

Honolulu, Hawaii

FEB 20 2015

RE: S.B. No. 596
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Health, to which was referred S.B. No. 596
entitled:

"A BILL FOR AN ACT RELATING TO MARIJUANA,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a civil violation for possession by a person eighteen years of age or older of one ounce or less of marijuana that is subject to a fine of not more than \$100, and establish an adjudicatory structure for its enforcement;
- (2) Delete 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 an affirmative defense to prosecution, criminal or civil, involving possession of one ounce or less of marijuana;
- (4) Exclude possession of one ounce or less of marijuana from the authority of the Hawaii Paroling Authority to require paroled prisoners to undergo and complete substance abuse treatment;
- (5) Exclude possession of more than one ounce of marijuana from the authority of courts to require a defendant to



undergo and complete substance abuse treatment for a probation violation;

- (6) Clarify the definition of "detrimental drug" to exclude one ounce or less of marijuana;
- (7) Exclude possession of one ounce or less of marijuana from offenses of promoting a detrimental drug in the second degree and third degree; and
- (8) Clarify that a civil violation for possession of marijuana does not constitute a prior offense for purposes of the conditional discharge law.

Your Committee received testimony in support of this measure from IMUAlliance; Drug Policy Action Group; Green Futures; Progressive Democrats of Hawaii; Alternative Pain Management Pu'uhonua, LLC; Drug Policy Forum of Hawaii; Community Alliance on Prisons; NuWayve Unlimited; and sixteen individuals. Your Committee received testimony in opposition to this measure from the Department of Public Safety; Department of the Prosecuting Attorney, City and County of Honolulu; Hawaii Police Department; Maui Police Department; Hawaii Catholic Conference; Hawaii Family Forum; Hawaii Family Advocates; and six individuals. Your Committee received comments on this measure from the Judiciary and one individual.

Your Committee finds that the benefits of establishing a civil violation for the possession of small amounts of marijuana outweigh the benefits of the current criminal treatment of this offense. Some states have passed laws decriminalizing marijuana. Typically, decriminalization means no prison time or criminal record for first-time possession of a small amount for personal consumption, and the conduct is treated like a minor traffic violation. According to the National Organization for the Reform of Marijuana Laws, the following jurisdictions have decriminalized possession of a small amount for personal consumption: Alaska, California, Connecticut, District of Columbia, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Ohio, Oregon, Rhode Island, and Vermont. Two states, Colorado and Washington, have legalized the recreational use of cannabis following the approval of state referenda in the 2012 elections.



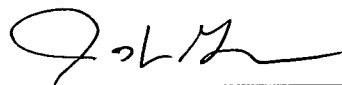
Your Committee notes that the technology related to breathalyzers is rapidly changing and hopes that the Department of Health will begin to review the use of newer breathalyzers by other states.

Your Committee has amended this measure by:

- (1) Inserting language that prohibits a qualifying patient or primary caregiver from asserting the medical use of marijuana as an affirmative defense to any prosecution involving marijuana if the qualifying patient or primary caregiver engages in the use of medical marijuana in or within one thousand feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 596, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 596, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Health,




JOSH GREEN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Health
HTH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 596	HTH, JDL	2-18-15		
<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
GREEN, Josh (C)	X			
WAKAI, Glenn (VC)				X
BAKER, Rosalyn H.	X			
GABBARD, Mike				X
RIVIERE, Gil	X			
RUDERMAN, Russell E.	X			
SLOM, Sam		X		
TOTAL	4	1	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes