

Honolulu, Hawaii

MAR 02 2007

RE: S.B. No. 905  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Madam:

Your Committees on Health and Public Safety and Judiciary and Labor, to which was referred S.B. No. 905 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose of this measure is to improve the administration of the medical marijuana program.

The measure attempts to accomplish this purpose by removing the program from the Department of Public Safety and placing it in the Department of Health for administration purposes. The measure clarifies that "adequate supply" means seven plants and three usable ounces, extends the registration period, limits the role of the physician, and establishes a standing committee within the Department of Health to assess the list of applicable diseases that qualify under the program.

Your Committees received testimony in support of this measure from the Drug Policy Forum of Hawaii, NORML, The League of Women Voters of Hawaii, the ACLU, The Religion of Jesus Church, and ten individuals. Your Committees received testimony in opposition to this measure from the Department of Public Safety, the Department of Health, City and County of Honolulu Department of the Prosecuting Attorney, the County of Hawaii Police Department, and the Department of the Attorney General.

Your Committees find that the medical marijuana program needs to be improved to reduce any potential negative impacts on



certifying physicians and qualifying patients. However, your Committees find that removing the program from the Department of Public Safety and placing it in the Department of Health will not cure the problems cited by patients regarding the administration of the program. Your Committees believe that it would in effect do the opposite of what is intended. Housing the program in the Department of Health will not reduce the level of oversight, but would add yet another layer of administrative procedures to the program, making it more cumbersome to the qualifying patients and physicians. The Department of Health would still be required to verify the physicians' licensure and the patients' valid use of the marijuana for medical use, both of which are functions that require the expertise that resides in the Narcotics Enforcement Division of the Department of Public Safety.

Your Committees see the merit of establishing a standing committee to periodically review and update the list of medical conditions that warrant the use of medical marijuana. However, the measure, as received by your Committees, require that patient representatives be included within the committee's membership. Your Committees do not believe that the patients would add any empirical value to the committee's discussions.

Your Committees further find that the current definition of "adequate supply" is open to broad misinterpretation. Deleting the reference to mature and immature plants and clarifying the definition will help to cure potential enforcement errors.

Your Committees have amended this measure by:

- (1) Deleting the proposed transfer of administration of the medical marijuana use program to the Department of Health and leaving it with the Department of Public Safety;
- (2) Removing the two patient representatives from the proposed standing committee;
- (3) Deleting the proposed extension on written certification validity that would have made the certification valid for two years and retaining the existing one year limit;
- (4) Removing the proposed immediacy language that allows a qualifying patient to immediately be permitted use of medical marijuana;



- (5) Requiring that the amount of marijuana possessed jointly by the patient and the primary caregiver not exceed the adequate supply;
- (6) Deleting the amendment that would have allowed a primary caregiver to have up to three qualifying patients and retaining the requirement that a primary caregiver only be responsible for one qualifying patient at any given time;
- (7) Increasing the registration certificate fee from \$25 to \$50;
- (8) Removing all language pertaining to the transfer of the program from the Department of Health to the Department of Public Safety;
- (9) Clarifying that a primary caregiver is someone other than another patient registered under the program and who has not been convicted of any federal or state law relating to any controlled substance and agrees to be responsible for growing the marijuana for the qualifying patient; and
- (10) Making technical, nonsubstantive changes for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Public Safety and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 905, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 905, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committees on Health and Public  
Safety and Judiciary and Labor,



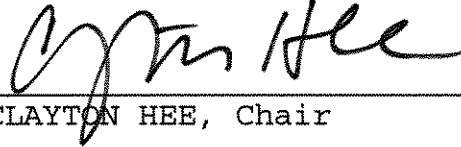
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WILL ESPERO, Chair



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DAVID Y. IGE, Chair




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CLAYTON HEE, Chair



The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

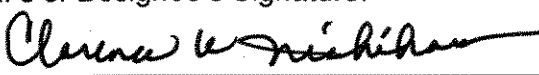
**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:* SB 905	Committee Referral: HTH/PBS/JDL	Date: 2/28/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
FUKUNAGA, Carol (VC)	✓			
BAKER, Rosalyn H.	✓			
MENOR, Ron				✓
WHALEN, Paul				✓
<b>TOTAL</b>	<b>3</b>			<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:            Original            Yellow            Pink File with Committee Report            Clerk's Office            Drafting Agency				

\*Only one measure per Record of Votes

The Senate  
Twenty-Fourth Legislature  
State of Hawaii


**Record of Votes**  
**Committee on Public Safety**  
**PBS**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 905	HTH/PBS/JDL	3-1-07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ESPERO, Will (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
SAKAMOTO, Norman		✓		
WHALEN, Paul				✓
<b>TOTAL</b>	<b>2</b>	<b>1</b>		<b>1</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency		

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Twenty-Fourth Legislature  
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**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 905	HTH/PBS/JDL	2/28/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	/			
KOKUBUN, Russell S. (VC)	/			
INOUE, Lorraine R.				/
NISHIHARA, Clarence K.	/			
GABBARD, Mike	/			
<b>TOTAL</b>	4			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink		
File with Committee Report	Clerk's Office	Drafting Agency		

\*Only one measure per Record of Votes