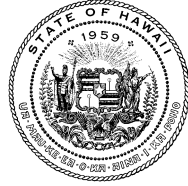


DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Jarrett Keohokalole, Chair;
The Honorable Rosalyn H. Baker, Vice Chair;
and Members of the Senate Committee on Health

The Honorable Rosalyn H. Baker, Chair;
The Honorable Stanley Chang, Vice Chair;
and Members of the Senate Committee on Commerce and Consumer Protection

From: Isaac W. Choy, Director
Department of Taxation

Date: February 16, 2021

Time: 9:00 A.M.

Place: Via Video Conference, State Capitol

Re: S.B. 1372, Relating to Medical Cannabis

The Department of Taxation (Department) offers the following comments regarding S.B. 1372, for your consideration.

S.B. 1372 proposes to create and issue eight cannabis cultivation licenses under Hawaii Revised Statutes (HRS) chapter 329D. The new licensees would be limited to cultivation of cannabis and sale to current medical cannabis dispensaries.

First, the Department notes that Internal Revenue Code (IRC) section 280E, which denies deductions and other tax benefits to taxpayers selling illegal drugs, is applicable for Hawaii income tax purposes but with an exception for medical cannabis dispensaries. This exception allows medical cannabis dispensaries to pay Hawaii taxes just like other Hawaii businesses. However, that exception may be too narrow to cover the licensees proposed by this measure.

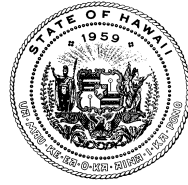
If the Committee intends for the cultivation centers to be treated as the medical cannabis dispensaries are currently treated, the Department recommends amending HRS section 235-2.4(v) to read as follows:

(v) Section 280E (with respect to expenditures in connection with the illegal sale of drugs) of the Internal

Revenue Code shall be operative for the purposes of this chapter, except that section 280E shall not be operative with respect to the production and sale of medical cannabis and manufactured cannabis products by dispensaries or cultivation facilities licensed under chapter 329D and their subcontractors, as defined in chapter 329D.

Finally, the Department is willing and able to collect taxes from the proposed cultivation centers. However, the Department notes that cultivation centers, like the current medical cannabis dispensaries, will not be able to obtain banking services. Thus, they must pay their tax liabilities in cash. For the eight current medical cannabis dispensaries, this cash payment imposes a heavy administrative burden on the Department. Doubling the number of licensees will double that burden. The Department requests the Legislature explore solutions to this issue before expanding the scope and number of cannabis establishments.

Thank you for the opportunity to provide 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. 1372
RELATING TO MEDICAL CANNABIS.

SENATOR JARRETT KEOHOKALOOLE, CHAIR
SENATE COMMITTEE ON HEALTH

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: Tuesday, February 16, 2021

Room Number: Video Conf.

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's appropriations and personnel
3 priorities. Requiring the department to issue eight cultivation licenses in addition to the current
4 dispensary licenses will require a minimum of two (2) additional Surveyors and one (1)
5 additional Office Assistant, and supplemental mileage and interisland travel at an estimated cost
6 of \$295,000, to maintain regulatory oversight to ensure patient, product, and public safety.

7 **Department Testimony:** S.B. 1372 amends Chapter 329D, HRS, to require DOH to issue eight
8 (8) cultivation licenses and to allow these licensees to operation cultivation facilities to plant,
9 cultivate, grow, and harvest cannabis. However, the Department of Health (DOH) is unclear as
10 to how these licenses would work within the existing medical cannabis dispensary licensing
11 scheme and what the intended destination is for the output from these cultivation facilities. The
12 existing eight (8) medical cannabis dispensary licensees are each allotted two (2) production
13 centers for the purpose of cultivation, including planting, growing, and harvesting, as well as

1 manufacturing, and packaging. It is DOH's understanding that the medical cannabis dispensary
2 licensees may only manufacture and dispense cannabis material that they cultivate. Therefore,
3 the proposed cultivation licensees would not be able to sell or transfer their cannabis output to
4 the medical cannabis dispensary licensees. Any amendments to allow cultivation licensees to
5 sell or transfer their cannabis output to dispensary licensees would seem to be a departure from
6 the strict vertical system that the legislature established in 2015.

7 Should this measure move forward, DOH would require additional personnel and
8 operational costs to establish and implement these additional licenses and provide regulatory
9 oversight.

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



To: Senator Roz Baker, Chair of the Committee on Commerce and Consumer Protection and Vice-Chair of the Committee on Health

Senator Jarrett Keohokalole, Chair of the Committee on Health

Senator Stanley Chang, Vice-Chair on the Committee on Commerce and Consumer Protection.

Members of the Senate Committee on Health and Commerce and Consumer Protection

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

Re: Testimony offering **Comments on Senate Bill (SB) 1372**

RELATING TO MEDICAL CANNABIS

Creates a cultivation facility license which allows cultivators to grow cannabis for sale to licensed dispensaries. Establishes requirements for license application and qualifications for license holders.

Dear Chairs Baker and Keohokalole and Vice-Chair Chang, and Members of the Committee:

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. Our medical cannabis operation currently employs 60+ Big Island residents. We submit testimony offering **COMMENTS on SB 1372**.

Big Island Grown supports the intent of this bill provided the medical program expands with delivery, wholesale, and increased retail locations as requested in HB477/SB1332, and HB667. As it stands now, Big Island Grown Dispensaries currently supplies greater than 20% of total cannabis weight in the State across all product categories sold in the dispensary system using only 25% of our allotted production capability (50% of one production facility in operations). This means we are able to scale up to a 4x minimum to meet demand within the current medical program.

When the program expands to ensure the viability of these additional cultivation licenses, Big Island Grown supports the intent behind opening the program through **attainable licensing** that would allow local residents, and families to participate in the program through cultivation licensing. **Attainable cultivation licenses would provide positive social and economic impact across the State within communities that have been cultivating cannabis for multi generations.**

Thank you for the opportunity to testify.

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

Lau Ola LLC, dba Big Island Grown Dispensaries
HILO WAIMEA KONA



To: Senator Roz Baker, Chair of the Committee on Commerce and Consumer Protection and Vice-Chair of the Committee on Health

Senator Jarrett Keohokalole, Chair of the Committee on Health

Senator Stanley Chang, Vice-Chair on the Committee on Commerce and Consumer Protection.

Members of the Senate Committee on Health and Commerce and Consumer Protection

Fr: Casey Rothstein, Green Aloha Ltd. President, COO

Re: Testimony offering **Comments** on **Senate Bill (SB) 1372**

RELATING TO MEDICAL CANNABIS

Creates a cultivation facility license which allows cultivators to grow cannabis for sale to licensed dispensaries. Establishes requirements for license application and qualifications for license holders.

Dear Chairs Baker and Keohokalole and Vice-Chair Chang, and Members of the Committee:

Green Aloha, the Kauai Dispensary License supports the intent of this measure but is offering **comments** at this time.

Green Aloha supports the intent of creating cultivation licenses in Hawai'i's legal medical program but have some concerns regarding the current language in the bill.

The main concern Green Aloha has is that the current language in SB 1372 sets up cultivation licencing requirements that would be **unattainable for the local grower or resident in Hawai'i**. Green Aloha would like to see "attainable licenses" for local residents to encourage the maximum growth of the industry on these islands to local residents. Green Aloha is concerned that this bill presents barriers of entry such as a financial asset requirement of \$500,000 per applicant, a plant count of up to 5,000, and a small amount (8) of licenses. From experience, we can tell you that the cost and time associated with permitting and setting up a production center of this size is a very large barrier to entry and could be years before they attain market viability.

The industry, the local economy, and local residents would benefit more from a licensing structure that allowed more lower plant count licenses (such as 500, 1000, 2500, and only a few 5000 plant count) and lowering the barriers of entry according to the plant count size of the license.



What Green Aloha would like to prevent from happening is large corporate cannabis companies coming in from the continental United States and securing these licenses while leaving out deserving local Hawai'i residents. In this scenario, profits would be taken off island and only low paying jobs would stay local.

Green Aloha would support this bill if language was amended that would set up an expanded horizontal licensing structure that paved the way for attainable licenses for local Hawai'i residents. This would generate a lot of entrepreneurship, local ownership, and great paying jobs in our communities.

Green Aloha and myself are willing to help with discussions on how we can create a licensing structure that has "attainable licenses" as we have experts from cannabis industries locally and nationally.

Mahalo for the opportunity to testify.



To: Senator Roz Baker, Chair of the Committee on Commerce and Consumer Protection and Vice-Chair of the Committee on Health

Senator Jarrett Keohokalole, Chair of the Committee on Health

Senator Stanley Chang, Vice-Chair on the Committee on Commerce and Consumer Protection.

Members of the Senate Committee on Health and Commerce and Consumer Protection

Fr: Randy Gonce, Executive Director of the Hawai'i Cannabis Industry Association

Re: Testimony offering **Comments** on **Senate Bill (SB) 1372**

RELATING TO MEDICAL CANNABIS

Creates a cultivation facility license which allows cultivators to grow cannabis for sale to licensed dispensaries. Establishes requirements for license application and qualifications for license holders.

Dear Chairs Baker and Keohokalole and Vice-Chair Chang, and Members of the Committee:

HICIA supports the intent of this measure but is offering **comments** at this time.

HICIA supports the intent of creating cultivation licenses in Hawai'i's legal medical program but has some concerns regarding the current language in the bill.

The main concern HICIA has is that the current language in SB 1372 sets up cultivation licencing requirements that would be **unattainable for the local grower or resident in Hawai'i**. HICIA would like to see "attainable licenses" for local residents to encourage the maximum growth of the industry on these islands to local residents. HICIA is concerned that this bill presents barriers of entry such as a financial asset requirement of \$500,000 per applicant, a plant count of up to 5,000, and a small amount (8) of licenses.

The industry, the local economy, and local residents would benefit more from a licensing structure that allowed more lower plant count licenses (i.e. 500, 1000, 2500, and only a few 5000 plant count) and lowering the barriers of entry according to the plant count size of the license.



HICIA would support this bill if language was amended that would set up an expanded horizontal licensing structure that paved the way for attainable licenses for local Hawai'i residents. This would generate a lot of local entrepreneurship, local ownership, and great paying jobs in our communities.

HICIA is willing and available to help with discussions on how we can create a licensing structure that has "attainable licenses" as we have experts from cannabis industries locally and nationally.

Mahalo for the opportunity to testify.



Akamai Cannabis Clinic
3615 Harding Ave, Suite 304
Honolulu, HI 96816

TESTIMONY ON SENATE BILL 1372
RELATING TO MEDICAL CANNABIS
By
Clifton Otto, MD

Senate Committee on Health
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Tuesday, February 16, 2021; 9:00 AM
State Capitol, Room 229 & Videoconference

Thank you for the opportunity to provide COMMENTS on this measure.

This bill would essentially create a new Cultivation Program by way of specifically licensing the cultivation of cannabis for medical purposes under state authorization.

I appreciate the intent of this bill, which appears to be to bring us closer to the kind of horizontal production model that was originally envisioned for Hawaii's dispensary program. However, such intent could be more effectively fulfilled by bringing application and renewal fees down to a level that would encourage local small business participation. In addition, the number of licensees could be based upon merit, as is currently being done for state hemp licenses, rather than by some arbitrary limit.

Furthermore, a cultivation facility could also serve as a kind of regulated patient collective, if cultivation licensees could sell directly to a limited number of patients.

However, there should be no expansion to Hawaii's Medical Cannabis Program without addressing the ongoing conflict with the federal regulation of marijuana at the same time, especially with the interisland sample transport for testing purposes that will inevitably be required of cultivation facilities.

Therefore, I respectfully recommend that the following amendment be made to the existing definition of interisland transportation:

§329-122 Medical use of cannabis; conditions of use.

For purposes of interisland transportation, "transport" of cannabis, usable cannabis, or any manufactured cannabis product, by any means is allowable only between a production center or retail dispensing location and a certified laboratory for the sole purpose of laboratory testing pursuant to section 329D-8, as permitted under section 329D-6(m) and subject to section 329D-6(j), and with the understanding that Part IX of chapter 329, Hawaii Revised Statutes, and chapter 329D, Hawaii Revised Statutes, create an exemption from federal drug laws and do not create any positive conflict pursuant to title 21 United States Code Annotated section 903; and that the federal scheduling of marijuana does not apply to the state authorized use of cannabis [~~state law and its protections do not apply outside of the jurisdictional limits of the State~~]. Allowable transport pursuant to this section does not include interisland transportation by any means or for any purpose between a qualified patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and any other entity or individual, including an individual who is a qualified patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient.

Written Testimony on SB1372
February 16, 2021
Page 3

In addition, in order to ensure effective regulatory oversight of the existing patient registry and dispensary programs, as well as a new cultivation program, the Office of Medical Cannabis Control and Regulation needs to be moved to the Environment Health Administration within the Department of Health, which has the necessary experience and capabilities to properly regulate these programs.

This could be accomplished with the following amendment:

“§329D-2.5 Office of medical cannabis control and regulation; established; duties. (a) There is established within the department the office of medical cannabis control and regulation, which shall report to the deputy director of environmental health administration effective September 1, 2021 [~~health resources administration~~].

Thank you for considering these important changes.

Aloha.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 1372, RELATING TO MEDICAL CANNABIS.

BEFORE THE:

SENATE COMMITTEES ON HEALTH AND ON
COMMERCE AND CONSUMER PROTECTION

DATE: Tuesday, February 16, 2021 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 229, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Tara K.C.S. Molnar,
Deputy Attorney General, at 587-3050)

Chairs Keohokalole and Baker and Members of the Committees:

The Department of the Attorney General offers the following comments.

The measure makes various amendments to chapter 329D, Hawaii Revised Statutes (HRS), two of which we address here. The bill would amend section 329D-1, HRS, to add "cultivation facility" as a defined term (page 9, lines 14-17). The measure would also add two new sections to chapter 329D to allow the Department of Health to grant eight cultivation facility licenses statewide that would enable a licensee to plant, cultivate, grow, and harvest cannabis (page 1, line 5, through page 9, line 10).

The measure's wording with respect to cultivation facility licenses (page 1, line 5, through page 9, line 10) may cause confusion, because it is silent as to whom these licensees would be allowed to sell their harvested cannabis. While the bill would allow cultivation facility licensees to plant, cultivate, grow, and harvest cannabis to sell their product on a wholesale basis (page 1, lines 9-11; page 2, line 17), it does not specify to whom they may sell. If the Legislature's intent is to limit cultivation facility licensee sales to sales to licensed cannabis dispensaries, it would be helpful to specify this limitation.

The measure also raises concerns because it does not require cultivation facilities to use the tracking system required of other dispensary licensees. While the measure requires cultivation facility licensees to "track the cannabis it cultivates from seed to immature plant to wholesale purchase" (page 2, lines 15-17), it does not specify

how this is to be accomplished. In particular, it does not require these licensees to maintain a software tracking system that interfaces with the Department of Health's tracking system, mandated of dispensary licensees in section 329D-6(k), HRS. If the Committees are inclined to move this measure forward, we suggest that the Committees include wording that would require cultivation facility licensees to maintain a tracking system that interfaces with the Department of Health's tracking system so as to prevent, and allow detection of, diversion of cannabis from cultivation facilities.

Lastly, the measure raises concerns because it does not require cultivation facility licensees to test the cannabis that they harvest prior to wholesale sale. Whether the intent is to require a cultivation facility licensee to test its cannabis prior to wholesale sale or to require a dispensary licensee to test cannabis that it purchases wholesale from a cultivation facility licensee prior to dispensing, we believe it would help regulators, dispensary licensees, and cultivation facility licensees if this were clarified.

Thank you for the opportunity to provide comments.

SB-1372

Submitted on: 2/11/2021 12:03:56 PM

Testimony for HTH on 2/16/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Goljuch, Sr.	Individual	Support	No

Comments:

Please pass SB1372.