



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 1501, H.D. 2, RELATING TO DRUG PARAPHERNALIA.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, April 4, 2017

TIME: 09:30 a.m.

LOCATION: State Capitol, Room 16

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Michelle M.L. Puu, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General respectfully submits these comments regarding this bill.

This bill seeks to decriminalize the possession of drug paraphernalia in an effort to reduce the purported financial impact the offense places on the Department of Public Safety and the Judiciary.

Possession of drug paraphernalia currently constitutes a Class-C Felony punishable by up to 5 years in prison and a \$10,000 fine. By way of this bill such conduct would amount to a civil, not criminal, violation punishable by a fine of \$100.

This bill may not accomplish its intended purpose. In practice, the possession of drug paraphernalia is rarely, if ever, charged without a companion count for Promoting a Dangerous Drug in the Third Degree, section 712-1243, Hawaii Revised Statutes (HRS) (also a Class-C Felony). The companion Dangerous Drug charge, defined as possession of any amount, continues to maintain its Class-C Felony status. Therefore, in practice, this bill will likely not negate the perceived burdens on the Department of Public Safety and the Judiciary.

More significantly, it is highly unlikely that an individual would receive the maximum five-year prison term solely for the possession of drug paraphernalia. Such a sentence is typically ordered only to those defendants who have had repeat offenses for similar conduct or have violent criminal histories. Also, drug offenders are already

afforded many specialized sentencing considerations. This comes by way of deferrals (Section 853-4, HRS), first time drug offender sentencing (Section 706-622.5, HRS), Drug Court, and conditional discharges (HRS § 712-1255). Under each of these provisions, satisfactory compliance during a four-year term of probation-type supervision can lead to expungement of drug offenses from one's criminal record. Moreover, these provisions are written in a manner that allows the same offender to benefit from each one of these considerations despite repeated conduct.

Finally, we note that this statute does not apply to legal users or distributors of medical marijuana, because it has been specifically exempted by the statute. See Section 329-43.5(e), HRS.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 1501, HOUSE DRAFT 2
RELATING TO DRUG PARAPHERNALIA.

by

Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

Tuesday, April 4, 2017; 9:30 a.m.
State Capitol, Conference Room 016

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Department of Public Safety (PSD) takes no position on House Bill (HB) 1501, House Draft (HD) 2, which proposes to decriminalize the possession of drug paraphernalia. PSD offers the following comments.

First, PSD concurs with the testimony of the Department of the Attorney General, the Office of the Public Defender, the Honolulu Department of the Prosecuting Attorney, and the Kauai Office of the Prosecuting Attorney stating that in the vast majority of cases, a defendant is charged with possession or distribution of the illegal drug itself in addition to possession of drug paraphernalia. As such, decriminalizing the paraphernalia charge will have no impact on the prison population as most are pending trial or convicted for both paraphernalia and drug charges.

We do acknowledge that in response to a request from the Honolulu Star Advertiser, PSD stated that there are currently 150 inmates in prison with a "lead" conviction of drug paraphernalia. These 150 inmates account for about four percent (4%) of the total prison population. To clarify, "lead" charge is supposed to be the

Testimony on HB 1501, HD 2
Senate Committee on Judiciary and Labor
April 4, 2017
Page 2

first charge in PSD's computer system, when the charges are listed from most serious class of offense to the least serious. As testified by the Department of the Attorney General, the possession of drug paraphernalia (a Class C felony) is rarely, if ever, charged without a companion count of Promoting a Dangerous Drug in the Third Degree (also a Class C felony), or an even higher drug charge.

Thank you for the opportunity to present this testimony.



HB1501 HD2
RELATING TO DRUG PARAPHERNALIA
Senate Committee on Judiciary and Labor

April 4, 2017

9:30 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1501 HD2. This measure may save the state millions of taxpayer dollars and mitigate the disproportionate impacts of the criminal justice system on Native Hawaiians, by reducing drug paraphernalia possession offenses to violations.

The War on Drugs and decades of a traditional criminal justice approach have led to the highest prison population in Hawai'i's history. Between 1977 and 2008, the number of people incarcerated in Hawai'i has increased by more than 900%,¹ and by 1,400% between 1977 and the present. The Native Hawaiian community has been particularly impacted by this increase, making up 40% of our prison population today.² Moreover, Native Hawaiians are disproportionately penalized with imprisonment for drug-related offenses.³

OHA has long advocated for criminal justice reform that examines and implements evidence-based incarceration alternatives, which could improve public safety, effectively rehabilitate pa'ahao, reduce recidivism, and save taxpayer dollars. Reducing the penalty for the mere possession of drug

¹ THE OFFICE OF HAWAIIAN AFFAIRS, *THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM* 17 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² In contrast, Native Hawaiians only represent 24% of the general public in Hawai'i. *Id.* at 36. OHA's 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." *Id.* at 10. Moreover, controlling for many common factors including type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38.

³ *Id.* at 45.

paraphernalia from a felony to a violation is a step in the right direction, and will reduce prison overcrowding, save state resources, and mitigate the life-long harms that could otherwise result from the commission of a non-violent and relatively harmless act.

Therefore, OHA urges the Committee to **PASS** HB1501 HD2. Mahalo nui for the opportunity to testify on this measure.

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



CHRISTOPHER D.W. YOUNG
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai'i

April 4, 2017

RE: H.B. 1501, H.D. 2; RELATING TO DRUG PARAPHERNALIA.

Chair Keith-Agaran, Vice-Chair Rhoads, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to H.B. 1501, H.D. 2.

The purpose of H.B. 1501, H.D. 2 is to reduce the prison population and re-divert state funds to community-based programs, by reducing the penalty for Hawaii Revised Statutes ("HRS") section §329-43.5, Prohibited Acts Related to Drug Paraphernalia, from a class C felony offense to a violation. This offense encompasses any item that would be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

Because HRS §329-43.5 is only charged in conjunction with a felony drug offense (possession, distribution, trafficking, etc), and many offenders also have more extensive criminal charges or history involved, implementation of this bill would have little or no effect on lowering the prison population. Upon reviewing records from the past three (3) years, our Department has not come across any instance where we charged HRS §329-43.5 as the sole offense, without a concurrent felony drug offense. Most often, HRS §329-43.5 is charged concurrently with HRS §712-1243, Promoting a Dangerous Drug in the Third Degree, which is also a class C felony.

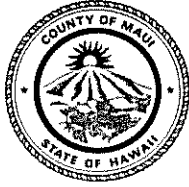
In an article published by the Star Advertiser on March 5, 2017, the Department of Public Safety ("DPS") was cited as stating there are currently 150 individuals incarcerated, and 109 individuals awaiting trial, in which the most serious or lead charge was HRS §329-43.5, Prohibited Acts Related to Drug Paraphernalia. Although our Department is not aware of the specific inquiry that was posed to DPS, we did conduct a case by case review

of all 259 cases statewide, and ultimately found only 1 case in which HRS §329-43.5 was not concurrently charged with a felony drug offense. In that 1 case, it was confirmed that a controlled substance was involved; however, possession was not charged, due to evidentiary rules on admissibility.

Moreover, the Department would emphasize that reclassifying HRS §329-43.5, Prohibited Acts Related to Drug Paraphernalia, to a violation would defeat the proposed purpose of this bill, which is to seek rehabilitation or treatment for “nonviolent, low-risk drug offenders.” Even if someone were charged (and convicted) solely on HRS §329-43.5 in the future, they could not be required to attend counseling or treatment, as violation-level offenses do not qualify for probation. Thus, upon conviction, a court could ask the individual to participate in treatment, but could not order or ensure completion of the program. Because it is quite common for individuals placed under court supervision or probation to resist attending or participating in the required treatment, the courts must often intervene, to ensure attendance and completion. It must not be assumed that individuals with drug addiction nor abuse problems will voluntarily seek treatment, without any court oversight.

Although relapse is a common occurrence for drug offenders, defendants are routinely partnered with a probation officer who understands the intricacies of drug use and makes continuous attempts to steer defendants to programs that will help in their rehabilitation process. Courts also understand that relapse is part of the rehabilitation process, and thus, defendants are given many opportunities to seek the help that is required. Typically, a defendant will take advantage of first time drug offender provisions and plea deferrals. If that fails, a revocation of a defendant’s deferral and a term of probation may be imposed; first and second time drug convictions can be expunged under special statutory provision. If a defendant consistently has difficulties complying with probation, courts will often turn to HOPE probation as a last attempt to provide support and assistance to the defendant, while on probation. It is only when all of these tools have been thoroughly exhausted that a court has no choice but to impose incarceration. Incarceration is clearly not the go-to solution for low-level drug offenders, but is rather a last resort for repeat offenders who have not otherwise been accountable for their actions.

For all of the reasons stated above, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes H.B. 1501, H.D. 2. Thank you for this opportunity to testify on this matter.



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD K. MINATOYA
Deputy Prosecuting Attorney
Supervisor - Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
HB 1501, HD 2 - RELATING TO DRUG PARAPHERNALIA

April 4, 2017

The Honorable Gilbert S.C. Keith-Agaran
Chair
The Honorable Karl Rhoads
Vice Chair
and Members
Senate Committee on Judiciary and Labor

Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui strongly opposes HB 1501, HD 2, Relating to Drug Paraphernalia. This measure proposes to reduce the prison population and re-divert state funds to community-based programs, by reducing the penalty for Hawaii Revised Statutes ("HRS") section § 329-43.5, Prohibited Acts Related to Drug Paraphernalia, from a class C felony offense to a violation.

HRS § 329-43.5 is only charged in conjunction with a felony drug offense (possession, distribution, trafficking, etc), implementation of this bill would have little or no effect on lowering the prison population. While we do accept plea agreements that leave HRS § 329-43.5 as the sole remaining charge, we DO NOT charge HRS §329-43.5 as the sole offense without a related felony drug offense.

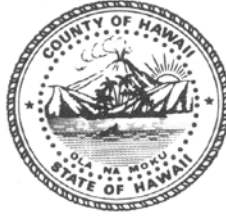
We concur with the Honolulu Prosecutor's testimony, especially the reference to the fact that most offenders receive probation. HRS § 329-43.5 is not merely a tool for punishing an offender. It also serves as a means of getting an offender the necessary services to help that person lead a clean and drug-free life. This recovery process does not happen quickly; making HRS § 329-43.5 a violation punishable by a \$100 fine will not help these people.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, requests that this measure be HELD.

Thank you very much for the opportunity to testify.

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



655 KĪLAUEA AVENUE
HILO, HAWAII 96720
PH: (808) 961-0466
FAX: (808) 961-8908
(808) 934-3403
(808) 934-3503

WEST HAWAII UNIT
81-980 HALEKĪ'I ST, SUITE 150
KEALAKEKUA, HAWAII 96750
PH: (808) 322-2552
FAX: (808) 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION OF HOUSE BILL 1501, HD2

A BILL FOR AN ACT RELATING TO DRUG
PARAPHERNALIA

COMMITTEE ON JUDICIARY

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

Tuesday, April 4, 2017, 9:30 A.M.
State Capitol, Conference Room 016

Honorable Chair Keith-Agaran, Vice-Chair Rhoads, and Members of the Committee on Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in opposition of House Bill No. 1501, HD2.

This measure changes drug paraphernalia possession and delivery offenses from felonies to civil violations.

HB No. 1501 is a bad bill based on a flawed premise and a seriously flawed Civil Beat Article suggesting this bill would save the State millions of dollars. Nothing could be further from the truth. And, this bill, if enacted will cost the State millions of dollars. Frankly, this bill misses the boat and the ocean of flawed logic it is floating on.

When Section 329-43.5 was enacted in 1988, Senator Hee recognized: "This bill will also allow the law enforcement community to act swiftly, decisively, in moving to now cease and secure machinery such as dryers and other kinds of processing equipment in the absence of drugs that may have been flushed away, and will allow the law enforcement community with the ability to prove beyond a reasonable doubt that the equipment would now be considered paraphernalia and would be a felony."(1988 Senate Journal at p.441).

In 1988, the House Judiciary Committee made it clear that prosecutors were not to separate the marijuana from the crutch and thereby make what was petty misdemeanor activity into a felony paraphernalia offense:

"The bill, as received from the Senate, modifies several provisions of the model act. Your Committee, however, does not intend that the provisions of this bill, as amended, be construed as allowing felony prosecution of offenses which would otherwise be misdemeanors under existing law." (1988 House Journal SCRep. 4-88 at p.850).

Even the most rudimentary investigation behind the alleged 167 persons sitting in jail because of a Prohibited Acts Related to Drug Paraphernalia conviction, would show that virtually no one is charged only with a drug paraphernalia charge. Almost always there is a felony drug charge such as promoting a dangerous drug or other felony offenses. Prior to 2016, when promoting a dangerous drug in the third degree was removed from Section 706-606.5, a conviction under 712-1243 would trigger a mandatory minimum prison sentence whereas a section 329-43.5 conviction would not trigger a minimum mandatory prison sentence and Defendants if given a choice by the prosecution would opt to plead to the latter, and hope for a probation sentence.

Since there is now no special benefit to pleading to a drug paraphernalia charge as opposed to a promoting a dangerous drug charge, from a mandatory prison sentence under state law point of view, it is likely that felony drug paraphernalia convictions are likely to decline, although astute defense attorneys, eyeing federal sentencing guidelines, would still prefer the drug paraphernalia charge if given the option by the prosecuting attorney.

The past interaction between Section 706-606.5, HRS and Section 329-43.5 convictions not being an enumerated felony in Section 706-606.5, and the “bad” criminal histories of the 167 alleged prisoners sitting in prison, is the real cause of their sitting in prison. Decriminalizing drug paraphernalia offenses will result in more expensive trials, more drug offenses, and more crime of all kinds and thus more expense and more threat to community safety than this bill hopes, without any scientific study whatsoever, to save.

The Office of the Prosecuting Attorney, County of Hawai‘i opposes the passage of House Bill No. 1501, HD2. Thank you for the opportunity to testify on this matter.

TESTIMONY OF THE HAWAI`I POLICE DEPARTMENT

HOUSE BILL 1501, HD2

RELATING TO DRUG PARAPHERNALIA

BEFORE THE COMMITTEE ON JUDICIARY AND LABOR

DATE : Tuesday, April 4, 2017

TIME : 9:30 A.M.

PLACE : Conference Room 016
State Capitol
415 South Beretania Street

PERSON TESTIFYING:

Police Chief Paul K. Ferreira
Hawai`i Police Department
County of Hawai`i

(Written Testimony Only)

Harry Kim
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado Jr.
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998
(808) 935-3311 • Fax (808) 961-2389

April 2, 2017

Senator Gilbert S.C. Keith-Agaran
Chairperson and Committee Members
Committee on Judiciary and Labor
415 South Beretania Street, Room 016
Honolulu, Hawai'i 96813

Re: House Bill 1501, HD2 Relating To Drug Paraphernalia

Dear Senator Keith-Agaran:

The Hawai'i Police Department **strongly opposes** the passage of House Bill 1501, HD2, relating to Drug Paraphernalia. The purpose of this Bill is to reduce the offense of possession and delivery of drug paraphernalia from a felony to a civil violation.

First of all, the establishment of the felony drug paraphernalia statute was to remove/reduce the means of facilitation of use and supply by an illicit drug user **as well as** illicit drug manufacturers and illicit drug dealers/smugglers/suppliers. We are hard-pressed to understand how the threat of a \$100 civil fine will stop manufacturers and dealers/smugglers/suppliers from continuing to prey upon our society, affecting our quality of life; destroying families, adding to our chronic homeless population; and impacting our impressionable youth.

Secondly, the bill proposes that this law in its current state serves as a threat of deportation of immigrants who are convicted for possession of drug paraphernalia, based on its current felony classification. This proposed bill fails to take into consideration that the only immigrants exposed to deportation are in fact illegal immigrants. Further, here in Hawai'i, we in law enforcement have on many occasions investigated illegal immigrants who entered the state for the sole purpose of illicit drug distribution, the proposed legislation may in fact remove a tool currently used to remove such individuals from our state.

Thirdly, this bill fails to take into account that law enforcement will not, for all intents and purposes, initiate cases where paraphernalia is not present without an attendant illicit drug and that the possession of both may be subject to plea negotiations whereby a higher level drug case is reduced to the drug paraphernalia charge. The currently existing drug courts and other judicial diversion remedies are available to aid those who seek or need treatment. Without remaining within the "system" due to the existing law, many of those individuals will neither be forced nor will they actively seek the assistance of community programs and rehabilitation and thus resulting in the loss of a law enforcement "Tool".

Senator Gilbert S.C. Keith-Agaran
Chairperson and Committee Members
Committee on Judiciary and Labor
Re: House Bill 1501, HD2 Relating To Drug Paraphernalia
Page 2

This legislation would create a \$100 fine for violators who willingly choose the drug lifestyle, whether as a user, dealer, smuggler, and/or supplier. The drug lifestyle carries a greater cost, one which is steeped in the loss of stolen property, the loss of safety and security that is posed by those who prey upon the community at large through burglaries and thefts in order to be able to afford the use of illicit drugs.

For these reasons and based upon our **firsthand experience** with this matter, we strongly urge this committee to **oppose** this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 1501, HD2.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul K. Ferreira". The signature is fluid and cursive, with a long horizontal stroke at the end.

PAUL K. FERREIRA
POLICE CHIEF



Committee: Committee on Judiciary and Labor
Hearing Date/Time: Tuesday, April 4, 2017, 9:30a.m.
Place: Conference Room 016
Re: Testimony of the ACLU of Hawaii in **Support H.B. 1501, H.D. 2** Relating to Drug Paraphernalia

Dear Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 1501, H.D. 2, which would change drug paraphernalia possession and delivery offenses from felonies to a violation.

Decriminalization of drug paraphernalia possession and delivery is a safe and smart alternative approach to address the use of drugs in Hawaii. Hawaii’s drug laws, especially Hawaii’s marijuana laws, have damaged civil liberties in many ways – eroding protections against searches and seizures, putting large numbers of nonviolent individuals behind bars, and targeting people of color. Eliminating criminal penalties for low-level drug-related offenses will prevent nonviolent individuals from becoming entangled needlessly in the criminal justice system, eliminate many collateral consequences that flow from drug paraphernalia arrests, and allow Hawaii to reinvest the money it saves for important community needs, such as drug treatment programs and the Law Enforcement Assisted Diversion Program. While the ACLU of Hawaii is concerned that, as currently written, H.B. 1501 would still force those accused of possession/delivery of drug paraphernalia to attend a court hearing, this measure is still a positive step in the right direction.

Thank you for the opportunity to testify.

Sincerely,

Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

Chair Keith-Agaran and Members of the Committee

April 4, 2017

Page 2 of 2

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY AND LABOR

Sen. Gil Keith-Agaran, Chair

Sen. Karl Rhoads, Vice Chair

Tuesday, April 4, 2017

9:30 am

Room 016

SUPPORT FOR HB 1501 HD1 – VIOLATION FOR DRUG PARAPHERNALIA

Aloha Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for two decades. This testimony is respectfully offered on behalf of the approximately 6,000 Hawai`i individuals living behind bars or under the “care and custody” of the Department of Public Safety on any given day. We are always mindful that that more than 1,600 of Hawai`i’s imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

Community Alliance on Prisons supports HB 1501 HD1 that reclassifies drug paraphernalia possession and delivery offenses from felonies to violations subject to a fine of \$100.

This is common sense legislation. I have attended national conferences with judges and prosecutors and I always make it my business to ask them how they charge drug offenses in their jurisdiction. I illustrate my question with a story of a person who had 2 arrests for drugs that resulted in 15 convictions – all non-violent (residue in a pipe, residue in a baggie, rolling papers, a small amount of cannabis, etc.). Even prosecutors from the most conservative states have told me that in their jurisdictions these offenses would count as one because they are all related to drugs. Not so in Honolulu. This is why our facilities are bursting at the seams.

The costs of enforcing these drug paraphernalia offenses as felonies are astronomical. Locking up the current 167 nonviolent offenders is costing the State more than \$20 million. These tax dollars are better spent on community programs and rehabilitation of nonviolent, low-risk drug offenders - in other words, the very people most likely to be imprisoned for drug paraphernalia offenses.

Claims by prosecutors and police that they need this type of broad, harsh law in order to "get the bad guys" are reflective of 1980s thinking. Hawai'i should instead continue to focus on innovative alternatives to incarceration like the LEAD pre-arrest diversion program and the Community Court Outreach.

Hawai'i's drug laws, like those on the mainland, disproportionately target certain communities of color. We know that Native Hawaiians serve more time at every stage of the system. The effect of having such a harsh penalty for drug paraphernalia means that these individuals are very likely to wind up behind bars for a longer time as a result of being pressured to accept a plea bargain.

The research we have done recommends that decriminalization of offenses such as drug paraphernalia is a better approach to substance mis-use in our community.

The International Association of Chiefs of Police (IACP) recently released a report¹ on important research they conducted – with support from the Laura and John Arnold Foundation (LJAF) – on law enforcement's use of citations as an alternative to arrest.

The Pretrial Justice Working Group identified issuing citations in lieu of a custodial arrest as a crucial early decision point in the pretrial process. By reducing the number of people formally booked into local jails, the practice improves both system and officer efficiency. Along with similar strategies to divert individuals accused of low-level and nonviolent offenses from incarceration, it is key to making pretrial justice safer, fairer, and more effective. Why? The act of custodial booking creates the pretrial release or detain decision point.

The prevailing wisdom has shown that prison beds should be reserved for those we are afraid of, not those we are mad at. We need to be more prudent with our precious resources and we need to stop feeding the very hungry and unsustainable criminal processing system.

Mahalo for this opportunity to testify.

¹ IACP: Citations key to improving pretrial justice.
<http://www.pretrial.org/iacp-citations-key-improving-pretrial-justice/>



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

TO: House Committee on Judiciary
FROM: Carl Bergquist, Executive Director
HEARING DATE: 4 April 2017, 9:30AM
RE: HB1501 H2, Relating to Drug Paraphernalia, **STRONG SUPPORT**

Dear Chair Keith-Agaran, Vice Chair Rhoads, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **strongly supports** this measure to help turn the tide of the War on Drugs' criminalization and incarceration regime. Across the country and at the federal level, we are seeing the beginnings of a humane drug policy that does not lock up non-violent offenders for years on end. Hawaii's drug laws in general, and its drug paraphernalia laws in particular, are harsh, punitive and costly. Reducing the sentences for use or possession of drug paraphernalia from a class C felony to a civil violation would help hundreds of people, save the state precious funds and showcase Hawaii's sense of fair justice for the nation.

As [the Office of Hawaiian Affairs \(OHA\) has demonstrated](#), native Hawaiians are the community of color, like other minority groups on the mainland, who are most disparately impacted by these laws. Yet, their drug use is not drastically different than that of other groups. The effects of incarceration on families and the community are well-documented, and as a society, we need to ask if the use of a pipe or possession of a spoon justifies a multi-year sentence with such consequences. We submit that it does not. As then President Obama said in 2016 upon ordering the release of hundreds of non-violent drug offenders, "their punishments did not fit the crime".

Another disparately impacted community are **immigrants**, who face the double jeopardy of dealing with both the broken immigration system and the anachronistic War on Drugs. Recently the Supreme Court ruled in [Mellouli v. Lynch \(2015\)](#) that [an immigrant was wrongly deported](#) for a Kansas drug paraphernalia offense involving prescription pills stored in a sock. Unfortunately, it was too late for this immigrant, and the **federal government continues to be able to ignore the spirit of this type of ruling due to the existence and enforcement of state drug laws like Hawaii's paraphernalia law.**¹ Whether a legal permanent resident or undocumented immigrant (despite that the Police Chief of Hawai'i County says this would only impact "illegal" immigrants), a Hawai'i

conviction for drug paraphernalia, can mean automatic deportation (Luu-Le v. I.N.S., 9th Circuit, 2000).

Children are just as traumatized by the deportation as by the incarceration of a parent - changing this law will help these families heal and stay together. **A deportation**, to borrow the words of Justice Brandeis, can mean the *“loss of both property and life; or of all that makes life worth living.”* (Ng Fung Ho v. White, 1922).

In reviewing the County Prosecutors’ testimony for the previous iteration of this bill in 2016, as well as this year’s, we note that they make repeated references to this offense being a “serious criminal act” (Hawai’i County) and how it is normally charged concurrently with more serious offenses. Regarding the latter, they provide no statistical proof to back up their claim that changing the law would have “little to no impact” (City and County of Honolulu) on the prison population. **In fact, it seems like the prosecutors use this offense to get suspects to plead guilty in hopes of a lesser sentence or probation.** The simple truth appears to be that those incarcerated on average for 2.5 years for this offense are most often people who were also convicted of simple possession of highly addictive drugs. In other words, “repeat offenders” per the Honolulu Prosecuting Attorney or perhaps people in need of help according to most others. In any case, they are neither violent offenders nor drug trafficking kingpins.

In all honesty, we have to ask ourselves if this non-violent offense, either legal or decriminalized in a majority of states, merits the moral opprobrium that a felony carries. We went back to the Senate’s final reading of the bill in 1988 - the days of “Just say No”. One Senator motivated her vote because elementary school children told her they wanted stricter penalties. The then Judiciary Chair said he recognized “concerns by some legislators with regard to the penalty provisions...any inconsistency can be dealt with in 1989.” This never happened. Others motivated the passage with the fact that at the time, Hawai’i was one of only 12 states without such a statute. Finally, the House Judiciary Committee report said: “Support for the adoption of the bill was based on the assertion that prohibiting drug paraphernalia would help eliminate illegal drug use.” I respectfully request that today the 2017 Senate Judiciary Committee adopt HB1501 HD2, which is rooted in common sense and evidence as opposed to the fear and wishful thinking of 1988.

Mahalo for the opportunity to testify.

ⁱ In its amicus brief, the National Immigration Justice Center (NIJC) and the American Immigration Lawyers Association (AILA) write: “nearly every state considers the conduct at issue here—the mere possession or personal use of drug paraphernalia to conceal or store a controlled substance—to be either a minor misdemeanor or not a crime at all.” Hawaii’s law is the harshest in the country.



ON THE FOLLOWING MEASURE:

HB1501, HD2 RELATING TO DRUG PARAPHERNALIA

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, April 4, 2017

TIME: 9:30 A.M.

LOCATION: State Capitol, Conference Room 016

TESTIFIER: Christopher Garth, Executive Director

Honorable Chair Keith-Agaran and Members of the Committee:

The Hawai'i Dispensary Alliance submits the following testimony in **STRONG SUPPORT of HB1501, HD2 RELATING TO DRUG PARAPHERNALIA**, which reclassifies drug paraphernalia possession and delivery offenses from felonies to violations subject to a fine of \$100.

The Hawaii Dispensary Alliance is a patient centric organization that aims to appropriately introduce a legitimate cannabis industry to the state of Hawaii. Our membership is drawn from patients and caregivers, ancillary businesses related to and involved in the physical and intellectual cannabis space, and those who generally support the value of a legal right to cannabis-based medicine. The Alliance has established itself as a consistent voice in the conversation for greater patient access to safe and quality cannabis resources; it is from this perspective that we provide **STRONG SUPPORT** for **HB1501, HD2**.

The amendments proposed in HB1501, HD2 make important strides towards the normalization of the use of cannabis as a scientifically recognized, legally sanctioned, safely administered form of medicine that is garnering greater social acceptance and participation in Hawaii. The legislative approach of recognizing cannabis as medicine has introduced qualified patients and primary caregivers to an effective alternative solution for their debilitating conditions. The next step in advancing these practices is to repeal certain felony charges that are applied to circumstances surrounding this medicine and to convert the penalties to appropriate civil violations.

By simply reducing the punishment for activities related to the possession and use of medical cannabis, HB1501, HD2 aligns the industry with the regulations of similar industries such as alcohol and tobacco. This will help to normalize cannabis as the medicine that it is, instead of the boogeyman. The stigma of cannabis is largely rooted in the criminality that is continually associated with the qualifying patients, primary caregivers, and their suppliers. Any efforts to legislatively erode the criminality of cannabis, such as those suggested in HB1501, HD2, will directly contribute to the health of patients across the state as more people become willing to at least consider cannabis for their qualifying ailments.

For the foregoing reasons, the Hawai'i Dispensary Alliance stands in strong **SUPPORT** for **HB1501, HD2**. Mahalo nui loa for the opportunity to provide testimony on this measure.



TO: House Committee on Judiciary and Labor
FROM: Miles W. Tuttle, Co-founder
HEARING DATE: 4 April 2017, 9:30 AM
RE: HB1501 HD2, Relating to Drug Paraphernalia, **STRONG SUPPORT**

Dear Chair Keith-Agaran and Members of the Committee,

Drug Paraphernalia is merely a symptom of a greater illness. A Kleenex Tissue can remedy a sneeze, but a cure is necessary to address the illness.

As a member of the Minority Cannabis Business Association, it is a well-documented fact that “people of color” are disproportionately targeted and incarcerated based on **non-violent** paraphernalia and possession charges. The continuance of current outdated policies, only enable these discrepancies to continue. Arresting and removing parents from families only creates further negative externalities, which directly affect the children. Granting “plea bargains” only stymies a family’s ability to advance. Housing, employment, and financial services are denied to families possessing a tarnished past. These children are presented with limited option at no fault of their own. Based on environmental circumstance, these children may choose to participate in an “illegal class of activities” to attempt to supplement family financial shortages. These actions and activities could lead to paraphernalia/possession charges and “time in prison”. The illness continues and spreads through generations.

I am an AMERICAN OF AFRICAN DECENT. Both my parents were arrested on **non-violent** drug charges when I was a child. I was in the car. Both parents went to prison on felony charges. My father died in prison, and my mother was granted a plea. My family will continue to suffer.

As the nation’s perception continues to shift pertaining to medical cannabis, the exclusion of “people of color” is apparent. While some may be honored with financial rewards and accolades, “people of color” continue to rot and die in prison for the identical class of activities.

Solutions exist which do not leave children without parents, families, or options. Some may testify that “drugs kill”, but in my life experience **DRUG LAWS KILL**.

As I guide and teach my own daughter, I know her grandfather’s life and story can help other children and families...

“For out of what we live and we believe, our lives become the stories that we weave.”

Thank you for this opportunity.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1501 on Apr 4, 2017 09:30AM
Date: Sunday, April 2, 2017 12:58:34 PM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Carie Sarver	Individual	Support	No

Comments: Dear Chair Keith-Agaran, Vice Chair Rhoads, and Committee members: I write in strong support of H.B. 1501, which would reclassify drug paraphernalia from a class C felony to a violation. The costs of enforcing these drug paraphernalia offenses as felonies are astronomical. Locking up the current 167 nonviolent offenders is costing the State more than \$20,000,000. These tax dollars are better spent on community programs and rehabilitation of nonviolent, low-risk drug offenders — in other words, the very people most likely to be imprisoned for drug paraphernalia offenses. Claims by prosecutors and police that they need this type of broad, harsh law in order to "get the bad guys" are reflective of 1980s thinking. Hawai'i should instead continue to focus on innovative alternatives to incarceration like the LEAD pre-arrest diversion program or the Community Outreach Court. Immigrants convicted of class C felonies are potentially deportable under current immigration laws. I do not believe that someone should be deported for possessing a pipe or a needle. President Obama has recently released numerous non-violent drug offenders from federal prisons, stating that the "punishments simply didn't fit the crimes." Hawai'i should heed lessons from this, and stop punishing people in this manner. Hawaii's drug laws, like those on the mainland, disproportionately target certain communities of color. The effect of having such a harsh penalty for drug paraphernalia means individuals from these communities are very likely to wind up behind bars for a longer time as a result of being pressured to accept a plea bargain. It is time for the State to recognize drug addiction for what it is—a public health issue, not a public safety issue. For these reasons, I strongly urge the Committee to support this measure. Mahalo, Carie Sarver Honolulu resident

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

ON THE FOLLOWING MEASURE:

HB1501, HD2 RELATING TO DRUG PARAPHERNALIA

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, April 4, 2017

TIME: 9:30 A.M.

LOCATION: State Capitol, Conference Room 016

Honorable Chair Keith-Agaran and Members of the Committee:

As a stakeholder in the medical marijuana industry I am writing in **STRONG SUPPORT of HB1501, HD2 RELATING TO DRUG PARAPHERNALIA**, which reclassifies drug paraphernalia possession and delivery offenses from felonies to violations subject to a fine of \$100.

The removal of the felony penalty for paraphernalia will aid in removing the burden and unnecessary stigma for individuals wishing to associate or engage in a legal and legitimate industry that the lawmakers of Hawai'i established some 16 years ago. By reducing the punishment for activities related to cannabis, HB1501 HD2 helps to normalize medical cannabis as a medicine. The stigma of medical cannabis is largely rooted in the criminality attributed by state laws to the use of the medicine and those tools necessary for safe ingestion of the medicine. Your efforts in HB1501 HD2 to reverse the perception of criminality surrounding this medicine will directly contribute to the health of patients across the state as more people become willing to at least consider cannabis for their qualifying ailments and doctors become unafraid to talk with their patients about effective, alternative treatment options.

For these reasons, I stand in **SUPPORT of HB 1501 HD2.**

I would like to recommend that this bill be moved forward for further discussion. Thank you very much for the opportunity to provide testimony on this measure.

Respectfully,

A handwritten signature in black ink, appearing to read 'Cris Clatte', with a long horizontal line extending to the right.

Cris Clatte

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1501 on Apr 4, 2017 09:30AM
Date: Sunday, April 2, 2017 8:52:38 PM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Thompson	Individual	Support	No

Comments: People should be allowed to ingest their medicine.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1501 on Apr 4, 2017 09:30AM*
Date: Saturday, April 1, 2017 8:06:52 PM

HB1501

Submitted on: 4/1/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

The Law Office of
JACK SCHWEIGERT
A Professional Law Corporation
550 Halekauwila Street, Suite 309
Honolulu, HI 96813

JACK SCHWEIGERT, ESQ.

~*~

JOHN P. GILLMOR, ESQ.

Phone: (808) 533-7491

Fax: (808) 533-7490

jackschweigert@hotmail.com

www.jackschweigert.com

April 3, 2017

Re: H.B. 1501

Dear Chair Keith-Agaran, Vice Chair Rhoads, and Committee members:

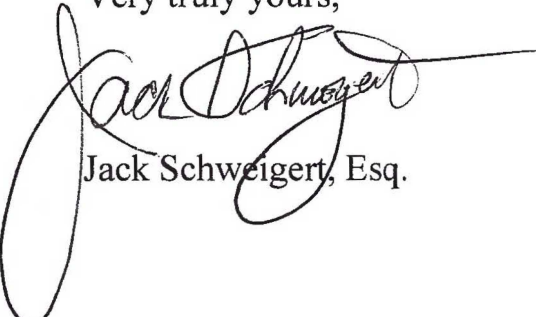
I am in strong support of H.B. 1501, which would reclassify drug paraphernalia from a Class C felony to a violation.

The medical marijuana law complicates this situation. In that regard, I've actually done criminal cases where medical marijuana patient who was alleged to have exceeded allowable limits of the medical marijuana law were also charged with paraphernalia which is unduly harsh.

When you think about it, for a person who chooses to use drugs, the drug paraphernalia law will not stop such behavior. Moreover, it's the possession of the drug itself which is the supposed evil the Legislature is out to prevent. To make a law the "guy in the street" can understand, the law should only punish the evil, which is the drug. To also punish "rolling papers" is overkill and misunderstood.

I ask you pass this law for it makes common sense out of what is otherwise an abusive law.

Very truly yours,



Jack Schweigert, Esq.

ON THE FOLLOWING MEASURE:

HB1501, HD2 RELATING TO DRUG PARAPHERNALIA

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, April 4, 2017

TIME: 9:30 A.M.

LOCATION: State Capitol, Conference Room 016

Honorable Chair Keith-Agaran and Members of the Committee:

As a stakeholder in the medical marijuana industry I am writing in **STRONG SUPPORT of HB1501, HD2 RELATING TO DRUG PARAPHERNALIA**, which reclassifies drug paraphernalia possession and delivery offenses from felonies to violations subject to a fine of \$100.

The removal of the felony penalty for paraphernalia will aid in removing the burden and unnecessary stigma for individuals wishing to associate or engage in a legal and legitimate industry that the lawmakers of Hawai'i established some 16 years ago. By reducing the punishment for activities related to cannabis, HB1501 HD2 helps to normalize medical cannabis as a medicine. The stigma of medical cannabis is largely rooted in the criminality attributed by state laws to the use of the medicine and those tools necessary for safe ingestion of the medicine. Your efforts in HB1501 HD2 to reverse the perception of criminality surrounding this medicine will directly contribute to the health of patients across the state as more people become willing to at least consider cannabis for their qualifying ailments and doctors become unafraid to talk with their patients about effective, alternative treatment options.

For these reasons, I stand in **SUPPORT of HB 1501 HD2.**

I would like to recommend that this bill be moved forward for further discussion. Thank you very much for the opportunity to provide testimony on this measure.

Respectfully,

Jonathon Kim

testimony.txt

I am writing in support of HB1501 for the decriminalization of drug paraphernalia. - The costs of enforcing these drug paraphernalia offenses as felonies are astronomical. Locking up the current 167 nonviolent offenders is costing the state more than \$20,000,000.

- These tax dollars are better spent on community programs and rehabilitation of nonviolent, low-risk drug offenders - in other words, the very people most likely to be imprisoned for drug paraphernalia offenses.
- Claims by prosecutors and police that they need this type of broad, harsh law in order to "get the bad guys" are reflective of 1980s thinking. Hawaii'i should instead continue to focus on innovative alternatives to incarceration like the LEAD pre-arrest diversion program or the Community Outreach Court.
- President Obama has recently released numerous non-violent drug offenders from federal prisons, stating that the "punishments simply didn't fit the crimes". Hawaii'i should heed lessons from this, and stop punishing people in this manner. Changing our state laws like this one are a beginning.
- Hawaii's drug laws, like those on the mainland, disproportionately target certain communities. The effect of having such a harsh penalty for drug paraphernalia means individuals from these communities are very likely to wind up behind bars for a longer time as a result of being pressured to accept a plea bargain.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1501 on Apr 4, 2017 09:30AM*
Date: Sunday, April 2, 2017 1:17:44 PM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
jose avila	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1501 on Apr 4, 2017 09:30AM*
Date: Sunday, April 2, 2017 7:17:12 AM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph A. Bobich	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1501 on Apr 4, 2017 09:30AM*
Date: Saturday, April 1, 2017 2:08:45 PM

HB1501

Submitted on: 4/1/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Alohilani Hue Sing	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1501 on Apr 4, 2017 09:30AM
Date: Saturday, April 1, 2017 7:31:36 PM

HB1501

Submitted on: 4/1/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Malcolm Mack	Individual	Support	No

Comments: - The costs of enforcing these drug paraphernalia offenses as felonies are astronomical. Locking up the current 167 nonviolent offenders is costing the State more than \$20,000,000. - These tax dollars are better spent on community programs and rehabilitation of nonviolent, low-risk drug offenders - in other words, the very people most likely to be imprisoned for drug paraphernalia offenses. - Claims by prosecutors and police that they need this type of broad, harsh law in order to "get the bad guys" are reflective of 1980s thinking. Hawai'i should instead continue to focus on innovative alternatives to incarceration like the LEAD pre-arrest diversion program or the Community Outreach Court. - Immigrants convicted of class C felonies are potentially deportable under current immigration laws. I do not believe that someone should be deported for possessing a pipe or a needle. - President Obama has recently released numerous non-violent drug offenders from federal prisons, stating that the "punishments simply didn't fit the crimes". Hawai'i should heed lessons from this, and stop punishing people in this manner. Changing our state laws like this one are a beginning. - Hawaii's drug laws, like those on the mainland, disproportionately target certain communities of color. The effect of having such a harsh penalty for drug paraphernalia means individuals from these communities are very likely to wind up behind bars for a longer time as a result of being pressured to accept a plea bargain.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1501 on Apr 4, 2017 09:30AM*
Date: Sunday, April 2, 2017 10:50:17 AM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1501 on Apr 4, 2017 09:30AM
Date: Sunday, April 2, 2017 5:51:59 PM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Maxine Anderson	Individual	Support	No

Comments: This bill is one step to safely reducing our incredibly high rates of incarceration and reflects important consideration of immigrants who are especially vulnerable during this federal administration.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1501 on Apr 4, 2017 09:30AM*
Date: Sunday, April 2, 2017 6:09:26 PM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB1501 on Apr 4, 2017 09:30AM*
Date: Monday, April 3, 2017 5:23:58 AM

HB1501

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

ON THE FOLLOWING MEASURE:

HB1501, HD2 RELATING TO DRUG PARAPHERNALIA

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, April 4, 2017

TIME: 9:30 A.M.

LOCATION: State Capitol, Conference Room 016

Honorable Chair Keith-Agaran and Members of the Committee:

As a stakeholder in the medical marijuana industry I am writing in **STRONG SUPPORT of HB1501, HD2 RELATING TO DRUG PARAPHERNALIA**, which reclassifies drug paraphernalia possession and delivery offenses from felonies to violations subject to a fine of \$100.

The removal of the felony penalty for paraphernalia will aid in removing the burden and unnecessary stigma for individuals wishing to associate or engage in a legal and legitimate industry that the lawmakers of Hawai'i established some 16 years ago. By reducing the punishment for activities related to cannabis, HB1501 HD2 helps to normalize medical cannabis as a medicine. The stigma of medical cannabis is largely rooted in the criminality attributed by state laws to the use of the medicine and those tools necessary for safe ingestion of the medicine. Your efforts in HB1501 HD2 to reverse the perception of criminality surrounding this medicine will directly contribute to the health of patients across the state as more people become willing to at least consider cannabis for their qualifying ailments and doctors become unafraid to talk with their patients about effective, alternative treatment options.

For these reasons, I stand in **SUPPORT of HB 1501 HD2.**

I would like to recommend that this bill be moved forward for further discussion. Thank you very much for the opportunity to provide testimony on this measure.

Respectfully,



Stephen P. Pingree
Attorney at Law

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1501 on Apr 4, 2017 09:30AM
Date: Sunday, April 2, 2017 10:54:10 AM

HB1501

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Thaddeus Pham	Individual	Support	No

Comments: Aloha Chair Keith-Agaran, Vice Chair Rhoads, and Committee Members, I write in full support of HB1501 HD2. As a concerned citizen and public health professional, this bill will not only improve the health and social outcomes for individuals and communities in Hawaii, but also save the state money. The costs of enforcing these drug paraphernalia offenses as felonies are astronomical. Locking up the current 167 nonviolent offenders is costing the State more than \$20,000,000. These tax dollars are better spent on existing and innovative community programs (like the LEAD pre-arrest diversion program or the Community Outreach Court) to rehabilitate nonviolent, low-risk drug offenders - in other words, the very people most likely to be imprisoned for drug paraphernalia offenses. I hope that you will see this law benefits all stakeholders involved in public health and public safety. Mahalo for your consideration.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

ON THE FOLLOWING MEASURE:

HB1501, HD2 RELATING TO DRUG PARAPHERNALIA

BEFORE THE SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, April 4, 2017

TIME: 9:30 A.M.

LOCATION: State Capitol, Conference Room 016

Honorable Chair Keith-Agaran and Members of the Committee:

As a stakeholder in the medical marijuana industry I am writing in **STRONG SUPPORT of HB1501, HD2 RELATING TO DRUG PARAPHERNALIA**, which reclassifies drug paraphernalia possession and delivery offenses from felonies to violations subject to a fine of \$100.

The removal of the felony penalty for paraphernalia will aid in removing the burden and unnecessary stigma for individuals wishing to associate or engage in a legal and legitimate industry that the lawmakers of Hawai'i established some 16 years ago. By reducing the punishment for activities related to cannabis, HB1501 HD2 helps to normalize medical cannabis as a medicine. The stigma of medical cannabis is largely rooted in the criminality attributed by state laws to the use of the medicine and those tools necessary for safe ingestion of the medicine. Your efforts in HB1501 HD2 to reverse the perception of criminality surrounding this medicine will directly contribute to the health of patients across the state as more people become willing to at least consider cannabis for their qualifying ailments and doctors become unafraid to talk with their patients about effective, alternative treatment options.

For these reasons, I stand in **SUPPORT of HB 1501 HD2.**

I would like to recommend that this bill be moved forward for further discussion. Thank you very much for the opportunity to provide testimony on this measure.

Respectfully,

Thayne Taylor

BILL NO. and TITLE: HB1501 HD2 RELATING TO DRUG PARAPHERNALIA.
To: COMMITTEE ON JUDICIARY AND LABOR
From: WENDY GIBSON R.N.

HEARING DATE: Tuesday, April 4, 2017 TIME: 9:30 a.m. Conference Room 016

Aloha Honorable Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee,

My name is Wendy Gibson R.N. I stand in STRONG SUPPORT of HB 1501 HD2 for these reasons:

It is generally accepted that the international “war on drugs” has had devastating and far-reaching consequences. The “collateral **damage**” from this war is worse than the **damage caused by the actual use of drugs**. These damages include public health crises, mass incarceration, corruption, and black market-fuelled violence.

According to International Institute for Strategic Studies, April 2012 report: The global war on drugs is failing and **alternatives to current policies** should be sought . . .

Hawaii still has some of the most outdated drug laws of any state as evidenced by the Drug Paraphernalia Laws. Drug paraphernalia, as defined by HRS § 329-1, **includes** everything from lighters, rolling papers, pipes and vaporizers to **cultivation kits and testing equipment**.

The use, possession or sale of paraphernalia is a Class C Felony and can lead to these penalties: 5 years in prison and a Maximum \$ 10,000 fine.

The costs of enforcing these offenses as felonies are astronomical., currently costing the State of Hawaii more than \$20 million to lock up 167 nonviolent offenders.

These tax dollars are better spent on community programs and rehabilitation of **nonviolent, low-risk drug offenders** - in other words, the very people most likely to be imprisoned for drug paraphernalia offenses.

Claims by prosecutors and police that they need this type of broad, harsh law in order to "get the bad guys" are reflective of 1980s thinking.

Hawai'i should instead continue to focus on innovative alternatives to incarceration like the LEAD (Law Enforcement Assisted DIVERSION), pre-arrest diversion program and the Community Court Outreach.

Immigrants convicted of class C felonies are potentially deportable under current

immigration laws.

Hawaii's drug laws, like those on the mainland, disproportionately target certain communities of color. The effect of having such a harsh penalty for drug paraphernalia means individuals from these communities are very likely to wind up behind bars for a longer time as a result of being pressured to accept a plea bargain.

Please support passage of HB 1501 HD2. Punishments should fit the crimes.
Thank you for the opportunity to provide testimony on this matter.

Mahalo,
Wendy Gibson R.N.