medical cannabis market for over twenty years, could be of great interest for Hawaiian policymakers. Hawai'i, like Maine, is unique in two ways: one, it has the potential for a real 'brand' that could keep the local industry relevant for years to come especially with federal legalization; and two, a very high cost structure relative to California and the farm belts which means without a real genuine high quality differentiated product forged through fair competition, Hawai'i will likely see its local industry decimated by federal legalization.

We want to stress that overall, it is important not to tie 'commercialization' to decriminalization, as the latter is a more important policy goal that will directly improve the lives of thousands of Hawaiians who could be or have previously been incarcerated or charged with cannabis-related crimes that we today see as unjust. Please, get people out of prison and stop unjust harassment and stigmatization of users at the very least. Please don't let business interests block a clean bill for decriminalization in the name of political expediency.

THE GOOD

In that respect, we do strongly endorse the sections of this bill that legalize cannabis for personal use, allow home grow of cannabis, and provide for support for social equity applicants. We need to end the injustice of cannabis criminalization more than anything. I hope that all parties can agree this is the priority for moving forward as a community.



We also strongly support some of the language of Section 329-130 on pg. 114 that gives out-of-state qualifying patients the right to access medical cannabis in Hawai'i, though this should include receiving medical cannabis from qualifying patients, not just dispensaries. Why should an adult legal qualifying patient not be allowed to share their legal medical cannabis with an adult legal qualifying visiting patient who shares similar health issues?

STILL, SB 375 IS THE WRONG APPROACH TO LEGALIZATION

Frankly, many of the commercial policy provisions included in here represent a big step backwards. They include but are not limited to (1) monopolization by existing entrenched players only, (2) new crimes for kids, (3) an unelected and all-powerful regulator exempted from government oversight which will include a dispensary operator(!), (4) an illegal forced contract with a company called METRC that will guarantee a fully industrialized industry with no small players and no quality product, (5) the unjustifiable invasion of Hawaiians' home privacy regarding their personal use cannabis, (6) the destruction of Hawai'i's federally legal hemp industry so only the dispensary monopolists can sell it, and (7) a sales tax scheme that increases taxes over time which doesn't make sense if the goal is to compete with the informal market. This approach to regulation is in our view is not far from an assault on individual freedoms, free markets, and the democratic process itself.

THE UGLY

Section A-13 pg.15, A-46 pg. 35, and Section 6 pg. 64 create a situation that could only lead to abuse of power. Not only would this 'authority' have no oversight from government (exempted from oversight by DoH, exempted from rulemaking laws), one of its 9 members will necessarily be a dispensary executive making laws and rules. With no ability to challenge these 'cannabis gods', total power lies in their easily corrupted hands.

Section 712 item 4 on pg. 72 seems to create a new crime for children.

(4) It shall be unlawful for a person under twenty—one years of age to purchase or possess any cannabis or manufactured cannabis products, as those terms are defined in subsection (6). This provision does not apply if a person under the age of twenty-one, with parental authorization, is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the department of health under the supervision of law enforcement to determine the level of incidence of cannabis or manufactured cannabis products sales to persons under twenty—one years of age.

Snuck in under 'Miscellaneous' is Section 5 on pg. 63 which creates a 3-year long monopoly on legal adult use sales for the very dispensary monopolists who wrote this atrocious bill. This is anti-competitive, anti-democratic, and anti-Hawaiian. This head start will kill any possibility of having high quality, craft products and destroy the economic opportunity that legalization could be for the citizens of Hawai'i. It won't create jobs, spur local investment, and won't lead to more affordable and greater variety of products either.

Section A-3/4 pg.9 destroys the hemp program by not exempting federally legal hemp from this legislation, which would force all consumers to purchase federally legal and non-intoxicating hemp products from the monopoly dispensaries.



Section A-45 on pg. 30 creates a possibly illegal monopoly on the tracking system forcing participants to pay one company to industrialize their supply chain and put them at risk of being on the hook for penalties and revocation for tiny mistakes like hitting the wrong button on a confusing software program or forgetting to fully update thousands of SKUs every single night before 11:59p. This is the result of lobbying by METRC, a company whose goal is to control and own all the data of cannabis programs across the country to sell to giant companies down the road. The data it forces you to collect are meaningless, absurdly difficult to track accurately, and extremely time-consuming and expensive. This software is designed to keep small businesses out of the market. It's also a possible violation of both federal and state antitrust laws. Beware METRC.

Section A-112 on pg. 55 represents a complete invasion of privacy meant to block people from growing and possessing their own personal use cannabis. It requires cannabis and all its products to be locked up at all times within the home! Does Hawai'i require citizens to lock up guns? Ammo? Alcohol? Cigarettes? The only motivation for this clause is to scare people from choosing the personal grow option versus shopping at the dispensary monopolists.

THE BAD

We think the rest of 329-130 on pg. 115 which allows out-of-state qualifying patients to grow in Hawai'i is not a good public policy idea at all and should be removed from any statute moving forward for the integrity of the medical program.

The tax policy proposed in this framework is confusing, in Section B-4 on pg. 98, taxes start low at 5% (when dispensaries control the entire market) and eventually creep up over time as the market theoretically 'opens'. How does increasing taxes over time help combat the informal 'legacy' market or entice folks from other states to purchase in Hawai'i? Set a flat tax rate and keep it there until the Legislature is able to fully review a change in tax policy rather than building in a shaky economic concept in statute. We can't even know what the market could look like next year, much less in three.

Section B-9 on pg. 102 creates a backdoor 'recordkeeping' requirement which could easily be used to force a contract with METRC even if METRC is killed in the rest of the bill. This language needs a 'reasonableness' standard, so we propose language like:

The department may by rule require the permittee to keep other records as it may deem necessary for the proper enforcement of this chapter *in line with other industry recordkeeping requirements. Recordkeeping shall not be construed to require licensees to contract with any specific private company for such services.*

We hope you can see many of these policy proposals will be harmful or counterproductive. Please remove the business regulation from this bill. While decriminalizing needs to happen, and expungement and social justice should be policy priorities, this bill isn't justice—it's re-criminalization and market capture by a tiny group of rich individuals.



There are many cannabis bills before this Legislature, and so we would like to include our more general comments that we submitted to the Dual Use Task Force as a hopefully useful framework for analyzing the policy decisions before you. We are happy to make ourselves and any other resources available to aid the Legislature in any way we can throughout this process.

Social Equity

- Legislation should focus first on decriminalizing and undoing the harms of unjust criminalization rather than on for-profit commercialization. The urgency lies in criminal justice reform, not profit or tax collections;
- Retaining strong oversight of Executive by the Legislature helps ensure the will of the people remains foremost in consideration (e.g. legislative review of rulemaking, strong ethics oversight, periodic holistic review & reporting);
- We suggest the State offer services and training to the industry where possible and re-invest funds from the program into relevant areas of public interest rather than treat license fee and tax receipts as a 'slush fund';
- We strongly suggest avoiding use of law enforcement for civil regulatory issues and avoiding staffing the office of oversight with law enforcement personnel;
- Low barriers to entry are the single greatest tool to promote equitable participation in the market. Market structures that limit participation to highly-capitalized players are guaranteed to fail the state's goals for equitable cannabis regulation. Affordability for patients is also an equity issue;
- A focus on providing robust, ongoing support to individuals who qualify as SEAs may be a lower-risk and more sustainable model than restricting others to avoid expensive litigation. We believe market restrictions based on limiting the market share of individual participants rather than on participation itself could prove more effective in achieving goals of supporting local participation.

Market Structure

- While creating an entirely new department of oversight may prove a good move, consider carefully what powers it will have and who is hired to enforce this role. A focus on expertise within the fields of agriculture and public health may be more appropriate than a background in law enforcement. We recommend avoiding individuals with conflicts of interest within or adjacent to the industry, and avoiding the awarding of no-bid or monopoly contracts in the guise of RFPs for government services. As the Group states in its findings: *"...Most of the rules applicable to the cannabis market: consumer protection, common law nuisance, county building safety/building codes, AOA covenants, tax compliance, business registration requirements, labor laws, insurance requirements, etc., already exist and do not need to be created sui generis."*
- All employees and consultants hired by state government should be rigorously vetted for conflicts of interest above and beyond current practices given the high rate of corruption in cannabis policy circles;
- There should be limits on the number of cultivation, retail, manufacturing, or any type of license a single individual/entity or affiliated group of individuals/entities can hold. This is the best way to ensure that access to capital does not automatically distort market share



and push small and medium businesses owners out. Preventing cross-holdings is essential for fair market structure for such a nascent industry.

- Focus business enforcement on abusive monopolistic practices and gross violations of public safety rather than on minor business errors and overbearing proscriptive rules, and
- Look to create an oversight and penalty structure equivalent to other industries rather than one rooted in the criminal code;
- Focus on educating and supporting businesses rather than on punishing them unless there are real public health and safety risks - such as dumping of pesticides;
- Keep the regulations for the adult' use of cannabis entirely independent of the medical use of cannabis program to avoid regulatory capture of the medical program by consumer-packaged-goods businesses. There can still be a holistic strategy for regulating the programs.
- Avoid using the state to create business models, focus on the bigger picture and keep the tools to pick winners and losers out of the hands of a small group of unelected individuals;
- Prioritize the societal and environmental considerations and implications of regulation before private commercial concerns;
- Keep business overhead and cannabis taxes low. Higher costs of doing business result in less competition and more advantage to the more highly-capitalized - and this ultimately leads to less choice and higher costs for patients;
- We recommend the State not give privileged early access to existing dispensary license holders. That is a guarantee of exclusive financial benefit to a tiny group not just for the early years of the program but well into the future. It could also lead to legal challenge. They already have a big leg up on new entrants to the industry.
- Keeping business regulation simple should expedite policymaking goals of launching a fair and robust market more than creating a special pathway to profits for a select few who can afford to navigate it.

Medical Use

- Explicitly enshrine the ability for Direct-to-Customer (DTC) operations to ensure patient access and choice. We recommend the state not limit these to dispensary license holders as those licenses are inaccessible to anyone but the very wealthy;
- Center patient choice and access by establishing a caregiver structure that removes patient limits and affirms patient choice among caregivers and dispensaries;
- Promote economic participation, better health outcomes from expanded access to medicine, and healthy competition by expanding the caregiver model and not the inaccessible dispensary licenses;
- Tax medical cannabis like healthcare rather than like 'recreational' cannabis;
- Use the State itself for overseeing public health and safety rather than creating mandatory business models for testing of cannabis or surveillance of patients and providers. Focus on things like secret shopping, inspections, and education to ensure product quality and reduce externalities, but ensure there are no market or regulatory barriers to affordably testing product for the benefit of the patient;



- Eliminating the list of qualifying conditions should be done immediately. Research clearly highlights the therapeutic applications and potential of cannabis—remove the stigma of who should be allowed to access this plant medicine;
- Provide access for visiting patients with valid identification. Patients visiting or doing business in Hawaii should continue to have access to treat the condition that they and their medical provider determined would most benefit from use of cannabis without having to resort to the illicit market;
- Consider limiting the cost of patient certifications to ensure economic status doesn't restrict access and/or funding the cost of certifications for groups in need.

Public Health and Safety

Be wary of crafting regulations that create plastic waste in the name of child safety, particularly around packaging. While preventing unsafe access to cannabis by youth should be a priority, parents are able to perform that function without packaging, which is already an environmental disaster in this country. Excessive labeling requirements not required for far more dangerous items in widespread use will also drive enormous packaging waste. In most states, cannabis packaging weighs multiples of the product it carries.

- Cannabis is not an inherently dangerous plant. Social attitudes towards it and particularly its legal treatment are not based on data showing harm, toxicity, or crime. On the contrary, cannabis can have enormous and varied medicinal and therapeutic benefits, and will have even greater potential when allowed to be studied. The criminalization and stigmatization of cannabis cultivation and use was an active commercial strategy employed by industrial interests in this country that found an ally in politicians using messages of racism and xenophobia to advance their own interests. Humans had been safely using cannabis in all its forms for thousands of years medicinally prior to that.
- When collecting and analyzing data, there is so much focus on the 'harms' of cannabis rather than its many potential benefits. Those potential benefits should be fundamental to the mission of any government body tasked with studying or facilitating study, especially with regards to distribution of resources such as public grant money.

Many states have made the mistake of allowing a market design easily captured by large well-funded interests in the name of the 'dangers' of cannabis. So many of the regulations in existence are based on the trifecta of bad science, stigma, and regulatory capture. We are so fortunate to be able to change this paradigm away from manipulative fear and towards social benefit. An industry made up of small farmers and entrepreneurs with a connection to the land, to the people, and to the place will ensure that regardless of how federal regulation unfolds, Hawai'i will have its own healthy and vibrant cannabis ecosystem for many years.

Sincerely,

Mark Barnett



Policy Director
Maine Craft Cannabis Association