

SB3094

Measure Title:	RELATING TO PRESCRIPTION DRUGS CONTAINING CANNABIDIOL.
Report Title:	Cannabidiol; Prescription Drugs; Food and Drug Administration
Description:	Specifies certain activities that shall become lawful, upon approval by the federal Food and Drug Administration of one or more prescription drugs containing cannabidiol.
Companion:	
Package:	None
Current Referral:	CPH/JDC
Introducer(s):	RUDERMAN, ESPERO, GABBARD, S. Chang, Green, Ihara, Inouye, Kim



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

ON THE FOLLOWING MEASURE:

S.B. NO. 3094, RELATING TO PRESCRIPTION DRUGS CONTAINING
CANNABIDIOL.

BEFORE THE:

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

DATE: Thursday, February 22, 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

Chairs Baker and Taniguchi and Members of the Committees:

The Department of the Attorney General opposes this bill.

This bill adds a new section to chapter 329, Hawaii Revised Statutes (HRS), to conform State law to prospective federal law. This bill would make it lawful to prescribe, dispense, possess, transport, and use prescription drugs containing cannabidiol if the federal Food and Drug Administration (FDA) approves of one or more prescription drugs containing cannabidiol.

There is no need for this bill. It is premature to enact a law that is contingent on a change in federal law. If and when the federal law changes, section 329-11, HRS, provides a method for the Department of Public Safety to temporarily reschedule a substance. If the federal FDA approves cannabidiol for use in one or more prescription drugs, the Department of Public Safety is already authorized to reschedule those drugs accordingly.

Proposed section 329-___(c), HRS (page 3, lines 5-7), provides that "[n]othing in this section shall be construed to amend, alter, or otherwise restrict access to medical cannabis, recreational marijuana, or both, as authorized under state law." Because there is no State law that authorizes the recreational use of marijuana, the reference to

recreational marijuana should be deleted from that subsection if the Committees decide to advance this bill, to avoid any misleading interpretation.

We respectfully ask the Committees to consider our concerns and hold this bill.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

TESTIMONY ON SENATE BILL 3094
RELATING TO PRESCRIPTION DRUGS CONTAINING CANNABIDIOL

by
Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair

Senate Committee on Judiciary
Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair

Thursday, February 22, 2018; 9:00 a.m.
State Capitol, Conference Room 229

Chairs Baker and Taniguchi, Vice Chairs Tokuda and Rhoads, and Members of the Committees:

The Department of Public Safety (PSD) offers the following comments on Senate Bill (SB) 3094, which would specify certain activities that shall become lawful, upon approval by the federal Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol.

First, the bill is not necessary, because the process of approving new controlled substances, such as the drug containing cannabidiol, once approved by the FDA, is already statutorily established. Prescription drugs containing cannabidiol (cannabidiol drugs), like all other prescription drugs, must undergo an exhaustive approval process by federal agencies. Once the FDA approves a cannabidiol drug for marketing, that cannabidiol drug is then subject to the federal controlled substances scheduling process under the federal Drug Enforcement Administration (DEA). That DEA process is very thorough. At the final conclusion of the DEA scheduling process, the DEA places that

FDA approved cannabidiol into a federal drug schedule within the federal Controlled Substances Act. A notice of the DEA's federal scheduling action is then provided by the publication of a "final rule" about that specific FDA approved cannabidiol drug in the Federal Register. Upon publication in the Federal Register, the cannabidiol drug would be fully approved for public marketing at the federal level.

At our state level, section 329-11(d), Hawaii Revised Statutes (HRS) provides that if a controlled substance is added, deleted, or rescheduled under federal law and notice of that designation is given to PSD, the department shall similarly designate the substance as added, deleted, or rescheduled under chapter 329, HRS, after the expiration of thirty days from publication in the Federal Register of a final order. This is commonly referred to as "temporary designation," and this has the effect of law temporarily, until the next legislative session, when PSD recommends to the legislature a statutory amendment to make such scheduling permanent and consistent with federal law. If in the next regular session of the state legislature, such corresponding change has not been made in chapter 329, HRS, the temporary designation shall be nullified.

In the case of a cannabidiol drug that both the FDA and DEA have approved for public marketing, and after the expiration of thirty days from publication in the Federal Register, PSD would follow the procedures required under chapter 329, HRS, and temporarily schedule that approved cannabidiol drug. This temporary designation would allow that specific cannabidiol drug to be temporarily available for administration or prescription, as well as the other authorities described in SB 3094, pertaining to possession and transportation by patients, authorized patient representatives, pharmacies, and wholesalers. The temporary designation of that federally approved cannabidiol drug would become permanent after PSD proposes to make changes to chapter 329, HRS, and the legislature passes such a measure into law. As explained above, pursuant to section 329-11(a), HRS, PSD must comply, and has successfully and repeatedly complied, with this process to propose such statutory amendments annually.

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Second, PSD believes that if SB 3094 were to pass in its current form, the DEA scheduling process and the statutory mandates outlined in section 329-11, HRS would preclude application of this proposed measure until both the DEA and state scheduling processes are completed. Significantly, any application of SB 3094 before the DEA and chapter 329-11 processes are completed could subject entities who attempt to administer, dispense, prescribe, transport or possess any cannabidiol drug merely approved by the FDA, to criminal prosecution under federal and state laws.

Thank you for the opportunity to testify on this measure.

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Submitted on: 2/20/2018 11:20:28 PM

Testimony for CPH on 2/22/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawaii	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII
TO THE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH
AND
COMMITTEE ON JUDICIARY
THE SENATE
TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018
Thursday, February 22, 2018
9:00 AM**

Hawaii State Capitol, Conference Room 229

RE: Testimony in Support of SB3094 RELATING TO PRESCRIPTION DRUGS
CONTAINING CANNABIDIOL

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

To the Honorable Brian T. Taniguchi, Chair; the Honorable Karl Rhoads, Vice-Chair,
and Members of the Committee on Judiciary:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No. 3094, relating to Cannabidiol; prescription drugs; and Food and Drug Administration.

The OCC Legislative Priorities Committee is in favor of Senate Bill No. 3094 and support its passage.

Senate Bill No. 3094, is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it specifies certain activities that shall become lawful, upon approval by the federal Food and Drug Administration of one or more prescription drugs containing cannabidiol.

Specifically, the DPH Platform states, "[w]e support fair and equitable access to medical marijuana to be administered by the State 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. 7, Lines 386-387 (2016)).

Given that Senate Bill No. 3094 specifies certain activities that shall become lawful, upon approval by the federal Food and Drug Administration of one or more prescription drugs containing cannabidiol, it is the position of the OCC Legislative 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, Tel.: (808) 258-8889

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Submitted on: 2/20/2018 8:58:22 PM

Testimony for CPH on 2/22/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Earl Yamamoto	Individual	Oppose	No

Comments:

Strong concerns

Enough attention is being spent by this legislature on medical marijuana. Don't create laws anticipating legalization of a presently illegal substance.

I recommend the following amendment:

Page 3, line 7

Delete "recreational marijuana, or both

Thank you

SB-3094

Submitted on: 2/21/2018 9:25:30 PM

Testimony for CPH on 2/22/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lindsey Nordquist	Individual	Support	No

Comments: