



STATE OF HAWAII
DEPARTMENT OF HEALTH
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LATE

**Testimony in OPPOSITION to S.B. 2787 S.D. 1
RELATING TO MEDICAL CANNABIS.**

REPRESENTATIVE JOHN M. MIZUNO, CHAIR
HOUSE COMMITTEE ON HEALTH

Hearing Date: Thursday, March 12, 2020

Room Number: Auditorium

1 **Fiscal Implications:** None identified.

2 **Department Testimony:** The Department respectfully opposes this measure and requests
3 indefinite deferral. While DOH appreciates the intent to improve access for qualifying medical
4 cannabis patients, there is no data to validate that the concern of restricted access would be
5 relieved by this bill and to justify the associated inherent risks. Allowing for a delivery service
6 could: (1) Jeopardize public safety by increasing the potential risk for diversion; (2) Jeopardize
7 patient safety through the potential risk of product mishandling during transportation; (3)
8 Jeopardize patient confidentiality by increasing the risk of identification of status as a qualifying
9 medical cannabis patient; (4) Create the challenge of ensuring delivery to the intended recipient;
10 (5) Create a safety risk for dispensary employees by making them a potential target for theft; and
11 (6) Create a risk of inadvertent violation of state and federal laws prohibiting the possession of
12 controlled substances in proximity to schools, playgrounds, and federal property. Combined,
13 these increase the potential risk of federal and law enforcement intervention into Hawaii's
14 medical cannabis dispensary program to the detriment of Hawaii's qualifying patients.

15 Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

S.B. NO. 2787, S.D. 1, RELATING TO MEDICAL CANNABIS.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH

DATE: Thursday, March 12, 2020

TIME: 9:00 a.m.

LOCATION: State Capitol, Auditorium

TESTIFIER(S): Clare E. Connors, Attorney General, or
Tara K.C.S. Molnar, Deputy Attorney General

Chair Mizuno and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill.

This measure adds two new sections to chapter 329D, Hawaii Revised Statutes (HRS), that would allow the Department of Health to issue: (1) a medical cannabis delivery permit to a qualified medical cannabis dispensary to transport medical cannabis or manufactured cannabis products to a qualifying patient or primary caregiver (page 2, line 6, through page 7, line 12); and (2) a medical cannabis transporter license to a person to transport medical cannabis or manufactured cannabis products to a qualifying patient or primary caregiver (page 7, line 13, through page 8, line 16). The bill also amends section 329D-6, HRS, to require that a dispensary track the delivery of cannabis and manufactured cannabis products by a medical cannabis delivery permittee (page 10, lines 10-12). The measure amends section 329D-12, HRS, to require that a medical cannabis transporter licensee submit to a background check (page 13, lines 10-15).

Comments on section 3, which amends section 329D-6, HRS, to require that a dispensary track the delivery of cannabis and manufactured cannabis products by a medical cannabis delivery permittee (page 10, lines 10-12).

The bill's wording with respect to the tracking of cannabis and manufactured cannabis products by a dispensary raises concerns, because it does not require the

cannabis or manufactured cannabis products being delivered by a medical cannabis transporter licensee to be tracked by the computer software tracking system required in section 329D-6(j), HRS. Tracking is required, however, of the products delivered by a medical cannabis delivery permittee. The lack of tracking for a licensee may result in qualified patients or primary caregivers being able to purchase cannabis or manufactured cannabis products in excess of statutory limits without detection. If the Committee is inclined to move this measure forward, we recommend that the bill include a requirement of tracking cannabis or manufactured cannabis products being delivered by a medical cannabis transporter licensee.

Thank you for the opportunity to share these comments.



DEREK S. K. KAWAKAMI
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TODD G. RAYBUCK
Chief of Police

Testimony of Todd G. Raybuck
Chief of Police
Kaua'i Police Department

Before the
House Committee on Health
March 12, 2020; 9:00 am
Capitol Auditorium

In consideration of
Senate Bill 2787 SD1
Relating to Medical Cannabis

Honorable Chair Mizuno, Honorable Vice Chair Kobayashi and Members of the Committee:

The Kaua'i Police Department is **opposed** to Senate Bill 2787 SD1, which authorizes the Department of Health to issue permits to medical cannabis dispensaries for the delivery of medical cannabis and manufactured cannabis products to qualifying patients or primary caregivers if certain conditions are met and authorizes the Department of Health to issue medical cannabis transporter licenses in specific situations.

The Legislature recognized the potential dangers associated with the production and storage of marijuana and required security measures when the legislature enacted law establishing Medical cannabis dispensaries. Under Hawaii Revised Statutes §329D-7 Medical cannabis dispensary rules, dispensaries are required to have security measures in place such as video monitoring, fencing surrounding the premises, an alarm system and other reasonable security measures to deter and prevent intruders. Senate Bill 2787 SD1 however, has no provisions to ensure the secure and safe delivery of cannabis to qualifying patients and primary caregivers. No security measures are required for delivery personnel. Allowing dispensaries to deliver medical cannabis to qualifying patients and caregivers, without requiring reasonable security measures for transport, will increase opportunity for robberies and other violent crime.



The sale of marijuana is a cash business. Therefore, marijuana delivery drivers are vulnerable to become victims of violent crime due to the type of product they possess and the amount of cash on hand from the proceeds of said transactions. During my tenure with the Las Vegas Metropolitan Police Department (NV) I observed robberies, assaults, and on occasion, homicides associated with marijuana deliveries after Nevada permitted a similar marijuana delivery system. The prevalence of these crimes is not limited to Nevada. An online search reveals violent crimes toward delivery drivers is common place in locales that permit marijuana deliveries.

Further, the Department of Health and law enforcement agencies do not have the resources to monitor and regulate the transportation of medical cannabis to qualifying patients and caregivers. The inability to effectively regulate marijuana delivery services opens the door to unlicensed illegal transport and distribution of cannabis by nefarious delivery personnel and dispensaries that may transport cannabis for unpermitted sales under the guise of permissible transport.

Limited enforcement resources and the potential for a high volume of illegal marijuana delivery services increases the risk of illegal activity and violent crime. During my tenure as the commander of the Las Vegas Metropolitan Police Department's Organized Crime Bureau, I fielded many complaints from licensed marijuana dispensaries regarding the proliferation of illegal marijuana delivery advertisements online. The difficulty to identify persons conducting the illegal delivery services coupled with inadequate enforcement resources resulted in the illegal marijuana delivery services operating with near impunity.

A legal marijuana delivery scheme that enables an illegal marijuana delivery to exist places a consumer at risk of falling victim to violent crime. It is difficult, if not impossible, for customers seeking a marijuana delivery service, particularly from online advertisements, to verify the service is legally licensed. In Nevada, violent criminals and gang members exploited the anonymity of online advertisements using the bogus marijuana delivery service claim to rob customers which also sometimes ended in a homicide.

Lastly, enacting a marijuana delivery scheme is not necessary to allow for the safe delivery of cannabis to patients in Hawaii. The legislature enacted the primary caregiver system allowing for the safe purchase and delivery of marijuana to medical marijuana patients.

For these reasons the Kauai Police Department is **opposed** to Senate Bill 2787 SD1.

Thank you for your time and consideration.



Sincerely,

A handwritten signature in black ink that reads "Todd G. Raybuck". The signature is stylized, with the first letters of each name being prominent and the last name ending in a long horizontal stroke.

Todd G. Raybuck
Chief of Police
Kaua'i Police Department

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SB-2787-SD-1

Submitted on: 3/11/2020 7:33:48 AM

Testimony for HLT on 3/12/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Miles W. Tuttle	Kush Hawai'i	Support	No

Comments:

HAWAI'I CANNABIS INDUSTRY ASSOCIATION

March 12, 2020

TO: Representative John Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair
Members of the House Committee on Health

FR: Blake Oshiro, Esq., On Behalf of the Hawai'i Cannabis Industry Association

RE: **SB2787 SD1 RELATING TO MEDICAL CANNABIS. - SUPPORT**

Authorizes the department of health to issue permits to medical cannabis dispensaries for the delivery of medical cannabis and manufactured product to qualifying patients or primary caregivers if certain conditions are met. Authorizes the department of health to issue medical cannabis transporter licenses in specific situations

The Hawai'i Cannabis Industry Association, formerly known as the Hawai'i Educational Association for Therapeutic Health (HEALTH), represents all eight of the state's licensed medical cannabis dispensaries plus associate members. We submit testimony today in support of **SB2787 SD1**, a needed bill that improves access for patients on all islands.

As the committee is aware, the average age of the state's 27,710 registered medical cannabis patients is 51.8 years old. The Centers for Disease Control (CDC) has identified "older adults with serious chronic medical conditions," as a high risk group for contracting COVID-19. This description fits the vast majority of our patients. While every dispensary is implementing important programs to safeguard patient health we also acknowledge that if world governments are unsuccessful in containing the virus, Hawai'i may experience a serious epidemic. This would necessitate a way for patients to have access to medical cannabis therapy without the risk of infection by others. Delivery would provide such an option. We ask the committee to consider this bill in light of the rapid spread of COVID-19 and its impact on our kūpuna statewide.

Legislation that allows for secure delivery of cannabis product will also expand access to isolated, rural populations by providing a mechanism for dispensaries to either deliver products themselves or subcontract the service to qualified entities. Numerous registered medical cannabis patients live in either geographically isolated areas or cannot access dispensaries on their respective islands for many reasons including lack of transportation. While this need certainly exists for patients living on all islands, the need is more prevalent on the neighbor islands--Hawai'i Island, Maui and Kaua'i where geographical distances and drive times are greatest. Rural areas on each of these islands typically have low population densities that make the opening of a nearby dispensary economically infeasible for licensees.

HAWAI'I CANNABIS INDUSTRY ASSOCIATION

Patients living in these underserved rural areas are also often those with the greatest need for safe and reliable access. Those who are unable to find reliable caregiver services are left with virtually no legal option to obtain cannabis for medical use, so must frequently turn to more readily available black-market options. The recent lung injuries (EVALI) caused by illicit THC vaporizing devices demonstrate the very real health risks of using unregulated products. Mobile delivery services would effectively address the needs of these underserved patients while safeguarding product, patient and public safety.

We understand the concerns shared in the Hawai'i Department of Health's opposing testimony that of the Office of Attorney General and we believe these concerns can be easily mitigated by requiring all orders intended to be delivered to be entered into the state's seed-to-sale inventory tracking software system and by requiring licensees to be responsible for the actions of any sub-contractor should the licensee wish to work in this manner. Furthermore, with GPS programs, it would be simple to ensure drivers remain compliant with all laws related to drug-free zones around schools, etc. Delivery service is a logical next step to ensure widespread patient access to lab-tested, quality assured medical cannabis products.

The association would also like to share legislation from the other states that currently provide a legal framework for delivery programs. SB2787 SD1 references states with regulated cannabis delivery programs as described here:

Arizona

State establishes a set of requirements for the safe distribution of marijuana to eligible patients

SB-1494

- 36-2806: Registered nonprofit medical marijuana dispensaries; requirements; rules; inspections; testing
- Section D: A registered nonprofit medical marijuana dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' designated caregivers.
- <https://www.azleg.gov/legtext/54leg/1r/bills/sb1494p.pdf>

Colorado

HB: 19-1234

Summary: Cannabis delivery permits/regulations

- https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a_1234_rev.pdf

New Mexico

7.34.4.17 - DEPARTMENT-APPROVED COURIERS; GENERAL PROVISIONS:

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- May approve use of a courier for transporting for 1+ licensed non-profit producers
- Different than other states where courier was required to be an employee
- <http://164.64.110.134/parts/title07/07.034.0004.html>

Oregon

First state to allow delivery

OAR_845_025, Division 25: Recreational Marijuana Rules

- 845-025-2800 Retailer Privileges; Prohibitions
 - o Permits delivery of "Bona fide" orders as described by 845-025-2880
- 845-025-2880 Delivery of Marijuana Items by Retailer
 - o Provides specifics to delivery area, procedure, requirements, and limitations
- https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf
- https://www.oregon.gov/olcc/marijuana/Documents/Licensing_Forms/mj_ref_delivery_guide.pdf

California

DIVISION 10. Cannabis, Chapter 9: Delivery

Code section 26090

- (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.
- (b) All employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.
- (c) During delivery, the licensee shall maintain a copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.
- (d) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.
- (e) A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.
- https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=9.&article=

California

DIVISION 10. Cannabis, Chapter 8: Distribution and Transport

Code section 26080

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- (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, cannabis or cannabis products outside the state, unless authorized by federal law.
- (b) A local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with this division.

As with all elements of the Hawai'i medical cannabis dispensary program, the delivery service proposed in SB2787 SD1 would be subject to the strict regulatory oversight of the Department of Health's Office of Medical Cannabis Control and Regulation. As the only island-state in the nation, it is important to acknowledge and mitigate the challenges unique to Hawai'i.

On behalf of the Hawai'i Cannabis Industry Association, thank you for the opportunity to testify in support of SB2787 SD1.



To: Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
Members of the Committee on Health

Fr: Jaclyn L. Moore, Pharm D., CEO Big Island Grown Dispensaries

TESTIMONY IN SUPPORT OF SENATE BILL 2787

RELATING TO MEDICAL CANNABIS.

Provide for a safe, secure, and transparent system for qualifying patients to have medical cannabis and manufactured cannabis products delivered to their homes.

Big Island Grown Dispensaries is one of eight dispensary licensees in the State. We operate a production facility and 3 retail locations on the Big Island of Hawaii. We submit testimony today **in support of SB2787** which seeks to improve access for patients in rural, underserved areas as well as those that suffer from a disability or condition that precludes them from easily gaining access to a dispensary.

In light of what is happening nationally with COVID-19 and confirmed cases here in the State, the safety of all patients is paramount, especially those that are elderly or immunocompromised. February 2020 Med Can stats indicate that 45% of cardholders are 55 years or older. We have a responsibility to serve these patients the best way we can. Current events highlight a need that exists for additional legal infrastructure that facilitates patient access to clean, tested, cannabis medicine.

Hawaii Island's land mass is approximately 4028 square miles compared to Oahu at approximately 597 square miles (Big Island is approximately 7x the size of Oahu). This creates a geographical challenge for Hawaii Island Dispensary Licensee's to properly serve all of Hawaii Island patients effectively. Big Island Grown has maximized the retail locations currently allowed by law with the opening of 3 retail locations in Hilo, Waimea, and Kona this past year-serving the highest density of cardholders on the island. Delivery increases access for patients in areas that are underserved with low density populations, or for patients experiencing difficulty accessing a dispensary due to physical limitations or geographical distance. State licensed dispensaries exist to provide legal infrastructure to patients that choose to consume clean, lab tested cannabis medicine. A framework for delivery extends our ability to serve all Big Island patients.

State medical cannabis license holders currently transport product from location to location, and have been able to demonstrate a level of competency and compliance with the tracking of product during transport.

Thank you,

Jaclyn L. Moore, Pharm.D., CEO Big Island Grown Dispensaries



**X Big Island Grown Waimea
Hawaiian Ethos Waimea**

**Hawaiian Ethos Kona X
Big Island Grown Kona X**

X Big Island Grown Hilo

Honolulu

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TESTIMONY IN SUPPORT OF SB 2787, SD 1

TO: Chair Mizuno, Vice Chair Chang & House Health Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: March 12, 2020 (9:00 AM)

Drug Policy Forum of Hawai'i (DPFH) supports SB 2787, SD 1, which provides for "a safe, secure, and transparent system" for patients and caregivers to obtain home delivery of cannabis flower and cannabis products.

DPFH actively participated in the Act 230 (2016) Medical Cannabis Legislative Oversight Working Group, which addressed, among other concerns, the issue of insurance reimbursement. DPFH was also instrumental in the passage of Act 228 (2000), authorizing the acquisition, possession, and use of medical cannabis, and Act 241 (2015), authorizing the establishment and regulation of medical cannabis dispensaries.

It is deeply encouraging that this bill provides for economic participation outside of a vertically integrated structure by allowing the issuance of medical cannabis transporter licenses to a person instead of a dispensary.

Continued vertical integration inhibits the variety and availability of products, to the detriment of consumers and those persons who could be otherwise employed in Hawai'i's emerging cannabis economy.

Thank you for the opportunity to testify on this measure.