

**SB 1460**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 02, 2011 7:00 PM  
**To:** JDLTestimony  
**Cc:** atg.legcoordinator@hawaii.gov  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM  
**Attachments:** SB1460\_ATG\_02-04-11\_JDL-HTH.pdf

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Joshua Wisch  
Organization: Department of the Attorney General  
Address: 425 Queen Street Honolulu, HI  
Phone: (808) 586-1284  
E-mail: [atg.legcoordinator@hawaii.gov](mailto:atg.legcoordinator@hawaii.gov)  
Submitted on: 2/2/2011

Comments:  
Mark Miyahira, Deputy Attorney General, will be present to testify.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2011**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 1460, RELATING TO MARIJUANA.

**BEFORE THE:**

SENATE COMMITTEES ON JUDICIARY AND LABOR AND ON HEALTH

**DATE:** Friday, February 4, 2011 **TIME:** 3:00 p.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Mark K. Miyahira, Deputy Attorney General

---

Chair Hee, Chair Green, and Members of the Committees:

The Department of the Attorney General opposes this bill.

The purpose of this bill is the following:

- (1) decriminalize the possession of one ounce or less of marijuana by making it a "civil violation" that would result in the imposition of a fine not to exceed \$100;
- (2) delete the reporting requirements of the Board of Education for students possessing one ounce or less of marijuana;
- (3) clarify that medical marijuana patients and primary caregivers may assert medical use of marijuana as an affirmative defense to civil prosecution under the decriminalization provisions;
- (4) prohibit the Hawaii Paroling Authority from requiring a paroled prisoner, found to be in possession of one ounce or less of marijuana, to undergo and complete a substance abuse treatment program;
- (5) prohibit a court from requiring a defendant to undergo and complete a substance abuse treatment program, when the defendant, while on probation, has been found in possession of one ounce or less of marijuana;
- (6) clarify the definition of a detrimental drug to exclude one ounce or less of marijuana;
- (7) clarify that possession of one ounce or less of marijuana does not constitute the offense of promotion of a detrimental

drug in the third degree; (8) clarify that, regarding the offense of promoting a controlled substance in, on, or near schools, school vehicles, or public parks, the possession of one ounce or less of marijuana does not constitute possession with intent to distribute marijuana without other conduct indicating an intent to distribute; and (9) clarify that a civil violation for possession of marijuana does not constitute a prior offense for purposes of the conditional discharge law.

Section 2 of this measure proposes to decriminalize the possession of one ounce or less of marijuana. Decriminalization of marijuana is not appropriate. The possession of marijuana is illegal under federal law. Under Hawaii law, the possession of less than an ounce of marijuana is a petty misdemeanor offense, promoting a detrimental drug in the third degree, in violation of section 712-1249, Hawaii Revised Statutes. Hawaii has made a limited and controlled exception for those who need marijuana for medical purposes. There is no reason to reduce the offense from a petty misdemeanor to a "civil violation." Therefore, the other provisions decriminalizing possession of one ounce or less of marijuana in other circumstances are also not appropriate.

Section 10 of this measure proposes, for the offense of promoting a controlled substance in, on, or near schools, school vehicles, or public parks, to amend the statute so that "mere possession of marijuana in an amount of one ounce or less shall not constitute possession with intent to distribute without other conduct indicating intent to distribute." This proposed amendment is problematic because it is vague as to what it means by "other conduct" and may result in restricting the evidence that can be used to demonstrate a person's intent to distribute in a case where a person is in possession of one ounce or less of marijuana.

Conduct, as defined in section 701-118(4), Hawaii Revised Statutes, means "an act or omission, or where relevant, a series of acts or a series of omissions, or a series of acts and omissions."

However, in prosecutions involving possession with intent to distribute marijuana, evidence of a person's intent to distribute may also be demonstrated by evidence other than the person's conduct. Evidence of an individual's intent to distribute marijuana may be shown by how the marijuana is packaged. It is not uncommon in street sales involving marijuana, that the marijuana may be packaged and sold in quantities of one-fourth, one-eighth, and one-sixteenth of an ounce, or as individually rolled marijuana cigarettes (joints). It is also well known among the vice divisions of local police departments that one ounce of marijuana can produce approximately fifty-six marijuana joints. Therefore, a street dealer of marijuana may be found to be in possession of one ounce (28.35 grams) of marijuana that may be packaged in sixteen small plastic bags, each weighing approximately one-sixteenth of an ounce, or that may be possessed in the form of approximately fifty-six marijuana joints. Possession of one ounce of marijuana, packaged in a manner as described above, may be evidence of the possessor's intent to distribute the marijuana, but it may not constitute "conduct".

Evidence of "drug notes", a dealer's record or notes of sales, may not constitute "conduct", but it may be used to demonstrate that the person had the intent to distribute the marijuana.

In some cases, a search of a suspect will result in the recovery of a small digital scale, which is commonly used by drug dealers to accurately measure the weight of their drugs for

packaging in small quantities in preparation for distribution. Again, this evidence may demonstrate intent to distribute, although possession of the digital scale may not constitute "conduct".

Therefore, the proposed amendment in section 10 may improperly prevent law enforcement and prosecution agencies from using evidence that may not be considered "conduct" but would demonstrate an individual's intent to distribute marijuana, and could prevent the prosecution of drug dealers, including those who are distributing marijuana in our public schools.

Furthermore, the decriminalization of possession of one ounce or less of marijuana may also have the wide ranging and unwanted effect of preventing the prosecution of drug dealers.

Presently, a Board of Education's rule requires Department of Education (DOE) officials, teachers, and other employees, who know or have reason to believe that a crime, including the possession of any amount of marijuana, has been committed or will be committed on school property during school hours or during activities supervised by the school, to make a report to appropriate authorities. Section 3 of this measure will modify this rule so that DOE employees will not have to report crimes involving the possession of one ounce or less of marijuana. This broad restriction may have the unwanted effect of preventing the prosecution of drug dealers, adults and minors, who are found in possession of one ounce or less of marijuana, which has been packaged for distribution.

This measure may also have the unintended effect of preventing convicted defendants from receiving appropriate substance abuse treatment. At present, the Hawaii Paroling Authority may require a paroled prisoner, found to be in possession of any amount of marijuana, to undergo and complete a

substance abuse treatment program. Similarly, a court may require a defendant, found in possession of any amount of marijuana while on probation, to undergo and complete a substance abuse treatment program. Sections 5 and 6 would prohibit the Hawaii Paroling Authority and the courts from ordering a convicted defendant, found in possession of one ounce or less of marijuana, from undergoing and completing substance abuse treatment. These broad restrictions may prevent convicted defendants from receiving appropriate substance abuse treatment.

The Department respectfully requests that this measure be held.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 1:48 PM  
**To:** JDLEstimony  
**Cc:** hilopros@co.hawaii.hi.us  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM  
**Attachments:** Testimony in Opposition to SB 1460.doc

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Hawaii County Office of the Prosecuting Attorney  
Organization:  
Address: 655 Kilauea Ave Hilo, Hawaii  
Phone: 808-961-0466  
E-mail: [hilopros@co.hawaii.hi.us](mailto:hilopros@co.hawaii.hi.us)  
Submitted on: 2/3/2011

Comments:



**Testimony in Opposition to SB 1460  
Relating to Marijuana**

Committee on Judiciary and Labor  
Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Committee on Health  
Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair

February 4, 2011  
3:00 p.m.  
State Capitol, Conference Room 229

Senators Hee, Green and Members of the Committees:

**The Hawaii County Office of the Prosecuting Attorney strongly opposes Senate Bill 1460.**

This bill has multiple purposes which all attempt to relax the marijuana laws and make marijuana more socially acceptable.

As you are aware, marijuana usage by high school students is high in the state of Hawaii. This bill deletes the reporting requirements of the Board of Education for students possessing one ounce or less of marijuana without taking into consideration the harmful effects on health and behavior of our Island youth.

- According to the National Survey on Drug Use and Health, the percentages of youth engaging in delinquent behaviors was higher among past year marijuana users than among those who had not used marijuana.<sup>1</sup>
- Also, for all delinquent behaviors examined by this survey, the percent of youth engaging in the delinquent behavior rose with increasing frequency of past year marijuana use.
- Marijuana and underage drinking are linked to higher dropout rates. Students who drink or use drugs frequently are up to five times more likely than their peers to drop out of high school.<sup>2</sup>
- Marijuana use is three times more likely to lead to dependence among adolescents than among adults. Research also indicates that the earlier kids start using marijuana, the more likely they are to become dependent on this or other illicit drugs later in life.<sup>3</sup>

---

<sup>1</sup> The National Survey on Drug Use and Health: The NSDUH Report, January 9, 2004.

<sup>2</sup> The National Center on Addiction and Substance Abuse at Columbia University (CASA). Malignant neglect: Substance abuse and America's schools. New York: Columbia University, 2001.

<sup>3</sup> Youth Marijuana Prevention Initiative: The NCADI Report. U.S. Department of Health and Human Services, October 2002.

In looking at Senate Bill 1460, it does not address major problems that exist in other locations that have enacted similar laws and/or who have taken a similar approach to the one recommended in this bill. First, the crime lab for each county police department should be consulted regarding whether they will test suspected marijuana for civil trials. In other jurisdictions, police crime labs have refused to become involved in non-criminal matters involving marijuana. Without crime lab testing, there is no way to obtain any civil judgment under SB 1460. Essentially, every defendant will know to demand trial and the charges will ultimately be dismissed due to lack of proof. The net effect would be the legalization of marijuana without any penalties (instead of the civil penalties envisioned by this bill).

We can learn from other "social experiments" locations that have relaxed marijuana enforcement and laws, in America and internationally; these places have adopted relaxed marijuana laws as proposed by SB 1460. While appearing appealing initially as a fiscally "easy way out," there are too many negative impacts by increasing organized crime and crimes, by reducing the effectiveness of law enforcement's investigative practices and funding, and most importantly, reducing treatment to those who are marijuana drug abusers. This is echoed in places such as Mendocino County, California, Alaska, and other California counties that have relaxed their marijuana laws as proposed in SB 1460. The issues are complex and involve societal controls over negative behaviors.

It has been recognized for more than a decade that prosecution without treatment probably will not; but, treatment without prosecution, or threat of prosecution, does not work either. We have enough experience now with our drug courts to know that the drug addicted users need "coercive" treatment (persuasion by considering the jail alternatives and court intervention). Many people who are arrested for marijuana are not convicted. For the youth, they get their cases informally adjusted. Alternative programs, problem-solving courts are encouraged by all in the criminal justice system. This is nothing new. Most defendants do not receive jail for their marijuana convictions, but many get drug assessments if they repeatedly get arrested or become defendants arrested for Operating Vehicles While Under the Influence of Intoxicants (also known as DUI). Over 30 % of vehicular homicides and negligent injuries involve alcohol and use of marijuana. This is a serious and understated problem.

Our Drug Court experience tells us that, in Hawaii, most adult methamphetamine and drug abusers start with alcohol and marijuana use at very young ages. Although marijuana may not be the "gateway" drug as previously thought, there is a correlation with marijuana use and use of harder drugs in later life. Unfortunately, for our Drug Court juvenile participants and family court juvenile offenders, most chose marijuana as their drug of choice. "Marijuana as the drug of choice" may be caused by the availability of drugs, societal acceptance of the "harmlessness" of marijuana although this is contrary to scientific evidence.

Most drug users, including marijuana addicted youth and adult, need at least two or three treatment attempts before the drug addictive behaviors stop. Many become poly-substance abusers. The negative societal cost is not having a vehicle to get treatment for drug abusing addicts who are in "denial." Even threats of divorce and other social sanctions by the family and friends is not enough to get voluntary treatment. Many require the arrest and "hitting bottom" before accept they need help.

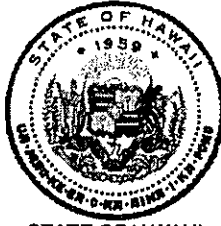
As marijuana laws have become relaxed in the United States, marijuana related visits to emergency rooms have gone up. According to the United States Department of Health and Human Services DAWN report, in 2008 there was an estimated 374,435 marijuana related visits to emergency rooms in the United States. During that same period there was an estimated 656,892 visits that were alcohol related, of which only 132,842 were for alcohol alone. In 2002 the estimated number of emergency room visits related to marijuana was 129,546. Thus, as the marijuana laws in our nation have relaxed so have the harmful effect of marijuana.

The wealthy and influential pro-marijuana lobbies have been very effective in getting similar laws passed. In 2002, Mendocino County, California, relaxed there laws relating to marijuana as similarly proposed by SB 1460. They saw a dramatic increase in organized crime, and crime in general. Except for making money with marijuana businesses, the negative societal impacts and decrease in quality of life moved the community to back-away from the permissive marijuana laws. By 2008, the community voted to retreat from the permissive marijuana law changes because of the increase in organized and other crime.

For these reasons, the Hawaii County Office of the Prosecuting Attorney does not support SB 1460 and asks that the Bill be held. Give the Judiciary the opportunity to provide marijuana addicted offenders an opportunity to become clean and sober.

Thank you for the opportunity to testify on this matter.

NIEL AMBERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Blvd. 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

**JODIE MAESAKA-HIRATA**  
INTERIM DIRECTOR

Deputy Director of  
Administration

Deputy Director  
Corrections

**KEITH KAMITA**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 1460  
A BILL FOR AN ACT RELATING TO HEALTH**

by  
**Jodie Maesaka-Hirata, Interim Director  
Department of Public Safety**

**Committee on Judiciary and Labor  
Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair**

**Committee on Health  
Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair**

**Friday, February 4, 2011, 3:00 PM  
State Capitol, Room 229**

**Chairs Hee and Green, Vice Chairs Shimabukuro and Nishihara, and Members  
of the Committees:**

The Department of Public Safety does not support Senate Bill 1460 that proposes to make possession of less than one ounce of marijuana a civil fine of \$100, and excludes possession of more than one ounce of marijuana from authority of Hawaii Paroling Authority to require paroled prisoners to undergo and complete substance abuse treatment. This measure excludes possession of more than one ounce of marijuana from authority of courts to require a defendant to undergo and complete substance abuse treatment for a probation violation. It

also clarifies the definition of a detrimental drug to exclude one ounce or less of marijuana.

This measure excludes possession of one ounce or less of marijuana from offenses of promoting a detrimental drug in the second degree and third degree. It does not require teachers to report students to police for the offense of possessing or distribution of one ounce or less of marijuana in or near schools, school vehicles, or public parks and delete the criminal offense of possessing any amount of marijuana in Section 712-1249. The use of illegal drugs should not be dealt with like a traffic violation where a suspect can just pay a fine and be required to attend a class. PSD believes that this initiative sends the wrong message to the citizens and youth of Hawaii, that smoking and possessing under one ounce of marijuana is not wrong, and it's not a criminal violation because "its just a fine."

PSD believes that the existing language in Section 706-622.5 provides the courts the latitude to sentence the first time drug offender to probation and even expungement of their criminal records if they do not re-offend. House Bill 544 would delete the possession of less than one ounce of marijuana from Section 712-1249, thus resulting in a person being able to constantly abuse the law and just pay a fine.

For this reasons, PSD opposes Senate Bill 1460 and asks that it be held. Thank you for the opportunity to testify on this matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515



KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE CLAYTON HEE, CHAIR  
SENATE JUDICIARY AND LABOR COMMITTEE**

**THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR  
SENATE HEALTH COMMITTEE**

**Twenty-sixth State Legislature  
Regular Session of 2010  
State of Hawai'i**

February 1, 2011

**RE: S.B. 1460; RELATING TO MARIJUANA.**

Chair Hee, Vice-Chair Shimabukuro, members of the Judiciary and Labor Committee, Chair Green, Vice-Chair Nishihara, and members of the Senate Committee on Health, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to S.B. 1460.

The purpose of this bill is to change possession of one ounce or less of marijuana from a criminal offense to a civil violation, exclude one ounce or less of marijuana from the definition of "detrimental drug," and preclude the Courts and Hawaii Paroling Authority from requiring substance abuse treatment for defendants or paroled prisoners found in possession of more than one ounce of marijuana. Given the widespread abuse and negative impacts of marijuana, and its ongoing status as a controlled substance, this Department strongly maintains that marijuana should continue to be strictly regulated and enforced.

For this reason, the Department of the Prosecuting Attorney opposes S.B. 1460. Thank you for this opportunity to testify.

---

**From:** Tracy A Ryan [tracyar@hawaiiintel.net]  
**Sent:** Tuesday, February 01, 2011 3:59 PM  
**To:** JDLTestimony  
**Subject:** Testimony for Friday

TESTIMONY

The Libertarian Party  
c/o 1658 Liholiho St #205  
Honolulu, HI 96822

February 1, 2011

RE: SB 1460 to be heard Friday, February 4, 2011 at 3:00 PM in conference room 229.

To the members of the Senate Committee on Judiciary and Labor and on Health

We support passage of SB 1460 that aims at reducing the penalties involved with possessing small amounts of marijuana. However, we must state our view that the legislature is being overly timid in pursuing this very small accommodation to common sense and the current state of public opinion. We would very much prefer an intelligent conversation and debate on a complete decriminalization of marijuana growing, distribution, and use in our State.

It is recognized that a legislative body cannot push itself too far beyond the views of the voters they represent. We only wish to underscore our feeling that the community may well be ready for much more in the way of relaxing our laws regarding this drug.

In the 2011 session this very issue of decriminalizing the possession of small amounts of marijuana was giving a hearing by the Senate Judiciary committee. The office of prosecuting attorney responded to a question from the committee that cases that would fit this new law would not involve incarceration, but only a \$100 fine. The only substantive change affected by SB1460 then is to remove the onus of a criminal conviction from one's record. I again suggest that the legislature can and should be bolder in broadening this discussion to cover all aspects of our laws governing marijuana.

Sincerely:



Tracy Ryan  
Oahu County Chair  
The Libertarian Party of Hawaii

(808) 534-1846

tracyar@hawaiiintel.net

---

**From:** Myron Berney [myberney@hotmail.com]  
**Sent:** Tuesday, February 01, 2011 6:50 PM  
**To:** JDLTestimony  
**Subject:** SB1460  
**Attachments:** SB1460.doc

Medicine Buddhas and Bodhisattvas  
Natural Cancer Wellness Foundation  
Dr. Myron Berney, ND LAc  
808-392-3366

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

COMMITTEE ON HEALTH

Senator Josh Green, M.D., Chair

Senator Clarence K. Nishihara, Vice Chair

DATE: Friday, February 04, 2011  
TIME: 3:00 p.m.  
PLACE: Conference Room 229

**SB 1460 SUPPORT with considerations.**

**The current Laws, rules and regulations on Marijuana assume that Marijuana is a dangerous addicting drug of abuse, IT IS NOT. Marijuana is safer than aspirin and less psychedelic than DM cough medicine. Marijuana is not addicting. Marijuana supports the endocannabinoid system to reduce stress, increase longevity, and improve creative learning. Marijuana has been used for over 5000 years with no social or individual harm.**

"\$6.2 Million Dollars are spent annually on the enforcement and prosecution of marijuana crimes in Hawaii resulting in probation as the usual sentence for first time offenders."

Studies on evaluating the effects of the decriminalization of marijuana on states that have reduced the penalties imposed for marijuana possession have shown that those states have not suffered negative consequences.

**Since there was ZERO NEGATIVE CONSEQUENCES to the decriminalization of marijuana possession, we are spending, WASTING, \$6.2 Million Dollars annually for NO BENEFIT.**

The studies showed that:

Of course, expenses were reduced....we would save \$6.2 Million Dollars annually.

Marijuana use was not necessarily increased, but if it did it increased less with decriminalization.

Marijuana use is not a stepping stone to abusive behavior or drug abuses.

In Hawaii county, a voter initiative was passed in 2008 by a majority of 35,000 voters that directs county law enforcement officials to treat the "**adult personal use**" of marijuana as its **lowest law enforcement** priority and prohibits the county from accepting or expending funds for the marijuana eradication program and for enforcing potential offenses for the adult personal use of marijuana. Eleven other cities in the United States have passed similar voter initiatives or ordinances instructing local law enforcement to make enforcement of marijuana prohibitions their lowest police priority.

The "adult personal use" of marijuana as its lowest law enforcement includes by law up to 26 plants per person past the



age of majority, 18. **26 plants is more like 26 pounds not 28 grams.**

The Big Island plus 12 other cities that make a dozen. Let's make it a Bakers Dozen, 13, and include all of Hawaii as lowest level of law enforcement.

We do SUPPORT the small steps taken in this bill and encourage GIANT steps for Medical Use.

Please also consider deleting the word "strictly" below since that would be a cause to harm the patient or caregiver and appears to be a violation of the Federal Privacy Rights concerning no power to harm public health or health care.

SECTION 4. Section 329-125, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A qualifying patient or the primary caregiver may assert the medical use of marijuana as an affirmative defense to any prosecution, criminal or civil, involving marijuana under this ~~part~~, **section 329-A**, or chapter 712; provided that the qualifying patient or the primary caregiver ~~strictly~~ complied with the requirements of this part."

Dr. Myron Berney, ND LAc

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 02, 2011 10:50 AM  
**To:** JDLTestimony  
**Cc:** snn@hawaii.edu  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Sarah Nicolaisen  
Organization: Individual  
Address: P.O. Box 690 Naalehu, Hawaii 96772  
Phone: 808-640-3083  
E-mail: [snn@hawaii.edu](mailto:snn@hawaii.edu)  
Submitted on: 2/2/2011

Comments:  
I, Sarah Nicolaisen support this bill

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 02, 2011 10:57 AM  
**To:** JDLTestimony  
**Cc:** da.mcfadden@yahoo.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: David McFadden  
Organization: Individual  
Address: P.O. Box 729 Naalehu, Hawaii 96772  
Phone: 808-938-6216  
E-mail: [da.mcfadden@yahoo.com](mailto:da.mcfadden@yahoo.com)  
Submitted on: 2/2/2011

Comments:  
I, David Mcfadden am here to testify in support of Senate Bill 1460

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 02, 2011 11:13 AM  
**To:** JDLTestimony  
**Cc:** cheryl@solights.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Cheryl Nelson  
Organization: Individual  
Address: PO Box 771 Kailua-Kona, HI  
Phone: 808-937-4553  
E-mail: [cheryl@solights.com](mailto:cheryl@solights.com)  
Submitted on: 2/2/2011

**Comments:**

As a Medical Patient, I support SB 1460 with changes. Changes must be consistent with the existing Medical Marijuana Permit laws i.e. "Patients are allowed up to 3 oz. of usable material in their possession or to transport from caregiver to patient";.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 02, 2011 11:21 AM  
**To:** JDLTestimony  
**Cc:** Mark@solights.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: Yes  
Submitted by: Mark Nelson  
Organization: Individual  
Address: p.o. box 314 kealakekua, hawaii  
Phone: 8089374669  
E-mail: [Mark@solights.com](mailto:Mark@solights.com)  
Submitted on: 2/2/2011

**Comments:**

I will support this bill with a recommended change to the allowable amount of Medical Cannabis to be ammended to follow the States of Hawaii current law of 3 ounces, and to ammend itself with every increase or change in future Medical Marijuana laws that are passed and signed into law.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 7:01 AM  
**To:** JDLTestimony  
**Cc:** adriendiven@hotmail.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM  
**Attachments:** Test69.doc

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Adrien R Diven  
Organization: Individual  
Address: 15-2684 Maiko Street Pahoa  
Phone: (808)965-6160  
E-mail: [adriendiven@hotmail.com](mailto:adriendiven@hotmail.com)  
Submitted on: 2/3/2011

Comments:

To: The Joint Senate Committees on Judiciary and Labor and Health

From: Adrien Diven

RE: SB 1460 Relating to Marijuana

Hearing: Friday, February 04, 2011, 3:00 p.m., Room 229

Position: Strong Support

I am a husband, father and good citizen of Hawaii, and I strongly support decriminalization for the possession of marijuana.

Adrien Diven  
Pahoa

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 7:06 AM  
**To:** JDLTestimony  
**Cc:** sharondiven@msn.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM  
**Attachments:** Test69.doc

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Sharon R Diven  
Organization: Individual  
Address: 15-2684 Maiko Street Pahoia  
Phone: (808) 965-6160  
E-mail: [sharondiven@msn.com](mailto:sharondiven@msn.com)  
Submitted on: 2/3/2011

Comments:



To: The Joint Senate Committees on Judiciary and Labor and Health

From: Sharon Diven

RE: SB 1460 Relating to Marijuana

Hearing: Friday, February 04, 2011, 3:00 p.m., Room 229

Position: Strong Support

I am a mother raising 3 children in Hawaii and I strongly support decriminalization for the possession of marijuana.

Sharon Diven  
Pahoa

---

**From:** Vtrentals@aol.com  
**Sent:** Thursday, February 03, 2011 7:46 AM  
**To:** JDLTestimony  
**Subject:** Support of MJ decriminalization it seems right and saves county wasted funding..

---

**From:** lionel@cruzio.com  
**Sent:** Thursday, February 03, 2011 7:23 AM  
**To:** JDLTestimony  
**Subject:** Support Senate Bill 1460, friday Feb 4th at 3PM

Aloha,

I am writing in support of Senate Bill 1460, as heard friday, feb 4th at 3pm, which reduces the adult possession of up to one ounce of marijuana from a criminal misdemeanor (punishable by up to 30 days in jail and a \$1,000 fine) to a civil violation punishable by a fine of not more than \$100.

While criminalizing responsible adults for possession of marijuana or hemp makes no rational sense, this bill is a step in the right direction.

Aloha,  
Lee Eisenstein  
Hawaii

---

**From:** Paul Armentano [paul@norml.org]  
**Sent:** Thursday, February 03, 2011 7:17 AM  
**To:** JDLTestimony  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Written testimony re: SB 1460, to be heard 2/4/11 by the Senate HTH/JDL Committees

**RE: SB 1460**

**To be heard by the Senate Joint Committee on Judiciary and Labor and the Senate Committee on Health  
On Friday, February 4, 2011, at 3pm in Conference Room 229**

**[http://www.capitol.hawaii.gov/session2011/hearingnotices/HEARING\\_HTH-JDL\\_02-04-11\\_.HTM](http://www.capitol.hawaii.gov/session2011/hearingnotices/HEARING_HTH-JDL_02-04-11_.HTM)**

**Written Testimony in Favor of SB 1460, Before The Senate Joint Committee on Judiciary and Labor and the Senate Committee on Health**

**By Paul Armentano  
Deputy Director  
NORML | NORML Foundation  
Washington, DC**

I applaud the members of Hawaii's Senate Committee on Judiciary and Government Operations for holding this hearing regarding Senate Bill 1460, which seeks to amend the state's criminal marijuana possession laws.

Senate Bill 1460 seeks to reduce minor marijuana possession penalties from a criminal misdemeanor, punishable by up to 30 days in jail and a \$1,000 fine, to a civil infraction punishable by a fine only. This common sense, fiscally responsible proposal will cut costs, improve public safety, and have a positive impact on the quality of life of tens of thousands of Hawaii adults.

#### **SENATE BILL 2450 WILL IMPROVE THE QUALITY OF LIFE FOR HAWAII CITIZENS**

Between 1,000 and 1,500 Hawaii residents are arrested annually for possessing one ounce or less of marijuana.[1] Passage of SB 1460 measure would spare these minor marijuana offenders from criminal arrest, prosecution, and incarceration, as well as the emotional and financial hardships that follow -- including the loss of certain jobs, students loans, federal and state subsidies, and child custody rights.

Most adult marijuana users act responsibly and consume marijuana solely within the privacy of their own homes. They are not part of the crime problem and they should not be treated like serious criminals. Senate Bill 1460 would maintain the monetary sanctions already in place for marijuana possession violations, but would spare offenders from being saddled with lifelong criminal records. This change would continue to discourage marijuana abuse, while halting the practice of permanently criminalizing thousands of otherwise law abiding citizens of Hawaii.

#### **SENATE BILL 1460 WILL CUT COSTS AND IMPROVE PUBLIC SAFETY**

Law enforcement resource allocation is a zero-sum gain. The time that a police officer spends arresting and

processing minor marijuana offenders is time when he or she is not out on the streets protecting the public from more significant criminal activity. Passage of SB 1460 would allow law enforcement, prosecutors, and the courts to reallocate their existing resources toward activities that will more effectively target serious criminal behavior and keep the public safe.

It would also have the added benefit of saving state taxpayers' money and raising revenue. Presently, state and county law enforcement agencies spend over \$4 million per year to enforce marijuana possession laws; an additional \$2.1 million is spent by the courts.[2] Passage of SB 1460 will offset these criminal justice costs while simultaneously raising state revenue through the imposition of civil fines of up to \$100.

#### THE PUBLIC SUPPORTS SENATE BILL 1460

Public opinion strongly favors such a reprioritization of law enforcement resources. Marijuana 'decriminalization,' as proposed under SB 1460 presently enjoys support from the majority of Americans. According to a recent CNN/Time Magazine poll, approximately three out of four citizens favor a fine over criminal penalties for the possession of marijuana.[3] In fact, thirteen states – including Oregon, Maine, Nebraska, Ohio, and Mississippi -- have already enacted various forms of marijuana decriminalization, replacing criminal sanctions with the imposition of fine-only penalties for minor marijuana offenders.[4] In October 2010, California lawmakers reduced penalties for marijuana possession from a criminal misdemeanor to a civil infraction.[5] Lawmakers in several other states — including Arizona, Connecticut, Illinois, and Rhode Island — are considering similar legislative proposals this year.[6]

In not a single instance have lawmakers recriminalized marijuana after implementing decriminalization.

Locally, in 2008, Big Island voters by a 3 to 2 margin approved Ballot Question 1, which sought to direct law enforcement to make activities related to the investigation and arrest of adults who possess up to 24 ounces of cannabis and/or 24 plants their lowest priority. However, it appears that local lawmakers and law enforcement have failed to consistently abide by this ordinance, thus warranting the passage of this statewide legislation.

Contrary to the concerns of some, the passage of SB 1460 would not negatively impact marijuana use patterns or attitudes. Passage of similar legislation in other states has not led to increased marijuana use or altered adolescents' perceptions regarding the potential harms of drug use. In fact, the only United States government study ever commissioned to assess whether the enforcement of strict legal penalties positively impacts marijuana use found, "Overall, the preponderance of the evidence which we have gathered and examined points to the conclusion that decriminalization has had virtually no effect either on the marijuana use or on related attitudes and beliefs about marijuana use among American young people." [7]

#### SUPPORT PUBLIC SAFETY: VOTE 'YES' ON SB 1460

Senate Bill 1460 seeks to reduce government expenditures and promote public safety. These are goals that lawmakers should support. It is a common sense, fiscally responsible proposal that will cut costs without altering the public's attitudes or use of marijuana. I urge you to support SB 1460.

# END #

Paul Armentano is the deputy director of the National Organization for the Reform of Marijuana Laws (NORML), and is the co-author of the book *Marijuana Is Safer: So Why Are We Driving People to Drink?* (Chelsea Green, 2009). His writing on marijuana policy has appeared in over a dozen anthologies and in over

500 newspapers and magazines. He is a former consultant to Health Canada.

[1] Lawrence Boyd. 2007. The Budgetary Implications of Marijuana of Marijuana Decriminalization and Legalization for Hawaii. Drug Policy Forum of Hawaii.  
<<http://www.dpfhi.org/docs/Budgetary%20Implications%20of%20Marijuana%20Decrim.pdf>>

[2] Ibid.

[3] Joe Stein. "The New Politics of Pot." Time Magazine. October 27, 2002.

[4] NORML. 2007. 2007 Citizens Guide to Understanding America's Marijuana laws: A Compilation of State by State Penalties, Arrest Data, Tax Stamps and Legal Resources. Roanoke, Virginia: Zickafoose Visual-Worx, LLC.

[5] Jesse McKinley. "California Reduces Its Penalty for Marijuana." New York Times. October 1, 2010.  
<<http://www.nytimes.com/2010/10/02/us/politics/02pot.html>>

[6] <<http://www.capwiz.com/norml2/issues/?style=D>>

[7] Institute for Social Research, The University of Michigan. Monitoring the Future Occasional Paper 13. Marijuana Decriminalization: The Impact on Youth 1975-1980. Ann Arbor. 1981.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 8:11 AM  
**To:** JDLTestimony  
**Cc:** aronshausen@saveoursociety.org  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM  
**Attachments:** HI SB 1460 testimony 02032011.doc

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Calvina Fay  
Organization: Save Our Society From Drugs  
Address: 5999 Central Ave., Suite 301 St. Petersburg, FL 33710  
Phone: 727-828-0210  
E-mail: [aronshausen@saveoursociety.org](mailto:aronshausen@saveoursociety.org)  
Submitted on: 2/3/2011

Comments:



**Testimony on SB 1460 Relating to Marijuana Decriminalization  
Submitted on February 3, 2011**

**To the Hawaii Senate Health Committee and the Senate Committee on Judiciary  
and Labor**

**By Calvin Fay, Executive Director, Save Our Society From Drugs**

Dear Committee Members:

We respectfully request that this testimony, on behalf of Save Our Society From Drugs, a national drug policy organization with members in the state of Hawaii, be included in the hearing that is scheduled for February 4, 2011 pertaining to SB 1460.

Save Our Society From Drugs (S.O.S.) has over ten years of experience in monitoring and making policy recommendations on drug policy issues including those pertaining to marijuana legalization. S.O.S. takes a comprehensive approach to promote sound drug policy that includes education, prevention, abstinence-based treatment, scientific research, and community awareness. Our members include doctors, researchers, law enforcement officials, business leaders, lawyers, and parents, just to name a few.

We have analyzed this bill and believe that this legislation will have significant negative impact on the state of Hawaii. Please take this opportunity to review our analysis of SB 1460.

Proponents of marijuana decriminalization argue that it is too costly for the state to continue to lock-up defendants for "simple" marijuana possession. The idea that Hawaii's correctional facilities are overburdened with defendants whose sole crime was the possession of a few joints is simply not true. According to a 2007 report cited within SB 1460, *The Budgetary Implications of Marijuana Decriminalization and Legalization for Hawaii*, less than 2% of all arrests in Hawaii between the years of 1997 and 2004 were for marijuana possession. The report is unclear if the less than 2% arrests were for felony or misdemeanor possession of marijuana. It does however report that of the 2% arrested approximately 25% were convicted. Of the 25%, while we do not know how many of these individuals were in possession of less than an ounce, it is most certain that for many the conviction is a reflection of their past criminal involvement or the charge represents a plea bargain from a trafficking or intent to sell arrest. If possession of marijuana represents such a small percentage of defendants currently in Hawaii's correctional facilities, surely decriminalizing the possession of up to an ounce of marijuana would not result in significant savings to the state.

SB 1460 is more than a bill to decriminalize adult possession of up to an ounce of marijuana; it deletes reporting requirements by the Board of Education for students possessing one ounce or less of marijuana. Now is not the time for Hawaii to take a hands off approach to adolescent marijuana use. According the *2010 Monitoring the Future Survey*, there was a significant increase in daily marijuana use in 8<sup>th</sup>, 10<sup>th</sup> and 12<sup>th</sup> graders. Non-reporting for student possession of marijuana takes away all efforts at early intervention. Without reporting, assessments and intervention may not be available,



potentially trapping Hawaii's youth in the cycle of addiction, especially for our most disadvantaged youth who could not afford treatment otherwise.

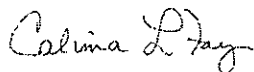
One must consider the amount of marijuana being deemed under this bill as small enough to warrant only a civil penalty. It is estimated that an ounce of marijuana can roll approximately 60-120 joints. Depending on the quality, the street price for an ounce of marijuana ranges from \$225-\$400. Adopting a policy of issuing a \$100 ticket for possession of this amount of marijuana would just be the price of doing business for dealers who would learn to carry smaller amounts on them in hopes of a "slap on the wrist" before returning to the streets restocked.

SB 1460 excludes possession of marijuana from the jurisdiction of Hawaii's parole and probation authorities to require paroled prisoners and probationers to undergo and complete substance abuse treatment. Parole and probation are designed to rehabilitate defenders to be productive members of the community. Allowing someone who is already part of the criminal justice system to continue to exhibit criminal behaviors without intervention and sanctions undermines all attempts at rehabilitation. Removing sanctions for behaviors related to continued substance abuse creates a revolving door policy that will surely increase criminal justice costs and strain resources.

Finally, I would like to comment on marijuana as a gateway drug. Certainly, no one is saying that everyone who smokes marijuana will eventually turn to harder drugs, but there is a correlation between the use of marijuana and an individual's tendency to progress to other illicit drugs. In fact, the RAND Drug Policy Research Center Study, often cited by the pro-drug lobby as a study refuting marijuana as a gateway drug, finds that there is a high incidence of progression from marijuana to heroin and cocaine and that the younger you are when you first use marijuana, the more likely you are to end up using cocaine and heroin.

Thank you for the opportunity to provide testimony on this important issue. We would be happy to provide you with additional information or discuss this issue further with you, if you so desire. Please reject SB 1460!

Sincerely,



**Calvina Fay**  
**Executive Director**  
**Save Our Society From Drugs**  
**5999 Central Ave., Suite 301**  
**St. Petersburg, FL 33710**  
**[www.saveoursociety.org](http://www.saveoursociety.org)**

---

**From:** Shaleen Title [shaleen.title@leap.cc]  
**Sent:** Thursday, February 03, 2011 9:06 AM  
**To:** JDLTestimony  
**Subject:** Testimony Re: SB 1460 Relating to Marijuana  
**Attachments:** Neill Franklin SB 1460.pdf

Hello,

Attached, please find a statement in support of SB 1460 Relating to Marijuana, submitted by Major Neill Franklin on behalf of Law Enforcement Against Prohibition, for the hearing this Friday February 4, 2011, at 3:00 p.m.

Thank you.

Sincerely,  
Shaleen Title

Shaleen Title, Esq.  
Speakers Bureau Director  
Law Enforcement Against Prohibition (LEAP) <http://www.CopsSayLegalizeDrugs.com>  
121 Mystic Ave Suite 8, Medford, MA 02155  
Phone/Text: (617) 955-9638  
Email: [shaleen@leap.cc](mailto:shaleen@leap.cc) // Gchat: shaleen



# LAW ENFORCEMENT AGAINST PROHIBITION

121 Mystic Avenue, Medford, Massachusetts 02155 - Tele: 781.393.6985 Fax: 781.393.2964 info@leap.cc www.leap.cc

## EXECUTIVE DIRECTOR

Major Neill Franklin  
Baltimore, Maryland

## BOARD OF DIRECTORS

Lieutenant Jack A. Cole  
Board Chair & Treasurer -  
Medford, Massachusetts

Captain Peter Christ  
Vice Chair - Syracuse, New York

Prosecutor James Glerach  
Secretary - Chicago, Illinois

Prosecutor James Anthony  
Oakland, California

Officer David Bratzer  
Victoria, British Columbia, Canada

Judge Maria Lúcia Karam  
Rio de Janeiro, Brazil

Captain Leigh Maddox  
Baltimore, Maryland

Special Agent Terry Nelson  
Dallas, Texas

Lieutenant Tony Ryan  
Tucson, Arizona

## ADVISORY BOARD

Chief Coroner Vince Cain  
Ret. Chief Superintendent, RCMP,  
Vancouver, Canada

Senator Larry Campbell  
Former Mayor of Vancouver & RCMP,  
Vancouver, Canada

Justice Kenneth Crispin  
Ret. Supreme Court Justice,  
Sydney, Australia

MP Libby Davies  
Member of Parliament, Ottawa, Canada

Officer Hans van Duijn  
Ret. National Dutch Police Union  
President, Amsterdam, Netherlands

Mr. Carel Edwards  
Former Anti-Drugs Coordinator,  
European Union, Brussels, Belgium

Judge Warren W. Eginton  
US District Court Judge, Connecticut

General Gustavo de Greiff  
Former Attorney General of Colombia

Governor Gary E. Johnson  
Former Governor of New Mexico

Judge John L. Kane  
US District Court Judge, Colorado

Justice C. Ross Lander  
Ret. BC Supreme Court Justice,  
Vancouver, Canada

Justice Ketil Lund  
Ret. Supreme Court Justice,  
Oslo, Norway

Sheriff Bill Masters  
Sheriff, San Miguel County, Colorado

Chief Joseph McNamara  
Ret. Police Chief, San Jose, California

Chief Norm Stamper  
Ret. Police Chief, Seattle, Washington

Mr. Eric Sterling  
President, Criminal Justice Policy  
Foundation, Washington, DC

Judge Robert Sweet  
US District Court Judge, New York

Chief Francis Wilkinson  
Former Chief Constable, Gwent Police  
Force, Wales, UK

For SB 1460

To:

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair, and  
Members of the Committee on Judiciary and Labor

Senator Josh Green, M.D., Chair,  
Senator Clarence K. Nishihara, Vice Chair, and  
Members of the Committee on Health

From: Major Neill Franklin, on behalf of  
**LAW ENFORCEMENT AGAINST PROHIBITION (LEAP)**

Re: Senate Bill 1460 Relating to Marijuana  
Hearing: Friday, February 4, 2011, 3:00 p.m.

Position: Support

Distinguished members of the Committees, thank you very much for the opportunity to present the views of Law Enforcement Against Prohibition (LEAP) in support of SB 1460.

For thirty-three years, I served as an officer for the Maryland State Police and Baltimore Police. Early in my career with the Maryland State police, I was an undercover narcotics agent, focusing on everything from high-level drug dealers in the Washington suburbs to the guy growing one pot plant on his apartment balcony. I oversaw seventeen drug task forces over the course of my career.

More recently, I became the executive director of LEAP. LEAP is an association of current and former law enforcement officers, prosecutors, judges and criminal justice professionals at every level of government who are speaking out about the failure of our drug policy as well as our civilian supporters. LEAP has 101 members in Hawaii.

Like other law enforcement organizations, LEAP does not endorse or condone marijuana use. Whether to endorse or condone marijuana is not at issue here because making marijuana legal for adults does not equal condoning it.

Decriminalizing marijuana by passing SB 1460 is a strong step in the right direction. The less time that we as law enforcement spend arresting and prosecuting marijuana users, the more time we can spend keeping our streets safe from violent crime. LEAP strongly supports decriminalizing marijuana to free up police resources to deal with more serious crimes.

SB 1460 is a well-developed bill to remove the criminal penalty for personal use. The bill maintains society's disapproval of marijuana use by continuing a civil penalty of up to

\$100 for such possession. It recognizes that marijuana is a substance that can be abused like any other, but also finds that the benefits of establishing a civil violation for the possession of small amounts of marijuana far outweigh the benefits of criminal treatment of marijuana possession. This finding is consistent with my decades of experience in law enforcement.

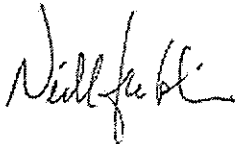
First, this bill will provide important efficiencies in resources. These are well documented in the studies by Lawrence Boyd and Jeffrey Miron cited in the text of the bill. Specifically to law enforcement, passing this bill will allow police who are tied up in booking rooms and courts dealing with marijuana arrests to focus on much higher priority law enforcement matters at a time when resources for public safety are scarce and stretched thin.

Second, in addition to the important cost-saving benefits, this bill will provide a much-needed improvement to society by allowing citizens to have a second chance. As I have seen firsthand, arrests and criminal convictions hurt citizens and families in a life-altering way. People with criminal convictions have great difficulty finding jobs. They may lose their opportunity for federal financial aid for college. Their families are hurt and stressed and the person who is arrested is most often unable to reach their full potential.

A tremendous amount of the staff time and funding for law enforcement is wasted arresting nonviolent drug users who hurt no one. In 1963, before we had a war on drugs, police were credited with solving 91 percent of all murders, but in recent years they have solved only 61 percent. Across the US the crime rate has dropped 40 percent since the 1990s, but we still fail to solve 60 percent of rapes and arsons and 75 percent of robberies. We have more police per capita than we did in 1963; they are better paid, educated, and trained, and they have technology at their disposal never imagined in 1963. So what could have caused a one-third drop in solving murders in the US? The law-enforcers at LEAP believe it is because since the war on drugs started police have had to spend so much time chasing nonviolent drug offenders we no longer have time to protect citizens from violent criminals.

Please, stop some of these harms inflicted on us by prohibition. Support decriminalizing marijuana and let police get back to protecting all of us from violent criminals and child molesters. We will all be much better off.

Sincerely,

A handwritten signature in black ink, appearing to read "Neill Franklin". The signature is fluid and cursive, with a large initial "N" and "F".

Neill Franklin  
Executive Director

---

**From:** Marya Grambs [mgrambs@gmail.com]  
**Sent:** Thursday, February 03, 2011 9:44 AM  
**To:** JDLTestimony  
**Subject:** SB1460, Feb 4, 3 pm, STRONG SUPPORT

**RE: SB 1460 Relating to Marijuana**

**Hearing: Friday, February 04, 2011, 3:00 p.m., Room 229**

**Position: Strong Support**

**To: Joint Committee on Judiciary and Labor and Committee on Health**

**Dear Senators:**

**I am testifying as an individual in strong support of SB1460.**

**Possessing small amounts of marijuana for personal use is not, in and of itself, does not warrant jail time. California, and 12 other states (Alaska, Colorado, Maine, Mass., Minn., Nebraska, Nevada, Mississippi, Oregon, New York, No. Carolina), have already passed laws that make the possession of small amounts of marijuana a citable offense.**

**Along with Hawaii, Rhode Island is also considering a decriminalization measure.**

**This measure will save money by reducing the number of cases that go to court and by allowing law enforcement to focus their efforts on more serious crimes. Hawaii could save an estimated \$5 million by instituting a system of civil fines rather than criminal prosecution for possession of less than one ounce of marijuana.**

**Public support for changing marijuana laws is growing. In November 2008, 53% of voters in Hawai'i County voted to make marijuana possession the "lowest law enforcement priority." That initiative directs law enforcement officials to treat the adult personal use of marijuana as its lowest law enforcement priority and prohibits the county from accepting or expending funds for marijuana eradication and for enforcing potential offenses for adult personal use.**

**Also in November 2008 65% of Massachusetts voters approved a decriminalization initiative which makes possession of up to an ounce of marijuana a civil citation punishable by a \$100 fine.**

**Maintaining criminalization of marijuana possession has had no effect on usage rates. A report by Lawrence Boyd analysis shows that the \$10 million spent in enforcement has failed to reduce the availability of marijuana in Hawai'i; in fact, marijuana prices have dropped, indicating efforts to restrict supply through law enforcement have failed. Approximately 65 percent of marijuana cases are dismissed, not prosecuted, or stricken, making the risk of arrest or punishment for marijuana use low.**

**Thank you for the opportunity to submit this testimony.**

--

Marya Grambs  
140 Kaelepulu Drive  
Kailua, HI 96734  
w: 808.521.1846

h: 808.230.2133

---

**From:** Andrea Tischler [andreatischler@yahoo.com]  
**Sent:** Thursday, February 03, 2011 9:39 AM  
**To:** JDLTestimony  
**Subject:** SB 1460 Relating to Marijuana

To: The Joint Senate Committees on Judiciary and Labor and Health

From: Andrea Tischler

RE: SB 1460 Relating to Marijuana

Hearing: Friday, February 04, 2011, 3:00 p.m., Room 229

Position: Strong Support

It is time that Hawai'i government look objectively and honestly at the law prohibiting the use of cannabis, the harm done to its otherwise lawful citizens and the huge costs to taxpayers. We simply can no longer afford to enforce harsh penalties with jail time for the possession of small quantities of cannabis. We need to use our police and courts more efficiently to focus efforts on serious crimes and save millions each year by doing so. Freeing up precious court space will improve the operation and efficiency of our court system with fewer back logs and cost savings. Decriminalization will save the taxpayers millions by treating cannabis use as its lowest law enforcement priority which the residents of the Big Island have already approved through the initiative process.

Many lives and particularly young lives and careers have been ruined because a person was caught with small quantities (often just a few grams) of cannabis. This can affect the ability of a person to obtain a student loan, be used as a reason to deny housing and negatively impact a person's ability to be hired for a job or get them fired. There is no reason why we should have law that is so punitive to a person's life (when no one else has been negatively impacted) that success in that life is substantially crippled.

As a 20 year activist and supporter for cannabis reform there is a mountain of data to show that cannabis prohibition does not work. It does not deter people from consuming cannabis but, rather, imbues the citizen with a disrespect and fear of law enforcement and manifests a disdain for government and the justice system.

Please let's make Hawai'i the 14<sup>th</sup> state to decriminalize one ounce or less of cannabis for adults.

---

**From:** kim cox [theedge@alohabroadband.net]  
**Sent:** Thursday, February 03, 2011 9:59 AM  
**To:** JDLTestimony  
**Subject:** SB 1460 2/04/2011 3:00p.m. Room 229

This e-mail testimony is indicative of our strong support for the above referenced bill; SB 1460 hearing on 2/04/2011 at 3:00p.m., room 229.

There are various reasons to support this measure among them being the following:

At a time of a weak economy, pouring money into criminal procedures for personal usage of marijuana just does not make any sense at all. As noted, there are potential savings

\$5 million dollars a year by changing the law from a criminal procedure into a civil procedure. Instead of spending money prosecuting persons for a personal choice, there

is the opportunity to turn this into an opportunity to generate income rather than spending vast amounts of tax dollars better spent elsewhere.

Why destroy a person's ability to obtain home loans, student loans, even employment over personal usage of marijuana? In some cases, you are putting a tremendous stain

on a younger person that cannot be easily overcome thereby ensuring them a less productive adult life thereby adding to the circle of dependency on tax dollars, i.e., social network programs, incarceration, etc.

Usage rates are not affected by the huge amount of public monies spent on prosecuting users or eradication efforts. In this time of economic difficulty, let us make wiser choices as to where these dollars are spent.

Thank you for your time and allowing us to be heard regarding this matter.

Sincerely,

Dan Edington and Kim Cox  
Ocean View, Hawaii  
[theedge@alohabroadband.net](mailto:theedge@alohabroadband.net)



---

**From:** JP [john.pena@yahoo.com]  
**Sent:** Thursday, February 03, 2011 12:07 PM  
**To:** JDLTestimony  
**Subject:** SB 1460 Relating to Marijuana

From: John M. Pena

RE: SB 1460 Relating to Marijuana  
Hearing: Friday, February 04, 2011, 3:00 p.m., Room 229

Position: Strong Support  
SB 1460 Relating to Marijuana

Where: Room 229  
When: Friday, February 4, 2011, 3:00 P.M.

To The Joint Committee on Judiciary and Labor and Committee on Health

My name is John Pena, and I am submitting this letter of support on behalf of SB 1460 which decriminalizes the possession of one ounce or less of marijuana to a fine of not more than \$100.

As you are aware, this legislation reflects actions which have been successfully adopted by other states. And I believe that there is very good reason for this fact. Namely, the incarceration, or threat thereof, for possession of marijuana in such small amounts reflects a society which relies on fear, misinformation and punitive socio-cultural conditions in order to maintain "order". Further, in contrast to alcohol and cigarettes, marijuana has never been shown to have a materially harmful affect to the many millions of people who have consumed it.

Decriminalization for Marijuana is at the cornerstone of moving the State of Hawaii in the direction of greater progressiveness, fiscal wholeness and acceptance of the reality which is supported by science and society regarding the use of marijuana.

Please end the Hawaii abuse of governmental power which creates extreme hardship and suffering for many of her citizens through excessively punitive laws.

Thank you for your consideration in this matter.

Sincerely,  
John M. Pena  
13-4008 Lauone Street  
Pahoa, Hawaii 96778

## Testimony in Opposition to SB 1460- Relating to Marijuana

February 4, 2011

To: Committee on Judiciary and Labor  
Senator Clayton Hee, Chair  
Senator Maile Shimabukuro, Vice-Chair

Committee on Health  
Senator Josh Green, Chair  
Senator Clarence Nishihara, Vice-Chair

Fr: Alan Shinn, Executive Director  
Coalition for a Drug-Free Hawaii  
1130 N. Nimitz Hwy, Suite A259  
Honolulu, HI 96817

Thank you for accepting my testimony opposing SB 1460-Relating to Marijuana, which portrays marijuana as a benign drug, a mild intoxicant and that recreational use is so wide spread that prevention efforts are futile and enforcement is not cost-effective. Lack of perceived harm is a major risk factor that hampers substance abuse prevention efforts, especially for our youth.

There are many drugs that can cause physical and psychological harm to individuals including marijuana. Marijuana today is not the same as in the 60's and 70's, and is much more potent in the chemical THC (Tetrahydrocannabinol), which produces the high. Drugs like marijuana act on the brain and can alter perception, attention, balance, mood, and reaction time. Vehicle accidents are leading cause of death among youth 16-19 years due to inexperience and many times combined with alcohol, marijuana or other substances (CDC, NIDA). Local research studies show that youth who are long term users of marijuana seem to have higher levels of paranoia and depression than non- users. Marijuana abuse has the highest treatment admission rate for youth and second highest for adults (ADAD, 2010).

Prevention efforts have shown results, but need to be maintained. Nationally, marijuana past month use rates among youth 12-17 years has been constant between 2005 and 2007, 2002 ( 8.2%) to 2005 (6.8%) (NSDUH). In Hawaii, lifetime use in 2003 at 7% for 8<sup>th</sup> graders, 15% for 10<sup>th</sup> graders, and 18% for 12<sup>th</sup> graders, a slight decrease since 2002 (ADAD). However, we are seeing an upward trend in marijuana use among youth in the latest surveys (YRBS, 2009 and NSDUH, 2008) which calls for more education and stronger messaging to discourage use.

### Recommend:

- Continue use of judicial discretion in adjudicating arrest cases involving small amounts of marijuana
- Continue substance abuse prevention/education efforts to increase level of perception of harm among youth for marijuana as well as alcohol and other drugs
- Continue to be in line with national drug control policies to avoid blurred lines between state and federal law enforcement and court systems

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 12:35 PM  
**To:** JDLTestimony  
**Cc:** ehrhornp001@hawaii.rr.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Erick Peter Ehrhorn  
Organization: Individual  
Address: 254 Kaha St. Kailua, Hawaii  
Phone: 808 262-7288  
E-mail: [ehrhornp001@hawaii.rr.com](mailto:ehrhornp001@hawaii.rr.com)  
Submitted on: 2/3/2011

**Comments:**

Please be advised that I support the decriminalization of marijuana. Actually it should be fully legalized. Marijuana is a very useful plant that has many uses. A review of an old medical books during the 1930 will show how it was used for a number of medical conditions.

In addition there have been studies that show that marijuana shrinks cancer cells which indicates to me that it might just hold the cure for various forms of cancer.

Finally making pot illegal only does two things. 1. Increase the potency of existing pot and 2. the development of stronger more potent drugs. It is no accident that as the "war on drugs" intensified, new stronger drugs were introduced to the market place. I wish that government would learn from prohibition which resulted in more drinkers at the end of prohibition than prior to prohibition. It also resulted in a lot of loss tax revenue which was a major reason why it was legalized again.

Finally government should not be telling people what to do with their personal lives as much as possible. People are better able to run their lives than big daddy.

Thank you for hearing my testimony and I hope it will be met with a favorable outcome.

---

**From:** Peaceful Sky Alliance [peacefulskyhawaii@gmail.com]  
**Sent:** Thursday, February 03, 2011 1:43 PM  
**To:** JDLEstimony  
**Subject:** Testimony SB 1460  
**Attachments:** Testimony SB1460 Feb3-11.docx

Aloha...

Attached is testimony for SB 1460, which has a hearing scheduled for Friday February 4.

Thank you

--

[www.peacefulskyalliance.org](http://www.peacefulskyalliance.org)

# PEACEFUL SKY ALLIANCE

P.O. Box 10896 Hilo HI 96721 [www.peacefulskyalliance.org](http://www.peacefulskyalliance.org) phone 808 938 0644

“Citizens dedicated to implementing the Lowest Law Enforcement Priority of Cannabis Ordinance...”

---

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair and members of the  
Committee on Judiciary and Labor

Senator Josh Green, M.D., Chair  
Senator Clarence N. Nishihara, Vice Chair and the members of the  
Committee on Health

SB 1460 Relating to marijuana

Hearing: February 4, 2011 at 3:00 p.m., Room 229

## STRONG SUPPORT

Aloha from the Big Island,

The Peaceful Sky Alliance appreciates this opportunity to submit testimony for SB 1460.

In November 2008, more than 35,500 Hawai'i County residents passed the Lowest Law Enforcement Priority of Cannabis Ordinance. This represented 53.1% of the votes cast.

Although the law may be imperfect, and Hawai'i County Police and Prosecutors are not implementing it, I think it is important to share with you a portion of it:

### *Section 14-96 – Purpose*

*The purpose of this article is to:*

- 1) Provide law enforcement more time and resources to focus on serious crimes;*
- 2) Allow our court systems to run more efficiently;*
- 3) Create space in our prisons to hold serious criminals;*
- 4) Save tax payers money and provide more funding for necessities such as education and health care; and*
- 5) Reduce the fear of prosecution and the stigma of criminality from non-violent citizens who harmlessly cultivate and/or use cannabis for personal, medicinal, religious and recreational purposes.*

*(2008, Ord. No. 08-181, Sec. 2, 14-96)*

The residents of this island do not feel that people should be turned into criminals or have a petty misdemeanor on their record for the personal use of cannabis. We have seen the absurd waste going into the prosecution of minor drug offences. The LLEPCO is our attempt to direct the police and prosecutors to focus on more serious crimes.

For example, recently in Kona a medical marijuana patient was charged with possession of two grams of his medicine at the airport. It was in his pocket, and it was not in public sight until the TSA agent pulled it out. He had a bench trial, and was found guilty by Judge Florendo. There were a total of three court appearances. At each appearance, there was the judge, court reporter, bailiff, several sheriffs, the deputy prosecutor, and the deputy public defender present. At the first hearing, the police officer involved was there, meaning he was not out on patrol or fighting serious crime, he was in a court room to offer testimony about \$20 worth of marijuana (which the patient was allowed to possess). Eight or nine people were being paid at tax payers' expense to prosecute this man, and to give him a criminal record over \$20 worth of marijuana? As it was this man's first offence, Judge Florendo fined him \$50 and ordered him to pay \$280 in court fees. How much did it cost to for Hawai'i County to collect this \$330? I have seen estimates that in California it costs as much as \$5,000 to prosecute someone for minor possession, so the numbers here must be similar. It means the County loses money every time it does this (and there were about 400 prosecutions in 2009 on this island involving an ounce or less). Thing like Federal Byrne grants must cover some of this short fall, but it still means that tax payers must foot the bill in the end.

I will also point out that in 2008, 65% of Massachusetts voters passed a similar initiative to SB 1460. This was more votes than President Obama received. It has been two years since this became law, and the sky has not fallen over Massachusetts. There is not rampant crime in the streets. There is not chaos on the roadways with drugged drivers. Life seems fairly normal. Of course, over time as more information becomes available, we may have to revise that opinion. But, at present, the world as we know it has not changed substantially.

On January 1<sup>st</sup> of this year, in California, SB1449 became law. It changes possession of marijuana from a petty misdemeanor to a civil infraction...no court appearance, no court costs, no record. It was signed into law by the Republican governor prior to the vote on Proposition 19 because it made fiscal sense.

I hope that the message from Hawai'i County reaches you in Oahu loud and clear...minor marijuana possession is not a crime and it is time to have our law reflect this.

Respectfully submitted,

Matthew Rifkin  
Vice President

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 2:08 PM  
**To:** JDLTestimony  
**Cc:** shareestcyr@gmail.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM  
**Attachments:** sb1460share.doc

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Sherryanne St. Cyr  
Organization: Individual  
Address: PO Box 1643 Pahoia, HI 96778  
Phone: 8089614300  
E-mail: [shareestcyr@gmail.com](mailto:shareestcyr@gmail.com)  
Submitted on: 2/3/2011

Comments:

SB 1460  
SUPPORT

Possessing small amounts of marijuana for personal use is not, in and of itself, something that warrants jail time.

Arresting people for marijuana gives people criminal records that can make it impossible for an otherwise law abiding citizen to obtain a job, housing, or student loans. Other legal, over the counter inebriants do far more damage than pakalolo, yet it stubbornly remains illegal in spite of overwhelming scientific facts that it is anything but harmful.

California, along with twelve other states, have already passed laws that make the possession of small amounts of marijuana a citable offense. Along with Hawaii, Rhode Island is also considering a decriminalization measure.

Millions of dollars will be saved by reducing the number of cases that go to court and by allowing law enforcement to focus their efforts on more serious crimes, like Crystal Meth. Hawaii could save an estimated \$5 million by instituting a system of civil fines rather than criminal prosecution for possession of less than one ounce of marijuana.

Public support for changing marijuana laws is growing. In November 2008, 53% of voters in Hawai'i County voted to make marijuana possession the "lowest law enforcement priority." That initiative directs law enforcement officials to treat the adult personal use of marijuana as its lowest law enforcement priority and prohibits the county from accepting or expending funds for marijuana eradication and for enforcing potential offenses for adult personal use.

Please vote yes on this timely bill and make it a law!

Mahalo nui loa,  
Sherryanne St. Cyr  
Pahoa, Hawaii'  
Registered voter



---

**From:** Alan Shinn [ashinn@drugfreehawaii.org]  
**Sent:** Thursday, February 03, 2011 12:30 PM  
**To:** JDLEstimony  
**Subject:** Testimony on SB 1460  
**Attachments:** Testimony in Opposition to SB 1460.doc

Please accept my testimony in opposition to **SB 1460- Relating to Marijuana** to be heard:

Friday, February 4, 2011  
3:00 pm  
Committee on Judiciary and Labor  
Committee on Health

Thank you.

Alan Shinn  
Executive Director  
Coalition For A Drug-Free Hawaii  
1130 N. Nimitz Hwy, Suite A259  
Honolulu, HI 96817  
(808) 545-3228 x29 direct  
(808) 545-2686 fax  
[ashinn@drugfreehawaii.org](mailto:ashinn@drugfreehawaii.org)

---

**From:** Robert Bacher [bacher.robert@gmail.com]  
**Sent:** Thursday, February 03, 2011 2:50 PM  
**To:** JDLTestimony  
**Subject:** Strong Support of SB 1460

To: The Joint Senate Committees on Judiciary and Labor and Health

From: Robert Bacher

RE: SB 1460 Relating to Marijuana  
Hearing: Friday, February 04, 2011, 3:00 p.m., Room 229

Position: Strong Support

I'm writing today in support of SB 1460 which would decriminalize small amounts of Cannabis. This would save millions of dollars that current statutes would have wasted locking up otherwise law-abiding citizens. Although I am personally more a proponent of legalization, which would tax and regulate instead of smash and grab and arrest, decriminalization is a step in the right direction. Instead of clogging the court system and attempting to find about \$40,000 a year in the budget to incarcerate good people, a relatively small fine would more gently encourage desired behavior. It might provide a gradual stepping stone or transition for uninformed or stubborn people to begin to get comfortable with the fact that patients and others the enjoy Cannabis ARE NOT CRIMINALS.

1

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 2:23 PM  
**To:** JDLEstimony  
**Cc:** victoriahokulani@gmail.com  
**Subject:** Testimony for SB1460 on 2/4/2011 3:00:00 PM  
**Attachments:** sb1460vhcl.doc

Testimony for JDL/HTH 2/4/2011 3:00:00 PM SB1460

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Victoria Latenser  
Organization: Individual  
Address: Mountain View  
Phone: 8089687031  
E-mail: [victoriahokulani@gmail.com](mailto:victoriahokulani@gmail.com)  
Submitted on: 2/3/2011

Comments:

SB1460  
I SUPPORT

Please pass this law so that the courts can be deal with much more serious crimes in Hawaii, such as prescription pill and Crystal Meth Abuse.

California, along with twelve other states, have already passed laws that make the possession of small amounts of marijuana a citable offense. Along with Hawaii, Rhode Island is also considering a decriminalization measure.

Millions will be saved by the state reducing the number of cases that go to court and by allowing law enforcement to focus their efforts on more serious crimes. It is estimated that Hawaii could save at least \$5 million a year by instituting a system of civil fines rather than criminal prosecution for possession of less than one ounce of marijuana. As a taxpayer I sure would love to see vital funds freed up and used for much more pressing issues.

In November 2008, 53% of voters in Hawai`i County voted to make marijuana possession the "lowest law enforcement priority." That initiative directs law enforcement officials to treat the adult personal use of marijuana as its lowest law enforcement priority and prohibits the county from accepting or expending funds for marijuana eradication and for enforcing potential offenses for adult personal use. The Peaceful Skies initiative is a great model for the entire state and will eliminate great suffering and loss of property for growing a useful plant that Science shows is one of the most safe and therapeutic substances there is..

Also eliminating the "Forbidden fruit" aura of pakalolo may actually reduce the use of this herb. The country of Portugal has proven that legalizing this plant does not increase the abuse of it.

I strongly urge the legislature to follow the lead of the 12 states who have passed decriminalization bills and VOTE YES.

Mahalo nui loa,  
Victoria Latenser  
Mountain View, HI  
Registered Voter



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

TO: Senate Committees on Judiciary and Health

FROM: Pamela Lichty, MPH  
President

DATE: February 4, 2011, 3:00 p.m., room 229

RE: H.B. 1460 RELATING TO MARIJUANA – **IN SUPPORT**

Aloha Senators Hee and Green and members of the Committees. My name is Pam Lichty and I'm testifying in support of this measure on behalf of the Drug Policy Action Group.

This bill, which would move the possession of an ounce or less of marijuana from a petty misdemeanor to a civil infraction makes a great deal of sense and is very similar to a measure that the Senate passed out last year.

The findings section of the bill summarizes many of the arguments well and correctly emphasizes that in the current economic climate, this move makes sense on many levels.

Let me just make a few points which are backed up by some of the studies cited in the bill itself:

- Decriminalizing marijuana frees the police to deal with more important crimes
- The current status of possession of small amounts of marijuana – a petty misdemeanor – does not deter use. Studies show that the legal status of marijuana possession has no correlation with the rates of use.
- Changes to the law in the 13 other states (plus cities and counties) that have decriminalized have not effected use among either youths or adults. None of these states has re-criminalized marijuana possession.

- Decriminalizing marijuana frees up police and judicial resources to deal with more serious crimes.
- Enacting this bill would save the state millions of dollars annually. According to the Boyd report cited in the bill, “State and county law enforcement agencies spend \$4.1 million per year to enforce marijuana possession laws; and an additional \$2.1 million is spent by the courts.”
- National and Hawai`i polling indicates that the majority of U.S. residents agree that people should not be subject to criminal penalties for simple marijuana possession.
- There is no evidence that using marijuana has a gateway effect to other more harmful drugs (Institute of Medicine report, 1999).
- Criminal penalties for possession of small amounts of marijuana saddle those arrested with a damaging criminal record that can make it impossible for an otherwise law-abiding citizen to obtain a job, housing, or student loans.

We believe that evidence from other jurisdictions and analysis of Hawaii’s situation strongly argue for adoption of this measure.

Permit me to close with a quote from President Jimmy Carter in message to Congress on August 2, 1977, “ Penalties against drug use should not be more damaging to an individual than the use of the drug itself. Nowhere is this more clear than in the laws against the possession of marijuana in private for personal use.”

We ask the Committees to pass this bill on to WAM with a strong recommendation. Mahalo for the opportunity to testify.