

**HB-1383-SD-1**

Submitted on: 4/4/2019 11:55:25 AM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Testifying for Maui Police Department	Oppose	No

Comments:

Strongly Oppose this bill and any bill that decriminalized non medical use of marijuana.



Submitted Online: April 4, 2019

Hearing: Friday, April 5, 2019

TO: Senate Committee on Ways & Means  
Senator Donovan Delacruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

FROM: Eva Andrade, President

RE: Strong Opposition to HB 1383 SD1 Relating to Marijuana

Aloha and thank you for the opportunity to provide our testimony in opposition to the decriminalization of marijuana. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of various Christian Churches and denominations. As such, we have serious concerns about this bill and its ultimate ramifications on the wider community – especially with regards to our keiki. Although we leave the discussion as to the regulatory functions and applicability of its passage to the experts, we do offer these reasons why many parents in our community are strongly opposed to the decriminalization of marijuana:

### **Marijuana is still illegal under federal law.**

While Hawaii has legalized marijuana for medical purposes, it is still illegal to possess, use or distribute marijuana according to federal law.

### **Legalization will directly impact Hawaii's keiki.**

According to the Hawaii State Department of Health, an estimated 45 percent of high school students and 26 percent of middle schoolers across the state said they have used e-cigarettes<sup>i</sup>. In fact, a report by Hawaii Public Radio indicated that it was higher than the national average. If they are already dabbling in an illegal substance, even with the attempt to provide restrictions, do we really believe that marijuana will somehow escape their attention and use?

A recent news story in Washington reported that more kids are now using drugs since marijuana was legalized.<sup>ii</sup> There is no doubt that if marijuana were legalized and/or decriminalized, more people, including our keiki, would have access to it. Even though proponents have tried to dismiss this argument, or even declare “bad parenting” as the reason children use it, clinical studies continue to prove that marijuana's easy access can and will hurt our keiki<sup>iii</sup>.



Page Two  
HB1383 SD1 Relating to Marijuana

### **Hawai'i's roads could very well become a testing ground for legal limits**

In Colorado, drugged driving went from killing roughly one person every 6.5 days to now every 2.5 days, since legalization was passed<sup>iv</sup>. Marijuana use affects driving because it stays in the system way longer than alcohol. It is the most prevalent illegal drug detected in impaired drivers, fatally injured drivers and motor vehicle crash victims. That number increases when you add other factors like alcohol consumption.

The process for determining if a driver is intoxicated by marijuana is far more complex and costly than the roadside breathalyzer. In its 2019 testimony to the Senate Judiciary Committee, Hawaii State Department of Transportation reported that “22 percent of fatal crashes that occurred during calendar years 2013 to 2017 resulted in positive findings for marijuana in drivers, bicyclists or pedestrians.”

### **Family factors can serve both protective and risk functions in adolescents' substance use.**

There is considerable evidence that individuals who have a close family member with a substance use history are at an increased risk of later problematic substance use<sup>v</sup>. Recent news stories even showed clips of our keiki claiming they were able to access illegal substances because of an adult in their own family network.

The bottom line is that by decriminalizing marijuana, we believe it will affect adolescents' use by increasing its availability through social connections, by creating a message within social norms that show marijuana use as a normal thing, or by reinforcing beliefs that marijuana use is not harmful.

If marijuana possession is no longer a punishable offense it will be more readily available, as users of marijuana will no longer be deterred by fear of punishment. Decriminalization of marijuana will open a door that can't be shut once opened and most assuredly will pave the way for recreational usage. Surely Hawai'i deserves better than that!

Mahalo for the opportunity to submit our concerns.

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<sup>i</sup> <http://www.hawaiipublicradio.org/post/hawaii-youth-vape-more-national-average> (January 29, 2019)

<sup>ii</sup> <http://www.king5.com/story/news/local/2015/02/12/washington-student-marijuana-infractions/23288183/> (King TV, February 2015)

<sup>iii</sup> <http://www.drugabuse.gov/publications/drugfacts/marijuana> (National Institute of Drug Abuse revised January 2014)

<sup>iv</sup> Rocky Mountain HIDTA. (2018, September). The Legalization of Marijuana in Colorado: The Impact, Vol. 5, Update. Retrieved September 14, 2018, from <https://rmhidta.org/files/D2DF/FINAL-Volume5UPDATE2018.pdf>

<sup>v</sup> Ewing et al., 2014; Kuntsche & Kuendig, 2006; Latendresse et al., 2008; Stone et al., 2012

## TESTIMONY IN SUPPORT OF HB 1383, HD 2, SD 1

TO: Senate Committee on Ways & Means

FROM: Nikos Leverenz  
Grants, Development & Policy Manager

DATE: April 5, 2019 (10:05 AM)

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Chair Dela Cruz, Vice-Chair Keith-Agaran, and Committee Members:

Hawai'i Health and Harm Reduction Center (HHHC) **supports** HB 1383, HD 2, SD 1, which would eliminate criminal penalties for various cannabis possession offenses, replace them with monetary fines for violations.

While a monetary fine is preferable to a criminal conviction and record for the possession of cannabis for personal use, the current proposed fine of \$30 for three grams or less is problematic. The proposed thresholds would continue to have disproportionate negative impacts on persons who are low-income, unsheltered or unstably housed, or live in communities with a high police presence.

**In alignment with many other states who have decriminalized non-medical cannabis possession for personal use, this bill should subject possession of one avoirdupois ounce of cannabis or less with a fine of no more than \$100.**

**The bill should also be amended to provide for the dismissal of charges and the automatic expungement of prior convictions for possession of one avoirdupois ounce of cannabis or less in all prior adjudications. Again, the three-gram threshold that serves as the statutory demarcation between a violation and a petty misdemeanor for promoting a detrimental drug in the third degree will not reach those who carry one-eighth of an avoirdupois ounce.**

Three grams is roughly one-tenth of one avoirdupois ounce. Perhaps the fine structure can prorate possession for personal use at \$10 per tenth of an ounce up to \$100 for one ounce. On

April 3, [New Mexico Governor Michelle Lujan Grisham signed a bill to decriminalize possession of up to one-half of an ounce to a \\$50 fine.](#)

There are lasting consequences to even a petty misdemeanor conviction, beyond further taxing this state's already bloated probation population and dedicating scarce treatment resources to persons who might not have a substance abuse problem as diagnosed by a medical professional. To wit, significant "collateral consequences" to a misdemeanor conviction impact a person's ability to obtain housing, education, and employment. According the Council of State Governments, [there are over 100 collateral consequences to a misdemeanor conviction](#) in Hawai'i.

HHHRC strongly believes that those who use substances not be subject to criminal sanctions absent actual harm to others, including those who use substances because of underlying mental health conditions.

Criminalizing drug users significantly perpetuates and compounds social, medical, and legal stigma. Dehumanizing drug users and those who have substance use problems with the coercive force of law increases the negative impacts of their use upon themselves and those around them.

With cannabis, the case for decriminalization is strengthened by the underlying reality that it is safer than two widely used licit substances, alcohol and tobacco, in terms of the levels of injury, illness, and death associated with its use. As our medical cannabis laws recognize, cannabis serves to ameliorate the impacts of a variety of conditions, including chronic pain.

Behavioral health issues are best dealt with by employing a therapeutic model and not a criminal justice framework. Subjecting those who are struggling with substance use, with or without a co-occurring mental health condition, to criminal sanctions – including probation and parole -- exacerbates harms to those persons, their families, and our larger community.

Hawai'i Health and Harm Reduction Center serves Hawai'i communities by reducing the harm and fighting the stigma of HIV, hepatitis, homelessness, substance use, mental illness, and poverty in our community. We focus our efforts on those disproportionately affected by social determinants of health, including but not limited to: people living with and/or affected by HIV, hepatitis, substance use, and the transgender, LGBTQ and the Native Hawaiian communities. We foster health, wellness, and systemic change in Hawai'i and the Pacific through care services, advocacy, training, prevention, education, and capacity building.

Thank you for the opportunity to testify on behalf of this important reform measure.

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 4, 2019

Senator Donald M. Dela Cruz  
Chairperson and Committee Members  
Committee On Ways and Means  
415 South Beretania Street, Room 016  
Honolulu, Hawai'i 96813

**RE: HOUSE BILL 1383, HD2, SD1, RELATING TO MARIJUANA**

Dear Senator Dela Cruz:

The Hawai'i Police Department **strongly opposes** passage of House Bill 1383, HD2, SD1, relating to Marijuana. The stated intent of this legislation is to decriminalize the possession of 3 grams or less of marijuana and establish that the possession is an infraction punishable by a monetary fine of \$30.

This Bill is flawed in failing to address some fundamental Health issues. First and foremost, Marijuana contains a mind-altering substance (THC) and yet no distinction is being made between 3 grams of Marijuana with 5% THC or 3 grams at 30% THC. Hawai'i is constantly facing a myriad of both physiological and psychological problems associated with Marijuana use.

I am hard-pressed to understand recent legislative attempts to curtail teen use of tobacco and vaping; battling homelessness; the support for "Vision zero" measures to reduce traffic fatalities while at the same time decriminalizing a mind altering substance, which has if not a direct, an indirect effect on some of the herein cited legislative measures.

By decriminalizing Marijuana, no matter what the amount is, the clear message being sent to our communities, to include our impressionable youth, is that Marijuana consumption is acceptable and harmless.

A study by the Columbia University's Mailman School of Public Health gathered data from six states – California, **Hawaii**, Illinois, New Hampshire, Rhode Island, and West Virginia which are states that perform toxicology tests on drivers involved in fatal car crashes between 1999 and 2010. Dr. Guohua Li, director of the Center for Injury Epidemiology and Prevention at Columbia, and co-author of the study has reported that alcohol contributed to about 40% of traffic fatalities throughout the decade, but researchers found that drugs played an increasing role in fatal traffic accidents. Drugged driving accounted for more than 28% of traffic deaths in 2010, which is 16% more than it was in 1999.

SENATOR DONALD M. DELA CRUZ  
RE: HOUSE BILL 1383, HD2, SD1 RELATING TO MARIJUANA  
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The researchers also found that **marijuana was the main drug involved in the increase**. It contributed to 12% of fatal crashes, compared to only 4% in 1999.

For these reasons, we urge these committees on behalf of the community we serve to reject this legislation. Thank you for allowing the Hawai'i Police Department to testify on House Bill 1383, HD2, SD1.

Sincerely,

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

PAUL K. FERREIRA  
POLICE CHIEF



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

TO: Senate Committee on Ways & Means  
FROM: Carl Bergquist, Executive Director  
HEARING DATE: April 5, 2019, 10:05AM  
RE: HB1383 HD2 SD1, RELATING TO MARIJUANA, **SUPPORT WITH COMMENTS**

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, Committee Members:

The Drug Policy Forum of Hawai'i (DPFH) **supports** this measure to decriminalize a small amount of cannabis ("marijuana"), but offers **amendments that will improve the likelihood of its intent being realized**. As introduced, this measure was pioneering and all offenses related to cannabis were to be decriminalized. This was somewhat scaled back in the HD1 version, only to be nearly decimated in the HD2 version. Most recently, the SD1 iteration reduces the grossly disproportionate fine, but as our amendment highlights, there is room for improvement. Such improvements will bring this bill in line with similar reforms in other states, [including just this week in New Mexico, a state of our size, when its Governor signed a decriminalization bill into law.](#)

To be clear, we embrace the move from criminalization that the bill represents, and particularly applaud the provisions to expunge convictions related to cannabis offenses. While we support full-scale legalization of adult use cannabis, this bill then also begins to reverse the brutal impact of the decades' long, needless criminalization of this substance.



On January 29th, 2019 [the Baltimore, Maryland prosecutor, Marilyn Mosby, said her office would stop prosecuting cannabis possession](#) no matter the person's criminal history. Going even further, she also requested that the courts vacate some 5,000 convictions. *Juxtapose that with how our county prosecuting attorneys are reacting to this very bill. It's crucial to note that Mosby is doing this in a state that has already decriminalized cannabis possession.* It's the continued disparate impact on communities of color that compels her office to act.

With that in mind, and considering the data below, it is our great concern that the 3 grams or less threshold coupled with a \$30 fine will not have as great an impact in Hawai'i as the legislature intends. And we could find ourselves in a position like Baltimore, having to resort to other policies to achieve the goals of decriminalization. By increasing the threshold amount, we can do so in two ways:

1. Going forward, Hawai'i will wind up criminalizing less people; and
2. A greater of people will be eligible for an expungement of their cannabis possession convictions.

If we stick to the 3 grams, conversely, we will continue to ruin more lives, than if we adhered to the decriminalization thresholds in every other jurisdiction that has pursued this policy. Just this week, as highlighted above, [New Mexico just became the 24<sup>th</sup> state to eliminate the threat of jail time and a criminal record](#) for a personal use amount of cannabis. There, **the threshold amount was originally one ounce (28.35g)**, but it was reduced to ½ ounce (14.18g). The New Mexico Public Defender testifying on the bill

stated that 95% of the cases handled by its office would be addressed with that threshold amount. Crucially, the fine remained at \$50 throughout the legislative process.

**Some numbers:**

- From 2008-16, nearly **8,000 adult Hawai'i residents were arrested for simple cannabis possession**. During the same period, thousands of juveniles were also arrested. The *collateral consequences* in terms of lost *student loans, housing, jobs* and for some immigrants, *deportation*, are devastating for an individual, their family and ultimately the community;
- [Just a few weeks ago, we finally got the crime numbers for 2017](#), and contrary to [public sentiment](#), the [opinions of our candidates for electoral office](#) and [the national trend](#), enforcement continues and the number of **arrests for adults at 630 and juveniles at 380 per year** remains steady;
- *Beyond sheer volume*, the disparate impact of cannabis criminalization is most keenly felt by the enforcement in the Native Hawaiian and Filipino communities. While studies show that cannabis use is nearly uniform across groups, **at 130 individuals, the number of Native Hawaiians youth arrested in 2017 for cannabis possession was the same as the number of white youth arrestees**;
- [The Senate bill that passed the Senate unanimously in 2013](#) (inc. with then Senator David Ige's vote) had a 20g/.7 oz threshold and a \$100 fine;
- [A second bill passed Senate Public Safety a year later in 2014](#), it had 1oz or less threshold with a \$100 fine, which increased to \$250 for 2nd violation & \$500 for subsequent violations;

- In addition to New Mexico, all recent states that have decriminalized cannabis enacted laws that would impact more individuals, including:
  - Delaware, 1oz threshold with \$100 fine;
  - New Hampshire, 3/4oz, \$100

If we do not address the inequities created by the misguided criminalization in the first place, then history has taught us nothing. It is therefore of the essence that any cannabis legislation includes the types of [social justice policies](#) like the expungement mechanisms found in this bill.

### **Suggested Amendments:**

- Increase the *threshold* amount to 1 oz, alternatively ½ oz like New Mexico;
- Re: *expungements*, it is important to remember that many obstacles remain for an individual to actually *apply* for this relief. [California last year enacted a law that automates the expungement contained in Proposition 64](#), in part because some jurisdictions made the process easy while others did not. Also, individuals who would benefit from it could not find the time to, or were even aware that they could, apply;

We are hopeful that this bill, by ending criminalization and making Hawai'i the 25<sup>th</sup> state to do so, can mark the start of a serious conversation on the future of cannabis in our state. Working together, we will get there.

Mahalo for the opportunity to testify.

**HB-1383-SD-1**

Submitted on: 4/4/2019 5:20:55 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Scott Foster	Testifying for Hawaii Advocates For Consumer Rights	Support	No

Comments:

Mahalo for supporting this important legislation.



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 211  
FRIDAY, APRIL 5, 2019 AT 10:05 A.M.**

To The Honorable Donovan M. Dela Cruz, Chair;  
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair; and  
Members of the Committee on Ways and Means;

**COMMENTS ON HB 1383 RELATING TO MARIJUANA**

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce, serving in this role for over a decade. Thank you for the opportunity to provide comments on this bill.

We appreciate that this bill creates a task force to examine and make recommendations on changing marijuana use laws and penalties. However, we feel that the rest of the bill is premature and putting the cart before the horse. The task force should be created and make recommendations first before a bill to change penalties is put forth.

Mahalo for your consideration of our testimony.

Sincerely,

*Pamela Tumpap*

Pamela Tumpap  
President

Date: April 04, 2019

To: Representative Donovan M. Dela Cruz, Chair  
Representative Gilbert S.C. Keith-Agaran, Vice Chair  
Members of the Senate Committee on Ways and Means

From: John Jian Hong Wu

Re: Strong Support for HB 1383, Relating to Marijuana

Hrg: Friday, April 05, 2019 at 10:05 am at Conference Room 211

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Thank you for the opportunity to submit testimony in **SUPPORT** of HB 1383, which decriminalizes the possession of 3 grams or less of marijuana and establishes that possession is a violation only punished by a monetary fine of \$30. Furthermore, it expunge criminal records pertaining solely to the possession of 3 grams or less of marijuana.

I strongly support this bill because I am aware of the consequences that our current punishments have on marijuana possession of less than 1 oz, that of a misdemeanor penalty and 30 days of jail. Although it is only a petty misdemeanor, the collateral consequences of that “black mark” on an individual’s record can have impacts that are life changing for the worst.

Currently, as a graduate student of the UH Manoa School of Social Worker, I work at the university’s Alcohol and Drug Education Program. My job is to work one on one with students to educate them about alcohol and drugs, and how to use them safely and responsibly. Thus, in work I am privy to how getting in trouble with marijuana has impacted a student’s life and in my experience, the ripples of the petty misdemeanor for possession of marijuana is far-reaching and dire. Many of the students I work with who are convicted have difficulty being competitive for jobs, in an already competitive market, after they graduate. For those that need it, they also have trouble with licensing for their profession. Furthermore, those who are convicted while still attending college find that they had less opportunities for student loans, grants, and pathways to success, endangering their enrollment and their chances to successfully graduate. These are life altering consequences for our students. Especially considering the enormous stress of college and the crisis of self-identity and struggle of self-discovery that many students find themselves in.

Of course, this would not be valid without framing that these consequences are absurd and unnecessary for a substance that is recreationally legal in 10 states in the US, and fully federally legal in Canada. Marijuana is also widely culturally accepted in Hawai’i and throughout these past years, we have seen ourselves slowly trend towards recreational legalization. But for many students who have a misdemeanor for marijuana possession, full legalization and decriminalization may take many years to come. For their future, the second chance they need is now.

Mahalo for taking the time to read my testimony,

John Jian Hong Wu

**HB-1383-SD-1**

Submitted on: 4/4/2019 1:28:27 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cynthia Okazaki	Individual	Oppose	No

Comments:

Please vote NO. Let's protect our youth and children from using marijuana.

**HB-1383-SD-1**

Submitted on: 4/4/2019 3:52:32 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Harvey Lee	Individual	Oppose	No

Comments:

As a concern Kailua parent, I oppose this bill. Below are three reasons cited from the marijuana industry.

Three (3) grams of marijuana with THC equals 3000 milligrams of THC. Quote from High Times “So here’s the scoop: “Eating 10 – 25 milligrams of THC will make your muscles relax, and waves of bliss will blanket your body. Giggling and silliness are common. You will feel relaxed and cozy, and get the best “super sleep” of your life. The high can last from four to six hours, or longer with higher doses.” 3 grams of marijuana can make a lot of brownies and get a lot of people high for 4 to 6 hours. Source: <https://hightimes.com/edibles/10-commandments-of-marijuana-edible-safety/> Second, **After you get high from inhaling weed, expect to stay high for about one to two hours. If you’ve eaten your cannabis, your high will last about 3 to 4 hours, maybe longer.** But in fact, it’s a person’s [metabolism](#) that plays a major role in the length of a high. Source: <https://hightimes.com/health/how-long-does-weed-high-last/> Third, it is legal to carry 4 ounces with a Hawaii Registration Card can [grow](#) up to 10 plants, [carry](#) up to 4 ounces, or consume medical cannabis. The THC at this dispensary ranges from Pennywise has 8.26% THC (\$17) and The Yeti has 25.24% THC (1 gram \$83). I can see making 3 grams legal to carry if we limit all sales of marijuana to 5% THC like we do for Beer. Source: <https://www.alohagreen.org/> Lastly, a testimony from a chronic pot smoker quote “yeah, 3 people get high with a joint. pick up a gram (usually about \$15 or \$20 depending where u live) Source: <https://forum.grasscity.com/threads/how-much-weed-to-get-3-people-high.952627/>



**HB-1383-SD-1**

Submitted on: 4/4/2019 3:57:30 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Corvey Lee	Individual	Oppose	No

Comments:

**HB-1383-SD-1**

Submitted on: 4/4/2019 4:54:47 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ryan Samonte	Individual	Oppose	No

Comments:

**Position:** Oppose

Mahalo for your consideration!

Ryan S.

Hawaii Partnership to Prevent Underage Drinking Volunteer

**HB-1383-SD-1**

Submitted on: 4/4/2019 5:04:01 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jordan Moniuszko	Individual	Support	No

Comments:

This is a positive step towards decriminalizing mainstream behavior that current laws only tend to disproportionately punish minority populations.

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

**LATE**

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DWIGHT K. NADAMOTO  
ACTING PROSECUTING ATTORNEY



ACTING FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR**  
**SENATE COMMITTEE ON WAYS AND MEANS**  
**Thirtieth State Legislature**  
**Regular Session of 2019**  
**State of Hawai`i**

April 5, 2019

**RE: H.B. 1383, H.D. 2; RELATING TO MARIJUANA.**

Chair Dela Cruz, Vice-Chair Keith-Agaran and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to H.B. 1383, H.D. 2, S.D. 1.

While this bill seems to be based upon a concern that people caught in possession of small amounts of marijuana are currently filling our jails and prisons, or otherwise requiring the use of excessive resources—such that ‘decriminalizing’ such possession would ease the burden on the system—our records do not reflect such claims. From 2009 to present, the Department charged (annually) approximately 200 to 300 stand-alone counts of HRS §712-1249, which is essentially possession of less than one ounce of marijuana; this is considerably lower than some other petty misdemeanor charges, such as being in a closed park after-hours, possessing an open container of liquor, or driving without a license.

Notably, based on the experience of our deputies, it is very rare for these defendants to ever be arrested—unless they have an outstanding bench warrant for their arrest—and also very rare for these defendants to receive any jail-time (aside from being held by police overnight, awaiting their first hearing, if unable to post bail). Indeed, the vast majority of these offenders will not serve any jail-time, though some will be ordered to probation, to provide the opportunity for assessment, (community-based) treatment and oversight. Even when treatment is warranted, however, lowering prohibit the courts from placing these offenders on probation, and thus prohibit the courts from ordering substance abuse assessment or treatment. Under Hawaii’s current criminal justice system, our courts only have the authority to order treatment (without incarceration) if a defendant is convicted of a petty misdemeanor or higher, and put on probation.

While proponents of this bill emphasize that a number of other states have already “decriminalized” the possession of small amounts of marijuana, a review of those states’ laws

seems to indicate that many of those states **do not simply impose fines**, but also require substance abuse treatment, drug testing and other related services under various circumstances. For example, in Maryland<sup>1</sup>:

Possession of less than 10g (with no intent to distribute) = \$100 fine (1<sup>st</sup> offense), \$250 fine (2<sup>nd</sup> offense), \$500 fine (3<sup>rd</sup> offense), **PLUS** defendants under 21 years old shall be:

- ordered to attend a drug education program approved by DOH
- referred to assessment for substance abuse disorder
- referred to substance abuse treatment if necessary)

It is also relevant to note that possession of over 10 grams (with no intent to distribute) is a misdemeanor, punishable by a fine of up to \$1,000 and one year in prison.<sup>2</sup> Possession of any amount with intent to distribute is a felony, with a first offense punishable by up to 5 years prison, and a fine of up to \$15,000.<sup>3</sup> In Illinois<sup>4</sup>:

Possession of less than 10g (with no intent to sell or traffic) = \$100 - \$200 fine;  
**PLUS**, if first time cannabis offender, court may order probation (24 mos), including periodic drug testing, 30+ hours community service, and other requirements;  
**PLUS** court may order drug addiction treatment, refrain from being in the presence of any illicit drug unless prescribed, and other options;  
**AND** for minors: must reside with parents, attend school, attend youth program; contribute to his own support at home.

Here, too, it is relevant to note that possession of 10 - 30g is a Class B misdemeanor (up to six months prison and up to \$1,500 fine); and possession of 30 - 100g is a Class A misdemeanor for 1<sup>st</sup> offense (up to one year prison and up to \$2,500 fine), or Class 4 felony for 2<sup>nd</sup> offense (1-3 years prison and up to \$25,000 fine).<sup>5</sup> Fines collected are divided between county drug addiction services, the law enforcement agency that issued the citation, the prosecutor's department, training for the appellate prosecutor, and administrative costs.<sup>6</sup>

**If our courts required substance abuse assessments and treatment, counseling, periodic drug testing, or other services and oversight for this type of offense, it is possible that the Department could be more amenable to removing the possibility of jail. However, that simply is not the way our system is currently set up.**

Perhaps most importantly, “decriminalizing” the possession or sale of small amounts of marijuana would take away our Family Courts’ ability to require any **juvenile** offenders to attend

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<sup>1</sup> See Md. Code Ann. Criminal Law, §5-601(c)(2)(ii). Available at <https://dhr.maryland.gov/documents/Licensing-and-Monitoring/Maryland%20Law%20Articles/RCC/CRIMINAL%20LAW%20Article%20Title%205.pdf>; last accessed April 4, 2019.

<sup>2</sup> *Id.*

<sup>3</sup> See Md. Code Ann. Criminal Law, §5-602; §5-607. Available at <https://dhr.maryland.gov/documents/Licensing-and-Monitoring/Maryland%20Law%20Articles/RCC/CRIMINAL%20LAW%20Article%20Title%205.pdf>; last accessed April 4, 2019.

<sup>4</sup> See 720 ILCS 550/4; 720 ILCS 550/10. Available at <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1937&ChapterID=53>; last accessed April 4, 2019.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

treatment, because they would no longer qualify as “law violators.”<sup>7</sup> Given the notable health risks associated with using marijuana at a young age, and the limited time that our Family Courts have to get troubled youth back on-track, the Department believes it would be a great disservice to those youth, not to take every opportunity to provide (community-based) treatment and counseling that could steer them away from this dangerous behavior.

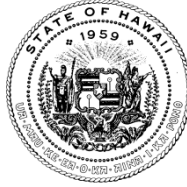
Thus, decreasing the possession or sale of small amounts of marijuana to a civil violation would not only fail to address concerns regarding our jails and prisons, but it would prevent our courts from ordering (community-based) treatment and oversight that could actually assist in people’s—and children’s—rehabilitation.

As a final point, the changes proposed in H.B. 1383, H.D. 2, S.D. 1, would vastly decrease the significance that the legislature, law enforcement, and ultimately the public, place on regulation of this Schedule I controlled substance. Pursuant to both State and Federal schedules, possession of any amount of marijuana is strictly prohibited, except by qualifying patients registered to use medical marijuana (and their caregivers). In fact, the Federal schedule of controlled substances was recently updated in December 2018, and continues to list marijuana as a Schedule I controlled substance. Also, in recent years, numerous and ongoing studies have shown that marijuana presents significant health concerns for youth, who will inevitably receive the message that marijuana is simply "not that bad" because "it's not even a crime." Businesses who currently allow smoke breaks for those who smoke cigarettes would potentially see a sharp increase in smoking marijuana on or off the job, because "it's not even a crime."

Given the strong potential for widespread abuse and negative effects on the community, the Department strongly maintains that marijuana should continue to be strictly regulated and enforced, and that current statutes are appropriate in this regard. For this and all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes H.B. 1383, H.D. 2, S.D. 1. Thank you for the opportunity to testify on this matter.

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<sup>7</sup> See Sections 571-11(1) and 571-2, Hawaii Revised Statutes, where the definition of “status offender” contains more information about “law violators.”



TESTIMONY BY:

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

April 5, 2019  
10:05 a.m.  
State Capitol, Room 211

**H.B. 1383 H.D. 2, S.D. 1  
RELATING TO MARIJUANA.**

Senate Committee on Ways and Means

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The Hawaii Department of Transportation (DOT) **opposes** H.B. 1383 H.D. 2, S.D. 1.

DOT's top priority is keeping Hawaii's roadway users safe and reducing the number of serious injuries and fatalities on our roads. We have concerns regarding the decriminalization of the possession of three grams or less of marijuana as it could result in increases in impaired driving arrests involving marijuana, as well as more injuries and fatalities on our roadways.

Cannabis can impair a driver's cognitive function, affecting a driver's time/space perception, reaction time, ability to concentrate, etc. Contrary to popular belief, marijuana does not make someone a better, more careful driver. According to the "Drug Recognition Expert (DRE) Examination Characteristics of Cannabis Impairment" study published in the July 2016 Accident Analysis & Prevention Journal, an evaluation of 302 toxicologically-confirmed cannabis-only DRE cases saw that in 72.3 percent of cases, one or more moving violations were listed as reasons for the traffic stop. Speeding was the number one violation (27.7 percent), followed by weaving (19.0 percent). Similarly, in a two-year study of THC in drivers in Orange County, California, published in the August 2016 Journal of Forensic Science, the top five moving violations were speeding (24 percent), unable to maintain lane position (23.2 percent), ran red light or stop sign (13.0 percent), unsafe lane change (8.7 percent) and involved in a collision (8.3 percent).

DOT also has concerns that the marijuana evaluation task force does not include representatives from law enforcement, DOT, etc. A thorough examination of "other states' laws, penalties, and outcomes pertaining to marijuana use, other than marijuana use for medical purposes," as this group is tasked to do, should consider all the impacts of marijuana legalization, whether it's on impaired driving, the court system, public safety, youths, crime, the economy, etc.

Thank you for the opportunity to provide testimony.

**LATE**



Hawai'i

Committees: Committee on Ways and Means  
Hearing Date/Time: Friday, April 5, 2019, 10:05 a.m.  
Place: Conference Room 211  
Re: Testimony of the ACLU of Hawai'i in Support of H.B. 1383, H.D. 2, S.D. 1, Relating to Marijuana

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of, with suggested amendments to, H.B. 1383, H.D. 2, S.D. 1**, which would decriminalize possession of 3 grams or less of cannabis and impose a \$30 fine for violations. This measure is a small but important step towards ending Hawaii's participation in the failed war on drugs, and will reduce the targeted enforcement of current cannabis laws. We respectfully request, however, that the threshold amount for a marijuana infraction be raised to *at least* 0.5 oz, and that expungement be automatic for past convictions which would now qualify as marijuana infractions. We believe that these amendments would ensure that this measure has a more meaningful impact in reducing the unnecessary entanglement of many in the criminal justice system.

**H.B. 1383, H.D. 2, S.D. 1 provides a safe and smart alternative to current cannabis laws.**

Our state's ineffective cannabis laws have damaged civil liberties in many ways – eroding protections against searches and seizures, putting large numbers of non-violent individuals behind bars and targeting people of color. Eliminating criminal penalties for certain cannabis offenses will prevent thousands of people from becoming needlessly entangled in the criminal justice system, eliminate many collateral consequences that flow from cannabis arrests, and allow Hawai'i to reinvest the money it saves for important community needs. **However, this impact may be muted without an amendment to increase the threshold for decriminalized possession.**

H.B. 1383, H.D. 2, S.D. 1 takes a small step towards ending Hawaii's participation in the nation's failed War on Drugs, which has cost taxpayers \$1 trillion but has produced little to no effect on the supply of or demand for drugs. The War on Drugs has sent millions of people to prison for low-level offenses and seriously eroded our civil liberties and civil rights while costing taxpayers billions of dollars a year, with nothing to show for it except our status as the world's largest incarcerator. There are 2.2 million people behind bars in this country—around 21 percent of these individuals are locked up for drug-related offenses.



**H.B. 1383, H.D. 2, S.D. 1 will reduce the number of unreasonable arrests for cannabis possession in our already bloated criminal justice system.**

In 2017 alone, there were 627 arrests for cannabis possession in Hawai‘i. Arrest for possession of small amounts of cannabis is one of the most common points of entry into the criminal justice system. Removing criminal penalties for certain cannabis offenses will keep people out of jail, and will eliminate the many collateral consequences that flow from cannabis arrests, thereby reducing the gross number of people entering or otherwise harmed by the criminal justice system. Money currently spent on enforcement could be used for efforts that *actually* increase public safety.

**Decriminalizing certain cannabis-related offenses will reduce targeted enforcement of cannabis laws against communities of color.**

Not all communities have been impacted equally by current enforcement of Hawai‘i’s cannabis laws; men under 25 and people of native Hawaiian descent are arrested in numbers disproportionate to their share of the population.<sup>1</sup>

**H.B. 1383, H.D.2, S.D. 1 would allow for the expungement of criminal records for those previously convicted of cannabis offenses.**

Thousands of people in Hawai‘i have criminal records due to cannabis possession that seriously impact their ability to get a job, receive a loan, or rent/buy a home. H.B. 1383, H.D. 2, S.D. 1 allows for the expungement of criminal records for people who were, prior to the effective date of this legislation, convicted of certain cannabis offenses. This is an important provision of the bill because it alleviates some of the harm caused by the failed War on Drugs. However, this provision would be more effective if expungement were automatic.

**To strengthen this measure and reduce the harmful impact of outdated cannabis laws on the people of Hawai‘i, we respectfully request that this Committee make the following amendments:**

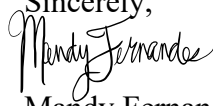
- 1) P. 1, line 10 & 14; P. 2, line 7; p. 6, line 4. Increase the threshold for marijuana infraction from 3 grams to *at least* 0.5 oz, preferably 1oz or greater.
- 2) P. 5, line 19. Provide for the automatic expungement of records for past cannabis possession convictions that would now constitute a violation.

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<sup>1</sup> David Nixon, *Budgetary Implications of Cannabis Decriminalization and Legalization for Hawai‘i*, January 2013 available at [http://acluHawai‘i.files.wordpress.com/2013/01/econreptcannabis1\\_2013.pdf](http://acluHawai‘i.files.wordpress.com/2013/01/econreptcannabis1_2013.pdf).

Chair Dela Cruz and Committee Members  
April 5, 2019  
Page 3 of 3

For the above reasons, we urge the Committee to support this measure. Thank you for the opportunity to testify.

Sincerely,  
  
Mandy Fernandes  
Policy Director  
ACLU of Hawai'i

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i 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 Hawai'i has been serving Hawai'i for 50 years.*

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COALITION FOR A  
**Drug-Free Hawaii**  
Prevention Through Education

April 5, 2019

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

**RE. HB1383 HD2 SD1, RELATING TO MARIJUANA, which**

- Decriminalizes the possession of 3 grams or less of marijuana and establish that the possession is a violation punishable by a monetary fine of \$30.
- Provides for the expungement of criminal records pertaining solely to the possession of 3 grams or less of marijuana.
- Establishes a marijuana evaluation task force to make recommendations on changing marijuana use penalties and outcomes in the State.

**The Coalition for a Drug-Free Hawaii Opposes HB1383 HD2 SD1**

There are many aspects of this bill that are problematic, the first being the last provision of this bill, i.e. the evaluation task force, is to be established in order to make recommendations **AFTER** the legislature intends to take this action on the issue. I humbly recommend that a representative task force be the first item, and no other action taken until said task force recommendations are received and evaluated.

Secondly, while there are compelling social justice arguments, we must first ask whether this policy initiative promotes the health and welfare of our keiki and families. Sixty-two percent of adolescents receiving state funded substance abuse treatment identify marijuana as their primary reason for seeking help. Normalizing marijuana use will only increase exposure and risk factors for youth. Further:

- Children under 17 years of age who smoke marijuana daily are over **60 per cent less likely to complete high school** than those who never smoke weed at all.<sup>i</sup>
- Daily marijuana use was associated with increased odds of psychotic disorder compared with never users, increasing to nearly **five-times** increased odds for daily use of high-potency types of cannabis <sup>ii</sup>
- People diagnosed with cannabis dependence may experience a **loss of up roughly 6 IQ points**<sup>iii</sup>

COALITION FOR A  
**Drug-Free Hawaii**  
Prevention Through Education

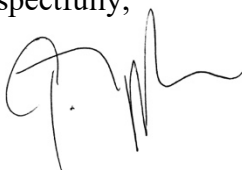
Finally, many provisions of the bill continue to be problematic to those that will be tasked with enforcing this law; namely:

- The Judiciary
- The Attorney General
- Public Safety and Various Police Departments

For these reasons The Coalition for a Drug-Free Hawaii **STRONGLY OPPOSES** HB1383 HD2 SD1.

Thank you for this opportunity to provide testimony on this important issue.

Respectfully,



Greg Tjapkes  
Executive Director

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<sup>i</sup> [https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(14\)70307-4/fulltext](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(14)70307-4/fulltext)

<sup>ii</sup> [https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(19\)30048-3/fulltext](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(19)30048-3/fulltext)

<sup>iii</sup> <https://www.pnas.org/content/109/40/E2657>

**LATE**

**HB-1383-SD-1**

Submitted on: 4/5/2019 9:50:41 AM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii supports HB 1383 HD 2 SD 1.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii

**LATE**

**HB-1383-SD-1**

Submitted on: 4/5/2019 8:51:18 AM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wendy Gibson	Individual	Support	No

Comments:

**LATE**

**HB-1383-SD-1**

Submitted on: 4/5/2019 5:29:42 AM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joan Lander	Individual	Support	No

Comments:

I support this bill but urge that it be amended to allow for a larger amount of possession. If you're going to decriminalize, what should it matter to you or anyone else how much someone possesses? If I have ten bottles of wine in my house, does it make it any different than having one? Please be sensible! Marijuana is a plant put on God's earth for a reason. How can you even claim to say people don't have the right to use a plant? Are you trying to play God?

**LATE**

**HB-1383-SD-1**

Submitted on: 4/5/2019 1:09:41 AM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ann S Freed	Individual	Support	No

Comments:



**LATE**

**HB-1383-SD-1**

Submitted on: 4/4/2019 11:01:53 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard	Individual	Oppose	No

Comments:

Aloha, This bill is a brazen attempt by Senator Karl Rhoades to hijack the future of commerce in Hawai in favor of the dispensary owners. instead of following prgressive models that would bring income to households in Hawaii he would see that Hawaii is enslaved by a few dispensary owners.

The ammendments made to this bill especially in the senate judiciary are rank with power grab by the "task force"

This bill should not pass unless it is ammended so the task force's title, functions and all discussions are subject to the HRS "sunshine laws".

Furthermore, the senate judiciary committe report states, " Your Committees additionally find that recent polling indicates broad public support in Hawaii for the legalization of marijuana." This bill does not legalize Marijuana. HB1383sd1 perpetuates the failed war on cannabis in oppositon to the will of the people of Hawaii. HB1383sd1 also cites progressive and noble work done by other states deceptively. HB1383sd1 has nothing in common with those works and it is misleading to include hawaii's disingenuous attempt to hijack the future of Hawaii's cannabis commerce with that trojan horse. Do not pass this bill. Why does it provide no mention of vaprizers, edibles, and other inhaling devices.This bill has been amended so it no longer serves the people, it harms them. Do not pass this bill along, kill it.

R Eckert

**LATE**

**HB-1383-SD-1**

Submitted on: 4/4/2019 10:27:03 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Frances Tapiz-Andrian	Individual	Support	No

Comments:

Strongly Support measure

**LATE**

**HB-1383-SD-1**

Submitted on: 4/4/2019 10:10:57 PM

Testimony for WAM on 4/5/2019 10:05:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Clark	Individual	Support	No

Comments:

April 1, 2019

HB 1383 RELATING TO MARIJUANA.

**Thank you for allowing my voice to be heard. I STRONGLY SUPPORT the House Bill 1383-legalizing the use of recreational marijuana. My name is Sarah M. Clark and I am a graduate student at the University of Hawaii at Manoa Myron B. Thompson School of Social Work. I have worked for many years in the behavioral mental health field.**

**I believe that the legalization of recreational marijuana would have several benefits. States that have already legalized marijuana show that this is the progressive path of the future. Studies have concluded that these states are saving money and protecting the public through legalization and therefore regulation. First, the criminalization of marijuana disproportionately affects younger individuals and even more so if there are a person of color. With law enforcement budget and resources spread thin, the legalization of marijuana would allow for the police to use their time**

**and efforts to other avenues to ensure public safety. In states in which legalization has occurred, Additionally, there has been a failure in curbing youths' access to marijuana. The notion that the legalization of marijuana would result in an increase in youth usage is incorrect as in usage rates have remained the same in states where legalization has occurred. Second, through the legalization and therefore regulation of marijuana usage, there would be additional economic opportunities by way of job creation and taxation. Lastly, through the regulation of marijuana, a standard would be set that would promote consumer safety as testing of the product could ensure it is noted mixed with other illicit substances. Additionally, this would allow for the consumer to know more about their marijuana.**

Mahalo,

Sarah M. Clark