

Honolulu, Hawaii

MAR 13 , 2020

RE: S.B. No. 2543
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 2543, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL CANNABIS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Prohibit an employer from discriminating against a person in hiring, termination, or any term or condition of employment based on the person's status as a medical cannabis cardholder, under certain conditions;
- (2) Specify that an employer may use a fit for duty test as a risk-based assessment tool for medical cannabis users in potentially dangerous occupations; and
- (3) Specify certain categories of employment that are exempt from the protections of this measure.

Your Committee received testimony in support of this measure from the Department of Public Safety; Hawaii Transportation Association; Big Island Grown Dispensaries; Aloha Green Holdings Inc.; Drug Policy Forum of Hawaii; Hawaii Cannabis Industry Association; Kush Hawaii; Hawaiian Electric Company, Inc.; and two



individuals. Your Committee received testimony in opposition to this measure from the Department of Transportation, Kauai Police Department, Maui Chamber of Commerce, Hawaii Food Industry Association, and Retail Merchants of Hawaii. Your Committee received comments on this measure from the Department of Health, Hawaii Civil Rights Commission, Department of Human Resources of the City and County of Honolulu, Chamber of Commerce Hawaii, and Matson.

Your Committee finds that many states have legalized medical cannabis. However, only a handful of states have policies that in some way address anti-discrimination for medical cannabis patients. This measure addresses the lack of employment protections for those workers who are medical cannabis patients.

Your Committee has amended this measure by:

- (1) Providing that nothing shall abridge any existing right of an employer to send an employee for medical evaluation when the employer has safety concerns about the impairment of the employee;
- (2) Allowing employers to take adverse action or discipline employees who use or possess medical cannabis in the workplace or who are impaired in the workplace;
- (3) Specifying that no employer shall have any liability to an employee who is injured or killed during the performance of the employee's job if the employee's impairment by medical cannabis was the sole contributing factor to the employee's death or injury;
- (4) Changing the effective date to January 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee respectfully requests that should this measure proceed further in the legislative process, there be clarification on the ambiguity regarding what constitutes "fit for duty tests" relating to medical cannabis use in potentially dangerous occupations.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2543, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2543, S.D. 2, H.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



AARON LING JOHANSON, Chair



