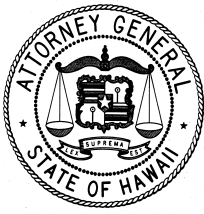


# SB2651

Measure Title: RELATING TO MEDICAL CANNABIS DISPENSARIES.  
Report Title: Medical Cannabis Dispensaries; Employees; Employment;  
Felony  
Description: Specifies certain felonies that will preclude employment at  
a medical cannabis dispensary.  
Companion:  
Package: None  
Current Referral: CPH, JDC  
Introducer(s): BAKER, Gabbard, Galuteria, Kim, Nishihara, Taniguchi



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2651, RELATING TO MEDICAL CANNABIS DISPENSARIES.

**BEFORE THE:**

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

**DATE:** Tuesday, February 13, 2018      **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Tara K.C.S. Molnar, Deputy Attorney General

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Chair Baker and Members of the Committee:

The Department of the Attorney General provides comments on this bill.

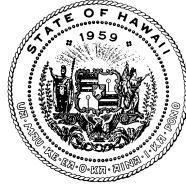
This bill would amend section 329D-6, Hawaii Revised Statutes (HRS), to allow – but not require – licensed medical cannabis dispensaries to deny employment to individuals convicted of a class A or class B felony; or a class C felony involving “[f]raud, deceit, misrepresentation, embezzlement, or theft; [e]ndangering the welfare of a minor; or [t]rafficking, distributing, or promoting a drug” (page 1, line 16, through page 2, line 8).

The proposed wording on page 2, lines 2-8, enables individuals convicted of felonies – the highest grade of offense under our penal code – to handle, sell, or purchase cannabis, a controlled substance under federal law. Under our current regulatory scheme, individuals convicted of a felony cannot apply for a dispensary license as an individual applicant or as part of an applying entity, nor can they work in or enter a dispensary.

While the measure aims to specify certain felonies that will preclude employment at a dispensary, rather than make ineligible for employment all individuals who have been convicted of any felony, the bill as currently written allows dispensaries to hire individuals convicted of class A and class B felonies, as well as certain class C felonies (page 1, line 10, through page 2, line 8). If the Committee is inclined to specify certain

felonies that will preclude employment at a dispensary, rather than prohibit employment of individuals convicted of any felony, we suggest that it amend the wording “may deny” to “shall deny” on page 2, line 2.

We respectfully request that the Committee considers our comments.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on S.B. 2651  
RELATING TO MEDICAL CANNABIS DISPENSARIES.**

SENATOR ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
Hearing Date: Tuesday, February 13, 2018 Room Number: 229

1 **Fiscal Implications:** None.

2 **Department Testimony:** Thank you for the opportunity to provide COMMENTS on this bill.

3 The Department encourages the Legislature to maintain the highest possible standards for  
4 the medical cannabis industry, and defers to the Attorney General regarding felonies.

5 Thank you for the opportunity to COMMENT on this bill.

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

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
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KEITH M. KANESHIRO  
PROSECUTING ATTORNEY



CHASID M. SAPOLU  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON COMMERCE,  
CONSUMER PROTECTION, AND HEALTH  
Twenty-Eighth State Legislature  
Regular Session of 2018  
State of Hawai`i**

February 13, 2018

**RE: S.B. 2651; RELATING TO MEDICAL CANNABIS DISPENSARIES.**

Chair Baker, Vice-Chair Tokuda and members of the Senate Committee on Commerce, Consumer Protection, and Health, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in opposition to S.B. 2651.

The purpose of S.B. 2651 is to allow medical marijuana dispensaries to hire employees with prior felony convictions (of any level or type), where they are not currently allowed to do so.

Because of the unique nature of marijuana, medical marijuana, and medical marijuana dispensaries in our state (and nation)—and the Department’s ongoing dedication to maintaining public safety and welfare—the Department vehemently believes that the strictest safeguards must be maintained, to ensure that the Hawaii’s new dispensary system does not become associated with, or open its doors to, illegal activity. If the only job applicants that medical marijuana dispensaries are getting are people with felony records, that is clearly a problem, but not one that should be rectified by welcoming these applicants with open arms.

When H.B. 321, H.D. 1, S.D. 2, C.D. 1 (2015)—the bill that first established Hawaii’s medical marijuana dispensary system—was enacted as Act 241 (2015), the language in that bill was the result of countless hours of discussions, meetings, testimony, deliberations, and essentially an all-hands-on-deck effort, to create a system that provides registered medical marijuana patients with regular access to marijuana, while simultaneously providing a “strong and effective regulatory and enforcement system[s] to control the cultivation, distribution, sale, and possession of marijuana.”<sup>1</sup> One of the important safeguards contained within Act 241—designed to minimize the possibility of

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<sup>1</sup> Page 3, Memorandum from Deputy Attorney General James M. Cole to U.S. Attorneys (Aug. 29, 2013), available online at <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf> (last accessed Feb. 12, 2018).

any illicit activity occurring within Hawaii's fledgling dispensary system—was the requirement that dispensaries cannot employ anyone with a prior felony conviction.

Now that Act 241 (2015) is law—and only six months after the first medical marijuana dispensary opened for business in Hawaii—there is already a push to eliminate this requirement, and allow dispensaries to hire anyone with prior felony convictions. Specifically, S.B. 2651 would: (1) completely eliminate the mandate not to employ anyone with a prior felony conviction; (2) allow dispensaries to hire anyone with any number or type of past felony convictions; and (3) further limit dispensaries by stating that they could only deny employment based on certain types of felony convictions. Please keep in mind that dispensary employees may be in daily contact with, or in control of, or even allowed to transport, large amounts of marijuana—which is otherwise an illicit, Schedule 1 controlled substance—as well as large amounts of cash.

Because of the unique legal and medical standing of medical marijuana and medical marijuana dispensaries—and the ongoing demand for illicit marijuana—the Department believes it is crucial and entirely necessary that dispensaries not be permitted to hire employees who have prior felony convictions. Rather than rushing to loosen the reigns on a highly controversial industry that is still in its early infancy in Hawaii, the Department feels very strongly that all available safeguards and controls must be held in place, to regulate the flow of marijuana through these businesses and into the public.

For all the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly opposes the passage of S.B. 2651. Thank you for the opportunity to testify on this matter.

**SB-2651**

Submitted on: 2/12/2018 2:57:01 AM

Testimony for CPH on 2/13/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES  
DEMOCRATIC PARTY OF HAWAII  
TO THE COMMITTEE ON CONSUMER PROTECTION AND  
HEALTH**

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Tuesday, February 13, 2018

9:00 a.m.

Hawaii State Capitol, Conference Room 229

**RE: Testimony in Support** of SB 2651, RELATING TO MEDICAL CANNABIS DISPENSARIES

To the Honorable Rosalyn H. Baker, Chair; the Honorable Jill N.Tokuda, Vice-Chair and the Members of the Committee on Energy and Environmental Protection:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No.2651 relating to medical cannabis dispensaries.

The OCC Legislative Priorities Committee is in favor of Senate Bill No. 2651 and supports its passage as it specifies certain felonies that will preclude employment at

medical cannabis dispensaries, rather than make ineligible for employment all individuals who have been convicted of any felony.

Senate Bill No.2651 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it specifies certain, as opposed to all, felonies that will preclude employment at a medical cannabis dispensary.

The DPH Platform states that "[w]e support fair and equitable access to medical marijuana to be administered by the Hawaii of Hawaii's Department of Health. (Platform of the DPH, P. 7, Lines 386-387 (2016)).

We support legalization and regulation of marijuana and other cannabis derivatives. (Platform of the DPH, P. 8, Line 395 (2016)).

Given that Senate Bill No.2651 specifies certain felonies that will preclude employment at medical cannabis dispensaries, rather than make ineligible for employment all individuals who have been convicted of any felony, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

**/s/ Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: [legislativepriorities@gmail.com](mailto:legislativepriorities@gmail.com), Tel.: (808) 258-8889



## HAWAII EDUCATIONAL ASSOCIATION FOR LICENSED THERAPEUTIC HEALTHCARE

To: Senator Rosalyn Baker, Chair Consumer Protection and Health (CPH)  
Senator Jill Tokua, Vice-Chair CPH  
Members of the Senate Committee

Fr: Blake Oshiro, Esq. on behalf of the HEALTH Assn.

Re: **Testimony In Support on Senate Bill (SB) 2651**  
RELATING TO MEDICAL CANNABIS DISPENSARIES - Specifies certain felonies that will preclude employment at a medical cannabis dispensary

Dear Chair Baker, Vice-Chair Tokuda, and Members of the Committee:

HEALTH is the trade association made up of the eight (8) licensed medical cannabis dispensaries under Haw. Rev. Stat. (HRS) Chapter 329D. We **support SB2651** which would help to clarify the types of convictions that would preclude an applicant from being an employee for a dispensary.

The existing law since Act 241 in 2015, codified as Haw. Rev. Stat. 329D-6(d) prohibited a dispensary from hiring any person convicted with a felony. This categorical prohibition applied regardless of the nature of the crime, or even how long ago the crime may have occurred.

We believe the bill before you properly balances the need for safety and security by still prohibiting Class A and Class B felons, those who have committed the most serious grade of violations of the law, and prohibits persons with Class C felonies for crimes of dishonesty (fraud, misrepresentation, etc.), crimes against children (endangering child welfare) and drugs (trafficking, distribution).

Finally, we would note that the bill provides the dispensaries with the discretion that they “may deny” employment which we think for all practical purposes serves as a prohibition. However, we take no position and would have no objection if the committee changed this to “shall deny employment . . . “

Thank you for your consideration.



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

TO: Senate Committee on Commerce, Consumer Protection and Public Health  
FROM: Carl Bergquist, Executive Director  
HEARING DATE: 13 February 2018, 9AM  
RE: SB2651, RELATING TO MEDICAL CANNABIS DISPENSARIES; SUPPORT with AMENDMENTS

Dear Chair Baker, Vice Chair Tokuda, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **supports** the intent of this measure to narrow the list of felony offenses that could preclude a person from being hired by a medical cannabis dispensary. We particularly welcome the addition of the discretionary “*may deny employment to*” in lieu of the current mandatory “*no dispensary shall employ*” in HRS §329D-6.

We do suggest **amending** the specific language of the bill by removing “~~Trafficking, distributing, or promoting a drug~~” (SECTION 2. Amended language to HRS §329D-6 (d) (2) (C)). This in order not to exclude individuals who have simple personal use drug possession convictions, in the past ten years, under HRS §712-1243. Many states are now considering such offenses a misdemeanor, ([SB2880 would do the same here in Hawai'i](#)) and we just decriminalized the related offense of drug paraphernalia offense. Persons charged with the latter are often also charged with §712-1243, pleading to one or both. Excluding such persons from employment is unduly harsh. Serious drug offenses would still be covered under the suggested HRS 329D-6 (d) (1) provision regarding class A and B felonies.

[A case note to HRS §378-2](#) (Discriminatory practices made unlawful) [also suggests caution](#):

*Where hospital rejected petitioner's job application for employment as radiological technician based solely on petitioner's prior conviction for possession with intent to distribute crystal methamphetamine, the circuit court erred when it granted hospital's motion for summary judgment; hospital failed to establish a rational relationship between petitioner's conviction and the duties and responsibilities of a radiological technician. [345 P.3d 145 \(2015\) \(Shimose v. Hawaii Health Systems Corp., Hawai'i Supreme Court\)](#).*

Thank you for the opportunity to testify.



February 12, 2018

TO: Senator Rosalyn Baker, Chair Consumer Protection and Health (CPH)  
Senator Jill Tokuda, Vice-Chair CPH  
Members of the Senate Committee

FROM: David C. Cole, Maui Grown Therapies

RE: **TESTIMONY IN SUPPORT OF SENATE BILL (SB) 2651**  
RELATING TO MEDICAL CANNABIS DISPENSARIES - Specifies certain felonies that  
will preclude employment at a medical cannabis dispensary

Dear Chair Baker, Vice-Chair Tokuda, and Members of the Committee:

As an employer that strives to recruit, hire and train employees with deep roots in our community we embrace policies that expand employment opportunities for our fellow islanders. There are approximately 15 million Americans of working age with felony convictions and over 6 million are also former prisoners. The circumstances and severity of offenses vary widely.

Act 241 as codified as Haw. Rev. Stat. 329D-6(d) prohibits a dispensary from hiring any person convicted with a felony regardless of the nature of the crime, or when the crime occurred.

SB2651 maintains a high standard for public safety by maintaining the ban on employing applicants who have been convicted of very serious Class A and Class B felonies and persons with Class C felony convictions for fraud, misrepresentation and crimes against children (endangering child welfare) and involving drugs (trafficking, distribution.)

SB2651 bill provides for discretion by DOH in allowing persons with a non-violent felony conviction. This bill allows for licensed dispensaries to use discretion in offering or denying employment to individual applicants as appropriate.

Mahalo for your consideration.

**SB-2651**

Submitted on: 2/13/2018 7:23:05 AM

Testimony for CPH on 2/13/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Miles W. Tuttle	Kine Bottles	Support	No

Comments:

**SB-2651**

Submitted on: 2/10/2018 9:52:29 AM

Testimony for CPH on 2/13/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Whispering Wind	Patients Without Time	Support	No

Comments:

I SUPPORT SB2651

- but you lawmakers should legalize CANNABIS!!!!

**SB-2651**

Submitted on: 2/10/2018 8:00:16 PM

Testimony for CPH on 2/13/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joseph A. Bobich		Support	No

Comments:

Dr. Myron Berney

**SB 2651**

RELATING TO MEDICAL CANNABIS DISPENSARIES.  
Specifies certain felonies that will preclude employment at a  
medical cannabis dispensary.

Support with amendment

DELETE (C) Trafficking, distributing, or promoting a drug.

Add (1) Convicted of a class A or class B felony except for Trafficking, distributing, or promoting Marijuana or Cannabis.

(C) Trafficking, distributing, or promoting a drug other than Marijuana or Cannabis.

Many prior users and experts on Marijuana have been arrested during the Marijuana Prohibition Bad Medicine Era. These local citizens are an asset to the local marijuana industry and to local families and society.

The highest quality of Cannabis is produced by small local growers not the big industrial plantations. In California, testing of dispensary products demonstrated over 90% were contaminated with pesticides.

I further support the pardoning, expungement and release of all prior Marijuana Arrests

**SB-2651**

Submitted on: 2/12/2018 7:30:19 AM

Testimony for CPH on 2/13/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marilyn Mick		Comments	No

Comments:

- This bill is an improvement over the current blanket ban on a person with felony from working at a dispensary, the use of the word "may" instead of "shall" is commendable;
- However, it still paints too broad a brush and may lead to the exclusion of habilitated individuals;
- At a minimum, a felon convicted under the now decriminalized drug paraphernalia offense should be exempt, particularly in cases that also involved "promoting a drug" (Section 2, Amending HRS Section 329D-6 (d) (2) (C));
- Further, non violent personal use drug possession offenses, a Class C felony under HRS 712-1243, should be exempt. A conviction for this offense should not lead to possible preclusion, it would send the wrong signal as the state moves in the direction of seeing drug use as a public health issue.