

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

ON THE FOLLOWING MEASURE:

S.B. NO. 241, RELATING TO MEDICAL CANNABIS.

BEFORE THE:

SENATE COMMITTEES ON HEALTH AND ON TRANSPORTATION

DATE: Wednesday, February 3, 2021 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Via Videoconference

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

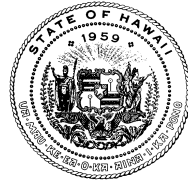
Chairs Keohokalole and Lee, and Members of the Committees:

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

This measure would amend section 329-122, Hawaii Revised Statutes (HRS), to allow interisland transport of cannabis, usable cannabis, or any manufactured cannabis product by a qualifying patient or qualifying out-of-state patient for the patient's personal medical use (page 3, lines 10-12).

The measure's wording with respect to the interisland transport of cannabis, usable cannabis, or any manufactured cannabis product by a qualifying patient or a qualifying out-of-state patient for the patient's personal medical use (page 3, lines 8-12) raises a concern because it involves the transport of cannabis outside of state jurisdiction and in federal jurisdiction, i.e. within the jurisdiction of the Federal Aviation Administration or within navigable waters of the United States. There is no exception for medical cannabis under federal law. It is a violation of federal law to possess, grow, distribute or use marijuana. Certain protections and defenses may be available on land and within the boundaries of Hawaiian waters. However, chapters 261 and 329, HRS, do not provide protection from federal laws within exclusive federal jurisdiction.

Thank you for the opportunity to provide comments.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
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Testimony COMMENTING on SB 241
RELATING TO MEDICAL CANNABIS

SENATOR JARRETT KEOHOKALOOLE, CHAIR
SENATE COMMITTEE ON HEALTH

SENATOR CHRIS LEE, CHAIR
SENATE COMMITTEE ON TRANSPORTATION

Hearing Date: 2/3/2021

Room Number: Videoconference

1 **Fiscal Implications:** None.

2 **Department Testimony:** The department respectfully provides comments on S.B. 241. The
3 purpose of this bill is to protect the rights of qualifying patients to use medical cannabis by
4 explicitly authorizing the interisland transportation of cannabis for personal medical use.

5

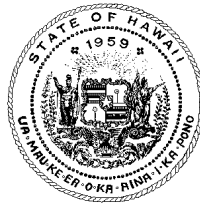
6 This bill seeks to allow a qualifying patient or qualifying out-of-state patient to transport medical
7 cannabis between islands for personal medical use. The department supports access to medical
8 cannabis and protections for patients registered with the Medical Cannabis Patient Registry
9 Program, and defers to the Office of the Attorney General and the Narcotics Enforcement
10 Division for issues where federal law enforcement may have jurisdiction.

11

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

13

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 241
RELATING TO MEDICAL CANNABIS.

By

Max N. Otani, Director

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

Senate Committee on Transportation
Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair

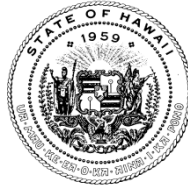
Wednesday, February 3, 2021; 1:00 p.m.
Via Video Conference

Chairs Keohokalole and Lee, Vice Chairs Baker and Inouye, and Members of the Committees:

The Department of Public Safety (PSD) offers comments on Senate Bill (SB) 241, which authorizes qualifying patients and qualifying out-of-state patients to transport cannabis between islands of the State for personal medical use.

PSD is concerned because interisland travel through our State's airports will involve passage through many federal Transportation Security Administration (TSA) checkpoints. Those TSA checkpoints are federal enclaves where Hawaii's medical cannabis laws do not apply. Under federal law, the possession and transportation of marijuana, including medical cannabis is not legal. This proposal may have the unintended consequence of exposing those traveling with state-authorized medical cannabis to federal prosecution.

Thank you for the opportunity to provide this testimony.



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

February 3, 2021
1:00 p.m.
State Capitol, Via Videoconference

S.B. 241
RELATING TO MEDICAL CANNABIS

Senate Committee(s) on Health & Transportation

The Department of Transportation (DOT) offers **comments** on this bill which authorizes qualifying patients or qualifying out-of-state patients to transport medical cannabis between islands for their personal medical use and directs the DOT to adopt rules pursuant to Chapter 91.

The DOT does not have jurisdiction nor the expertise to adopt rules on these matters. Possession of marijuana and cannabis infused products, such as Cannabidiol oil, is illegal under federal law. Transportation Security Administration (TSA) officers are required to report any suspected violations of law, including possession of marijuana and cannabis infused products.

In the event a substance that appears to be marijuana or a cannabis infused product is observed during security screening, TSA will refer the matter to a law enforcement officer.

Thank you for the opportunity to provide testimony.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair

Senator Rosalyn Baker, Vice Chair

COMMITTEE ON TRANSPORTATION

Senator Chris Lee, Chair

Senator Lorraine Inouye, Vice Chair

Wednesday, February 3, 2021

1:00 PM

STRONG SUPPORT FOR SB 241 – Interisland Transport of Cannabis

Aloha Chairs Kaohokalole and Lee, Vice Chairs Baker and Inouye and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the more than 4,100 Hawai`i individuals living behind bars or under the “care and custody” of the Department of Public Safety on any given day. We are always mindful that 1,000 of Hawai`i’s imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons is in strong support of this public health equity measure that protects the rights of qualifying patients to use medical cannabis by specifically authorizing the interisland transportation of cannabis for personal medical use.

Currently, the licensed dispensaries are on Oahu, Hawai`i Island, Maui, and Kaua`i leaving patients on Moloka`i, Lana`i, and Ni`ihau with no access to legal medical cannabis where there are no licenses dispensaries.

We respectfully ask that the committees support Hawai`i patients struggling with a myriad of illness by passing this public health measure.

Mahalo for this opportunity to testify.

SB-241

Submitted on: 1/29/2021 4:28:18 PM

Testimony for HTH on 2/3/2021 1:00:00 PM

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

Comments:

I strongly support SB 241 allowing individuals to transport their medical cannabis between the State of Hawaii islands.

Mike Golojuch, Sr.

SB-241

Submitted on: 1/31/2021 10:32:36 PM

Testimony for HTH on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

Aloha Chairs Kaohokalole and Lee, Vice Chairs Baker and Inouye and Members of the Committees,

I am writing in support of SB241 which protects the rights of qualifying patients by allowing the interisland transport of medical cannabis for person medical use.

SB241 is especially essential for patients who live on islands that do not have licensed dispensaries and therefore have no access to legal medical cannabis. Passage of SB241 would enable these patients to obtain the relief they seek for their illnesses. Please pass SB241.

Mahalo for your consideration.

Diana Bethel, Honolulu

SB-241

Submitted on: 2/1/2021 11:18:00 AM

Testimony for HTH on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Smith	Individual	Support	No

Comments:

This would inhibit the transportation and transactions between the certified companies to conduct business in the State of Hawaii. Please do not allow this stringent bill restricting the transportation of cannabis for personal use. It is much more safe to have a courier who can be held accountable then shipping the contents where liability is handed off. This is ONLY for the ACCOUNTABILITY and recording of anyone who chooses to travel with cannabis through our airports. Transportation Security Administration officers are the subject matter experts when it comes to these situations and I would highly suggest heeding the advice to the specific changes and how the application can affect enforcement and also the economic revitalization of authorized merchants of cannabis.

SB-241

Submitted on: 2/1/2021 1:24:48 PM

Testimony for HTH on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

I strongly support SB241 because this is a public health equity measure that protects the rights of **all** qualifying patients to use medical cannabis by specifically authorizing the interisland transportation of cannabis for personal medical use. Patients on Moloka`i, Lana`i, and Ni`ihau have no licensed dispensaries and therefore no access to legal medical cannabis. Please pass this bill to support **all** of Hawaii's people struggling with illnesses that medical cannabis is prescribed to treat.

SB-241

Submitted on: 2/2/2021 9:49:55 AM

Testimony for HTH on 2/3/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Guidone	Individual	Support	No

Comments:

Bodily autonomy and informed consent should be protected for all people.



Akamai Cannabis Clinic

3615 Harding Ave, Suite 304
Honolulu, HI 96816

TESTIMONY ON SENATE BILL 241
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 Transportation
Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair

Wednesday, February 3, 2021; 1:00 PM
State Capitol, Videoconference

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

[SB241](#) addresses the need of patients to travel between islands with their state authorized cannabis medicine.

Those who are familiar with the process that patients go through to arrive at a form of medical cannabis that works best in their individual case know that patients cannot be expected to go to a dispensary on some other island and be able to find a medical cannabis product that will be effective for them. This is especially true for patients who produce their own cannabis medicine, which is a growing number of patients due to high dispensary prices, constantly changing product selection, and questionable safety.

The Legislature addressed this issue during the 2019 Regular Session when it transmitted [HB290 CD1](#) to the Governor's desk, only to receive a veto with the reasoning that the inter-island transport of medical cannabis by patients violates federal law. This was a perplexing decision given that state law already authorizes dispensaries to transport cannabis samples between islands for testing purposes, and that [14 CFR 91.19](#) exempts the carriage of cannabis aboard aircraft from federal transport restrictions if authorized under state law.

Testimony on SB241
February 3, 2021
Page 2

Some would also argue that the current wording of [HRS 329-122\(f\)](#) already authorizes patients to transport medical cannabis between islands as long as it is not for the purpose of transferring to another patient.

In addition, even if this bill makes it all the way to the Governor's desk, and somehow becomes law this time around, there is still the danger that TSA and local airport law enforcement will be unwilling to cooperate as long as the conflict with the federal regulation of marijuana remains.

We are seeing the same problem right now with the inter-island transport of locally produced hemp for testing purposes, even though hemp has been removed from the federal Controlled Substances Act. This is due to confusion over distinguishing hemp from cannabis, and the misconception that Hawaii's Medical Cannabis Program violates federal law.

Clearly something needs to be done about the current conflict with the federal regulation of marijuana. The State needs to come up with a solution that it can act upon, such as the solution proposed by [SB147](#) and [SB669](#). Waiting for the federal government to fix a problem that the state created when it authorized the use of cannabis for medical purposes in Hawaii will only weaken the State's authority in the future to decide how controlled substances are used within the state.

I support this bill and recommend that the matter of resolving the current federal conflict be addressed at the same time.

Aloha.



To: Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair
Members of the Committee on Health

Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair
Members of the Committee on Transportation

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

TESTIMONY IN SUPPORT OF SB241

RELATING TO MEDICAL CANNABIS.

Dear Chair Keohokalole, Vice-Chair Baker, Chair Lee, Vice-Chair Inouye, and Members of the Committees on Health and Transportation:

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 SB241** which authorizes qualifying patients and qualifying out of state patients to transport cannabis between islands of the State for personal use.

Big Island Grown Dispensaries has provided, and continues to provide cannabis medicine to Big Island patients as well as patients that reside on other islands. Patients that choose to fly to Big Island to purchase clean, lab tested, high quality cannabis medicine from our dispensaries should be able to freely travel, as they would with any other medicine, within the State without fear of confiscation or committing a crime. Furthermore, some of our Big Island patients actively seek treatment on Oahu for various health conditions. The inability to legally travel inter-island with their cannabis medicine while receiving medical care on other islands can be disruptive to their treatment, and progress.

Inter-island transport of cannabis for personal use should be a basic right of a qualifying patient.

Thank you for the opportunity to testify on this measure.

Jaclyn L. Moore, Pharm.D.

CEO Big Island Grown Dispensaries

SB-241

Submitted on: 2/2/2021 1:02:45 PM

Testimony for HTH on 2/3/2021 1:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
DeVaughn	Testifying for Marijuana Policy Project	Support	No

Comments:

Testimony Concerning SB 241 – An Act Relating to Medical Cannabi

Thank you Committee Chairs Sen. Keohokalole and Sen. Lee, Vice Chairs Sen. Baker and Sen. Inouye, and members of both committees for the opportunity to testify on SB 241 – An Act Relating to Medical Cannabis

My name is DeVaughn Ward, and I am senior legislative counsel at the Marijuana Policy Project, the largest marijuana policy reform organization in the United States.

As you know, medical marijuana has been legal in Hawaii since 2000. However, it wasn't until 2017 that the first legal dispensary sale occurred in Hawaii. The following year, lawmakers created a reciprocity license for qualifying out of state medical cannabis patients.

MPP strongly supports SB 241 which would allow out of state patients to travel interisland with their medication. By explicating permitting out of state patients to travel with their medication, the risk of arrest or prosecution for accessing medication would be greatly reduced. As you may be aware, cannabis enforcement disproportionately impacts people of color. SB 241 would also provide parity for medical cannabis and other pharmaceutical products.

In sum, SB 241 is a welcomed amendment to Hawaii's medical program and MPP strongly supports the provisions of the bill.

Sincerely,

DeVaughn L. Ward, Esq.

Senior Legislative Counsel

Marijuana Policy Project

dward@mpp.org

(203) 646-2380



To: Senator Jarrett Keohokalole, Chair
Senator Rosalyn Baker, Vice-Chair
Senator Chris Lee, Chair
Senator Lorraine Inouye, Vice-Chair
Member of the Joint Committee on Health and Transportation

Fr: Blake Oshiro, Esq. on behalf of the HICIA Hawai`i Cannabis Industry Association

Re: Testimony in **Support of Senate Bill (SB) 241**
RELATING TO MEDICAL CANNABIS
Authorizes qualifying patients and qualifying out-of-state patients to transport cannabis between islands of the State for personal medical use.

Dear Chairs Keohokalole and Lee, Vice-Chairs Baker and Inouye, Members of the Joint Committee:

The Hawai`i Cannabis Industry Association, formerly known as the Hawai`i Educational Association for Therapeutic Health, represents all eight of the state's licensed medical cannabis dispensaries. HICIA **supports** HB836 which would authorize interisland transport of medical cannabis by patients and out-of-state patients.

We recognize that most such transport would be regulated under federal law and so to the extent that this governs, we understand that this bill would have limited effect.

However, our research has indicated that the federal law on whether transport can occur **INTRA**-state appears to be uncertain. See the following article in the Boston Globe. <https://www.bostonglobe.com/business/2017/10/25/state-eyes-flight-rule-ship-marijuana-islands/WDMRa9NnyyIZ5Z301Oc0AK/story.html>

We believe that there remains a legal basis that MAY permit transport and there is also some indication that a state law authorizing such transport is necessary in order for this permitted transportation to occur. The 1972 Federal Aviation Administration (FAA) rule that bans pilots from operating aircraft with illegal substances on board specifies that it “does not apply to any . . . marihuana, . . . authorized by or under any Federal or State statute or by any Federal or State agency.”¹

¹ Title 14: Aeronautics and Space
PART 91—GENERAL OPERATING AND FLIGHT RULES
Subpart A—General



Thus, the adoption of this language into law would provide some necessary protection and clarification on the state's position, and some further support for dispensaries to be able to transport medical cannabis under these limited circumstances.

Therefore, we support this bill.

§91.19 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) Except as provided in paragraph (b) of this SECTION, no person may operate a civil aircraft within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

(b) Paragraph (a) of this SECTION does not apply to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances authorized by or under any Federal or State statute or by any Federal or State agency.

Hawai'i Cannabis Industry Association (HICIA)
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www.808hcia.com