



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

ON THE FOLLOWING MEASURE:

S.B. NO. 319, RELATING TO MARIJUANA DISPENSARY GENERAL EXCISE TAX REVENUES.

BEFORE THE:

SENATE COMMITTEES ON JUDICIARY AND LABOR AND ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Friday, February 10, 2017 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Stacie M. Nakamura, Deputy Attorney General

Chairs Keith-Agaran and Baker and Members of the Committees:

The Department of the Attorney General (Department) appreciates the intent of the bill and provides the following comments and questions for your consideration.

This purpose of this bill is to establish a marijuana dispensary special fund, which will be composed primarily of 15 percent of the general excise tax revenues reported to the Department of Health by the marijuana dispensaries. The Department will administer the fund and equally allocate the funds to the county police departments, county prosecutors' offices, and to the Department for enforcement purposes relating to the medical marijuana dispensary system. The effective date is July 1, 2017, and the first contribution of general excise tax revenue into the fund will occur on July 1, 2018.

If this bill is passed, the Department anticipates that it will require additional staff hours and possibly incur additional costs related to administering the fund. The Department respectfully requests clarification on whether the Department may use its allocated share of the marijuana dispensary special fund to pay for some of the additional costs related to administering the fund.

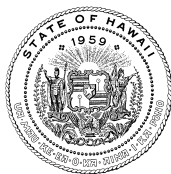
Additionally, the bill as written may be unclear as to exactly how the Department must divide the funds. The Department respectfully requests clarification as to whether the moneys in the fund "divided equally between the department of the attorney general, the county police departments, and the county prosecutors' offices" means that the fund

will be divided equally among the three groups mentioned, or whether the fund will be divided equally among each county police department, each county prosecutor's office, and the Department.

We recommend that this bill be amended to add clarification that addresses our comments and questions.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN COMMENTS

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON JUDICIARY AND LABOR AND
COMMERCE, CONSUMER PROTECTION, AND HEALTH
ON
SENATE BILL NO. 319

February 10, 2017
8:30 a.m.
Room 016

RELATING TO MARIJUANA DISPENSARY GENERAL EXCISE TAX REVENUES

Senate Bill No. 319 establishes the Marijuana Dispensary Special Fund (MDSF) to be administered by the Department of the Attorney General (AG) and shall receive the following revenue sources: 1) general excise tax revenues remitted pursuant to Section 237-31(4), HRS; 2) legislative appropriations; and 3) investment earnings from the fund. The fund shall be used for enforcement purposes relating to the medical marijuana dispensary system, provided that these funds be divided equally between the AG, the county police departments, and the county prosecutors' offices. In addition, the Department of Taxation shall transfer 15% of general excise tax revenues from medical marijuana dispensaries to the MDSF. Lastly, the measure appropriates an undetermined amount of general funds in FY 18 to be deposited into the MDSF and appropriates an undetermined amount from the MDSF in FY 18 for enforcement purposes relating to the medical marijuana dispensary system.

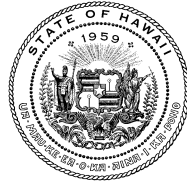
The Department of Budget and Finance (B&F) as a matter of general policy, does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the HRS. Special funds should: 1) serve a need that cannot be implemented under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 319, it is uncertain if the special fund will be self-sustaining.

We also have serious concerns about the co-mingling of general excise tax revenues from the marijuana dispensaries with other revenues. Medical marijuana and/or recreational marijuana businesses operating in other states have been challenged with finding financial institutions that will accept the deposit of these revenues. Further, these financial institutions may not be willing to process the transactions associated with marijuana dispensaries. For example, an appropriation of general revenues might not be transferrable from the State's general fund account to a marijuana dispensary account, if the financial institution holding the general funds does not want to do business with a medical marijuana dispensary.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Rosalyn Baker, Chair
and Members of the Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Senate Committee on Judiciary and Labor

Date: Friday, February 10, 2017
Time: 8:30 A.M.
Place: Conference Room 016, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 319, Relating to Marijuana Dispensary General Excise Tax Revenues

The Department of Taxation (Department) appreciates the intent of S.B. 319 and provides the following comments for your consideration.

S.B. 319 creates a marijuana dispensary special fund and requires that fifteen percent of general excise tax revenues collected from medical marijuana dispensaries be deposited into the special fund. The deposit requirement becomes effective July 1, 2018.

The Department notes that the allocation required by this bill is based on data reported to the Department of Health rather than the Department of Taxation. This is important because the data reported to the Department of Health will not be subject to the strict non-disclosure requirements that are applied to data reported to the Department of Taxation.

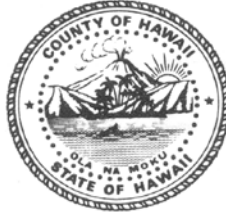
In general, any information reported to the Department of Taxation is considered taxpayer information and is subject to strict non-disclosure requirements. Information reported to the Department of Health for purposes of regulation of marijuana dispensaries will not be considered taxpayer information and thus will not be subject to the same non-disclosure requirements. For the above reasons, the Department requests that this bill's allocation calculation method be maintained.

The Department can implement the requirements of this bill by the current effective date.

Thank you for the opportunity to provide comments.

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 319

A BILL FOR AN ACT RELATING TO MARIJUANA
DISPENSARY GENERAL EXCISE TAX REVENUES

COMMITTEE ON COMMERCE, CONSUMER
PROTECTION, AND HEALTH

Sen. Rosalyn H. Baker, Chair
Sen. Clarence K. Nishihara, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

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

Friday, February 10, 2017, 8:30 AM
State Capitol, Conference Room 016

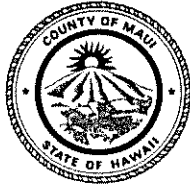
Honorable Chairs Baker and Keith-Agaran, Honorable Vice Chairs Nishihara and Rhoads, and Members of the Committee on Commerce, Consumer Protection, and Health and the Committee on Judiciary and Labor, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of Senate Bill No. 319.

This measure establishes the marijuana dispensary special fund and requires DOTAX to transfer into the fund each year for enforcement purposes 15 per cent of general excise tax revenues from medical marijuana dispensaries.

With the establishment of medical marijuana dispensaries within the State, it is anticipated that there will be an increased need for law enforcement services directly and indirectly related to the regulation of the marijuana industry. This measure seeks to provide funding to state and local law enforcement entities from revenue derived from medical marijuana dispensaries.

For the foregoing reasons, the Hawai'i County Office of the Prosecuting Attorney supports the passage of Senate Bill No. 319. Thank you for the opportunity to testify on this matter.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Prosecuting Attorney
ROBERT D. RIVERA
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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CONTACT: RICHARD K. MINATOYA
Deputy Prosecuting Attorney
Supervisor - Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 319 - RELATING TO MARIJUANA DISPENSARY
GENERAL EXCISE TAX REVENUES

February 10, 2017

The Honorable Rosalyn H. Baker,
Chair
The Honorable Clarence K. Nishihara,
Vice Chair
and Members
Senate Committee on Commerce, Consumer Protection, and Health

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

Chair Baker, Vice Chair Nishihara, Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committees:

The Department of the Prosecuting Attorney, County of Maui strongly supports SB 319. With the establishment of medical marijuana dispensaries within the State, it is anticipated that there will be an increased need for law enforcement services directly and indirectly related to the regulation of the marijuana industry. This measure seeks to provide funding to state and local law enforcement entities from revenue derived from medical marijuana dispensaries.

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

Thank you very much for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Earmark for Marijuana Dispensary Enforcement

BILL NUMBER: SB 319; HB 108 (Identical)

INTRODUCED BY: SB by KEITH-AGARAN, DELA CRUZ, NISHIHARA, K. RHOADS, Gabbard, Tokuda; HB by Souki by request

EXECUTIVE SUMMARY: This bill establishes a special fund and earmarks 15% of the general excise tax revenues from marijuana dispensaries to feed it. Earmarks decrease transparency and accountability of government operations and should be avoided.

BRIEF SUMMARY: Adds a new section to HRS chapter 28 establishing a marijuana dispensary special fund to be administered by the department of the attorney general. Specifies that the fund moneys shall be used for enforcement purposes relating to the medical marijuana dispensary system established pursuant to chapter 329D; provided that those moneys shall be divided equally between the department of the attorney general, the county police departments, and the county prosecutors' offices, and that the distributed moneys shall complement but not supplant funds that are regularly appropriated for law enforcement purposes relating to the medical marijuana dispensary system.

Amends HRS section 237-31 to provide that on July 1, 2018, and every July 1 thereafter, the director of taxation shall transfer to the marijuana dispensary special fund general excise tax revenues in the sum of fifteen per cent of the annual general excise tax revenues reported to the department of health pursuant to section 329D-23 from all marijuana dispensaries in the preceding calendar year.

EFFECTIVE DATE: July 1, 2017.

STAFF COMMENTS: The proposed measure would add another siphon of GET revenues and would perpetuate the earmarking of GET revenues. Most of us can understand that the legalization of marijuana, even for medicinal purposes, brings a renewed focus on law enforcement, and our law enforcement agencies need to have resources to deal with it. But does that justify grabbing a pot of GET money without going through the normal budgeting process that also takes into account sweltering primary schools, underfunded state pensions, or the plight of the homeless?

Rather than earmarking GET revenues, a direct appropriation of general funds would be preferable. Earmarking the GET revenues for a particular purpose, decreases transparency and accountability.

Finally, proliferation of special funds as had been done in the past circumvents the state's constitutional spending ceiling or debt limit and will obscure the state's true financial condition.

Digested 2/8/2017



Hawaii Contracting License Number BC-25436

Via E-mail: CPHTestimony@capitol.hawaii.gov
Via Fax (808) 586-6071

February 10, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON JUDICIARY AND LABOR

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

SUBJECT: **OPPOSITION TO S.B. 253, RELATING TO WORKERS' COMPENSATION.** Requires, among other things, independent medical examinations and permanent impairment rating examinations for workers' compensation claims to be performed by physicians mutually agreed upon by employers and employees or appointed by the director of labor and industrial relations. Allows for the use of an out-of-state physician under certain conditions. Appropriates funds for positions to assist with workers' compensation claims. Effective January 1, 2018. Repeals on June 30, 2023.

HEARING

DATE: February 10, 2017
TIME: 8:30 a.m.
PLACE: Conference Room 016

Dear Chair Keith Agaran and Chair Rosalyn Baker, Vice Chair Rhoads and Vice Chair Nishihara and Committee Members,

INSERT COMPANY NAME is **opposed to S.B. 253, Relating to Workers' Compensation**, which would require independent medical examinations (IME) and permanent impairment rating examinations for workers compensation claims to be performed by physicians mutually agreed upon by the employers and employees. We believe there is nothing wrong with the current procedure in place which provides for sound safeguards to allow injured employees full disclosure of an employer's/insurance carrier's IME report.



Hawaii Contracting License Number BC-25436

Further, under the current system employees have the right to seek their own medical opinion if they disagree and an appeal process if the parties cannot agree. This bill would result in increased workers compensation cost to businesses both small and large. The existing law provides employers the ability to get a second medical opinion independent of the treating physician with regards to questionable workers compensation claims.

The current law is effective in building trust and reducing confrontation in the program for both employers and employees. For these reasons, we respectfully request that that S.B. 253 be held by this Committee.

Michael Mazzone
President

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for SB319 on Feb 10, 2017 08:30AM
Date: Tuesday, February 7, 2017 6:36:13 AM

SB319

Submitted on: 2/7/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Murphy	Patients Without Time	Oppose	No

Comments: LEGALIZE MARIJUANA NOW! SAVE LIVES! 90,000 Americans die from alcohol every year, yet Hawaii celebrates the success of microbreweries, and allows tourists access to production centers, and tasting rooms! Marijuana consumers deserve equal rights. The CDC states marijuana kills ZERO Americans, so why the prejudice against it, in favor of highly addictive, and actually deadly alcohol? LEGALIZE MARIJUANA and SAVE LIVES! For 16 years, Hawaii has practiced SELECTIVE PROSECUTION against marijuana consumers. Protecting some folks with "329 cards" from prosecution (stating that marijuana is medicine), while sending others to jail for "marijuana crimes," (stating marijuana has no medical value). All citizens deserve equal justice, however in Hawaii, there exists a clear, facial contradiction between marijuana's classification as a schedule I drug and its allowable use by qualifying patients for medical conditions. The only just solution is to legalize marijuana. LEGALIZE MARIJUANA NOW!

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.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for SB319 on Feb 10, 2017 08:30AM*
Date: Wednesday, February 8, 2017 11:27:57 AM

SB319

Submitted on: 2/8/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Crystal Kia Paul	Individual	Support	No

Comments:

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Cc:
Subject: Submitted testimony for SB319 on Feb 10, 2017 08:30AM
Date: Tuesday, February 7, 2017 6:43:20 AM

SB319

Submitted on: 2/7/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Overbay	Individual	Oppose	No

Comments: LEGALIZE MARIJUANA NOW! SAVE LIVES! 90,000 Americans die from alcohol every year, yet Hawaii celebrates the success of microbreweries, and allows tourists access to production centers, and tasting rooms! Marijuana consumers deserve equal rights. The CDC states marijuana kills ZERO Americans, so why the prejudice against it, in favor of highly addictive, and actually deadly alcohol? LEGALIZE MARIJUANA and SAVE LIVES! For 16 years, Hawaii has practiced SELECTIVE PROSECUTION against marijuana consumers. Protecting some folks with "329 cards" from prosecution (stating that marijuana is medicine), while sending others to jail for "marijuana crimes," (stating marijuana has no medical value). All citizens deserve equal justice, however in Hawaii, there exists a clear, facial contradiction between marijuana's classification as a schedule I drug and its allowable use by qualifying patients for medical conditions. The only just solution is to legalize marijuana. LEGALIZE MARIJUANA NOW!

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Cc:
Subject: *Submitted testimony for SB319 on Feb 10, 2017 08:30AM*
Date: Monday, February 6, 2017 1:03:24 PM

SB319

Submitted on: 2/6/2017

Testimony for JDL/CPH on Feb 10, 2017 08:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
robert	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for SB345 on Feb 10, 2017 09:30AM
Date: Thursday, February 9, 2017 9:38:05 AM

SB345

Submitted on: 2/9/2017

Testimony for JDL on Feb 10, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Leuteneker	Individual	Support	No

Comments: Gil, I support the Maui Chamber of Commerce position favoring this Bill, namely codifying the 20 factor test and the use of a preponderance of factors from the 20 point test in the findings. Thank you for considering my comments.

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