



Office of the Public Defender State of Hawaii



Testimony of the Office of the Public Defender, State of Hawaii to the Senate Committee on Public Safety, Intergovernmental and Military Affairs

February 16, 2021

S.B. No. 758: RELATING TO MARIJUANA

Chair: Sen. Clarence K. Nishihara, Vice Chair: Sen. J. Kalani English and
Members of the Committee:

The Office of the Public Defender supports S.B. 758. This bill seeks to amend HRS section 706-622.5 by increasing the amount of marijuana from three grams to one ounce that a person can possess to qualify for expungement procedures from a prior conviction, or to be adjudged guilty of a violation instead of a petty misdemeanor. This bill recognizes the current attitude of the community towards marijuana based upon modern experience and science. This bill will not endanger our community or the public safety. This bill, as well as, the current language of HRS section 706-622.5 does not endorse or encourage the use of marijuana, but seeks to remove the label of “criminal” from the simple possession of a small amount of marijuana.

Furthermore, this bill will allow for offices like the OPD and others involved in the criminal justice system to utilize precious resources for matters our community deems more serious and worthy of greater attention.

Thank you for the opportunity to comment on S.B. 758



SB758
RELATING TO MARIJUANA

Ke Kōmike ‘Aha Kenekoa o ka Palekana Lehulehu, ka Pilina O Nā Aupuni, a me ke Kuleana
Pū‘ali Koa

Pepeluai 16, 2021

1:00 p.m.

Hālāwai Keleka‘a‘ike

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB758, which increases the minimum amount of marijuana a person must possess to be considered liable for promoting a detrimental drug, and the maximum amount a person can be found guilty of possessing to qualify for expungement. **This measure would mitigate the disproportionate impacts of the criminal justice system on Native Hawaiians, while reducing the criminal justice resources – including those necessary to impose lengthy prison sentences – that would otherwise be needed to punish non-violent drug offenses.**

The War on Drugs and decades of a traditional, Western criminal justice approach have led to the highest prison population in Hawai‘i’s history. Alarming, between 1977 and 2016, the number of people incarcerated in Hawai‘i has increased by 670%.¹ The Native Hawaiian community has been particularly impacted by this increase, making up nearly 37% of our prison population today.² Drug criminalization policies may have contributed significantly to this latter impact: in its 2010 report on the disparate treatment of Native Hawaiians in the criminal justice system, OHA identified drug-related offenses as a critical source of Native Hawaiians’ uniquely and acutely disproportionate conviction rates and lengths of imprisonment.³

In light of the disproportionate impacts of the criminal justice system on the Native Hawaiian community, OHA has long advocated for reform approaches that examine and implement criminal justice policy alternatives that can improve public safety, effectively rehabilitate pa‘ahao, reduce recidivism, and save taxpayer dollars. OHA believes that the proposed reduction of criminal liability for the mere possession of very small amounts of certain “detrimental drugs” – in this case marijuana – from a misdemeanor punishable by a year in prison, to a petty misdemeanor that could be dispensed with diversion, probation, or a jail sentence of up to 30 days, is a step in the right direction. **This measure will reduce prison overcrowding, save state resources, and mitigate the life-long impacts, disproportionately felt by Native Hawaiians, that can otherwise result from the criminalization of a drug that has been**

¹ BUREAU OF JUSTICE STATISTICS, COUNT OF TOTAL JURISDICTION POPULATION (2018), *generated using the Corrections Statistical Analysis Tool (CSAT) – Prisoners* at www.bjs.gov.

² Department of Public Safety, System Wide End of Month Data, July 2018. In contrast, Native Hawaiians only represent 18% of adults in Hawai‘i. U.S. CENSUS BUREAU. 2017. “COMMUNITY FACTS”, AMERICAN FACT FINDER, accessed Dec. 21, 2018 at <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>.

³ THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 45 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

legalized or decriminalized in multiple other jurisdictions, and that has also been long approved for medical use in Hawai'i.

Therefore, OHA urges the Committee to **PASS** SB758. Mahalo nui for the opportunity to testify on this measure.



The Judiciary, State of Hawai'i

Testimony to the Thirty-First State Legislature, 2021 Session

Committee on Public Safety, Intergovernmental, and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator J. Kalani English, Vice Chair

Tuesday, February 16, 2021, 1:00 p.m.

VIA VIDEOCONFERENCE

by:

Mark M. Santoki

Acting Deputy Chief Court Administrator

First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 758 – Relating to Marijuana

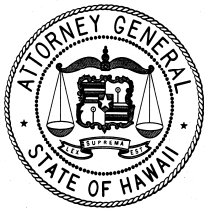
Purpose: Increases from 3 grams to 1 ounce: (1) the minimum amount of marijuana that a defendant must possess to be charged with a petty misdemeanor; and (2) the maximum amount of marijuana that a defendant convicted of possessing marijuana could have possessed without being disqualified from the subsequent expungement of the record of that conviction.

Judiciary's Position:

The Judiciary takes NO POSITION on this measure, providing the following comments.

The Judiciary would like to request a technical amendment to this measure to replace the term "expungement" with "seal." This terminology better conforms to the Judiciary process. Sealing a court record ensures that all information regarding the defendant's case is not viewable to the public, but remains as part of the internal court record. In addition, sealing a court record – rather than deleting it completely -- promotes transparency because the request to seal the record and the processing of such a request are documented and can be reviewed internally if necessary.

Thank you for the opportunity to testify on this measure.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 758, RELATING TO MARIJUANA.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

DATE: Tuesday, February 16, 2021 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Michelle M.L. Puu,
Deputy Attorney General, at 586-1160)

Chair Nishihara and Members of the Committee:

The Department of the Attorney General (Department) submits testimony in opposition to this bill based on the Attorney General's role as the Chief Law Enforcement Officer for the State of Hawaii.

The purposes of this bill are to (1) require the expungement of convictions for the possession of up to one ounce of marijuana and (2) decriminalize the possession of up to one ounce of marijuana. As the bill does not impact the limited use of marijuana for medical purposes, this testimony does not address or pertain to that issue.

Essentially, this bill seeks to decriminalize the possession of marijuana. Studies show that the average weight of a single use quantity of marijuana ranges from 0.43 grams to 0.66 grams. One ounce of marijuana equals 28.3495 grams.

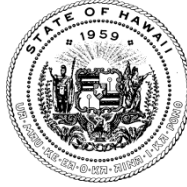
The Department opposes this measure because the possession of marijuana remains illegal under federal law as a Schedule I controlled substance under the Controlled Substances Act, 21 U.S.C. §§ 801-904. Although this bill could legalize conduct prohibited under state law, federal laws regarding the nonmedical use of marijuana continue to apply to the conduct of persons in the state.

Importantly, the United States Department of Justice (DOJ) issued a memorandum withdrawing earlier directives and instructed prosecutors to enforce federal laws related to marijuana activities (Sessions Memo dated January 4, 2018).

Although the Blumenauer amendment to the continuing resolution extending the appropriations act restricts funding for federal law enforcement actions by the DOJ, this limitation applies only to the medical use of cannabis. The Blumenauer amendment first became law in 2014, was renewed for the sixth time on December 27, 2020 and accordingly will remain in effect through September 30, 2021.

Unless and until the federal government changes its laws regarding marijuana, the State should not enact laws that create conflict and confusion.

We respectfully request that this measure be held.



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 16, 2021
1:00 P.M.
State Capitol, Teleconference

S.B. 758
RELATING TO MARIJUANA

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

The Department of Transportation (DOT) **opposes** S.B. 758, which increases from 3 grams to 1 ounce the minimum amount of marijuana that a person must possess to be charged with a petty misdemeanor and the maximum amount of marijuana that a defendant convicted of possessing marijuana could have possessed without being disqualified from the subsequent expungement of the record of that conviction.

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 that increasing the amount a person must possess to be charged with a petty misdemeanor could result in increases in impaired driving-related 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).

In Hawaii, a local study on motor vehicle crash fatalities and undercompensated care associated with legalization on medical marijuana finds that "THC positivity among driver fatalities increased since legalization, with a threefold increase from 1993-2000 to 2001-2015. THC positivity among all injured patients tested at our highest level trauma center increased from 11% before to 20% after legalization. From 2011 to 2015, THC

positive patients were significantly less likely to wear a seatbelt or helmet (33% vs 56%).” The study was published in the Journal of Trauma and Acute Care Surgery in May 2018.

In passing any legislation to decriminalize marijuana, Hawaii should closely observe the impacts decriminalization and legalization has had in other states. “According to an October 2018 report from the Insurance Institute for Highway Safety (IIHS), an examination of police-reported crashes of all severities showed that “the legalization of retail sales in Colorado, Washington and Oregon was associated with a 5.2% higher rate of police-reported crashes compared with neighboring states that did not legalize retail sales.” Furthermore, the Colorado Department of Transportation and the National Highway Traffic Safety Administration reported that the rate of traffic fatalities involving drivers who tested positive for marijuana in Colorado rose from 55 in 2013 to 138 people killed in 2017, and over one-fifth of all traffic fatalities in 2017 included a driver testing positive for marijuana.

If this bill were to pass, a percentage of sales or taxes should be allocated towards resources and services to ensure public safety, including DRE-related trainings for law enforcement; establishment and maintenance of a state forensic toxicology testing laboratory; public education; substance misuse treatment services; etc.

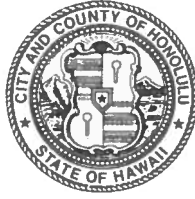
DOT is primarily concerned about improving highway safety and protecting the lives of our community members and visitors. DOT coordinates specialized training and certifies law enforcement officers to recognize impairment in drivers under the influence of drugs through its DRE program to combat this issue.

Thank you for the opportunity to provide testimony.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honoluluupd.org

RICK BLANGIARDI
MAYOR



SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
AARON TAKASAKI-YOUNG
DEPUTY CHIEFS

OUR REFERENCE PJ-GK

February 16, 2021

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety,
Intergovernmental, and Military Affairs
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nishihara and Members:

SUBJECT: Senate Bill No. 758, Relating to Marijuana

I am Major Phillip Johnson of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 758, Relating to Marijuana.

This bill, in part, seeks to de facto legalize marijuana by removing from the Hawaii Revised Statutes existing criminal prohibitions and penalties related to marijuana.

The passage of this bill would create an increased availability of marijuana, making it more accessible, especially to juveniles. The HPD is concerned that increasing the availability of marijuana in the state will have a negative impact on public safety. Some areas of concern include the likelihood of an increased number of impaired drivers and the diversion of the product.

The HPD urges you to oppose Senate Bill No. 758, Relating to Marijuana, and thanks you for the opportunity to testify.

APPROVED:

A handwritten signature in black ink, appearing to read "Susan Ballard", written over a horizontal line.

Susan Ballard
Chief of Police

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Johnson", written over a horizontal line.

Phillip Johnson, Major
Narcotics/Vice Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM
PROSECUTING ATTORNEY



THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE CLARANCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS
Thirty-First State Legislature
Regular Session of 2021
State of Hawai'i

February 16, 2021

RE: S.B. 758; RELATING TO MARIJUANA.

Chair Nishihara, Vice Chair English, and members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to S.B. 758.

This measure would increase the maximum amount of marijuana allowed to be possessed under section 712-1249, Hawaii Revised Statutes (H.R.S.) from three grams or less to one ounce or less. Pursuant to Act 273 Session Laws of Hawaii 2019, possession of marijuana of three grams or less has been decriminalized and is punishable only as a violation.

As part of Act 273 (2019) the Legislature created the Marijuana Evaluation Task Force to examine other state's laws, penalties, and outcomes pertaining to marijuana use, and to make recommendations on amending marijuana use penalties and outcomes in the state. The task force was comprised of numerous stakeholders including but not limited to, a member from the House and Senate, Department of the Attorney General, a Prosecuting Attorney selected by the co-chairs of the task force and the Public Defender's Office. Per Act 273, the task force was to submit a report of its findings and recommendations, including any proposed legislation no later than twenty days prior to the convening of the Regular Session of 2020. Due to the disruptions caused by the COVID-19 pandemic, the task force was not able to complete the reports and S.B. 1010 was introduced during the current 2021 legislative session to extend the time to report and dissolution of the task force. Due to unintended delay of the report by the task force, our Department believes that implementation of S.B. 758 is premature and should be addressed by the task force.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes S.B. 758. Thank you for the opportunity to testify on this matter.



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

February 12, 2021

Senator Clarence Nishihara, Chair
Senator J. Kalani English, Vice Chair
Hawaii State Capitol
415 South Beretania Street, Room 205
Honolulu, Hawaii 96813

Re: Senate Bill No. 758 – Relating to Marijuana

Dear Chair Nishihara:

The Maui Police Department **OPPOSES** Senate Bill No. 758-Relating to Marijuana

This Bill proposes "Upon motion from a person convicted for the possession of marijuana under section 712-1249 arising from a set of facts and circumstances that resulted in no other criminal charge, the court shall grant an expungement order pertaining to the conviction for the offense; provided that the amount of marijuana for which the person was convicted of possessing was [~~3 grams~~] one ounce or less."

Under HRS 712-1249, Promoting a Detrimental Drug in the Third Degree, a person who intentionally or knowingly possessed 3 grams or less, was convicted of a petty misdemeanor. By moving the conviction up to one ounce or less of marijuana, this overlaps HRS 712-1248, Promoting a Detrimental Drug in the Second Degree. This Bill is intended to render the value of HRS 712-1249 useless. Although there are medical marijuana laws in the State of Hawaii, it is still illegal to possess it if the person is not a medical marijuana patient. We do not want marijuana being viewed by the general public as a "slap on the wrist." There are severe consequences and health issues when consuming marijuana and therefore is classified as a "detrimental drug" by the State of Hawaii.

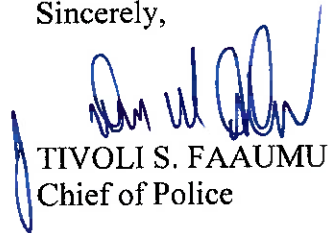
This bill also proposes "SECTION 2. Section 712-1249, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows: "(2) Promoting a detrimental drug in the third degree is a petty misdemeanor; provided that possession of [~~3 grams~~] one ounce or less of marijuana is a violation, punishable by a fine of \$130."

Senator Clarence Nishihara
February 12, 2021
Page 2

One net ounce of marijuana is 28.35 grams. One ounce of marijuana can effectively be used to make 40-50 marijuana "joints." This is not simple possession. You do not carry around one ounce of marijuana for daily use. Law enforcement is not targeting medical marijuana users. We are going after people who illegally possess or distribute drugs in the State of Hawaii. Marijuana, which is still illegal (unless prescribed) should be treated as such and not minimized in the justice system.

Therefore, the Maui Police Department strongly **OPPOSES** Senate Bill No. 758.

Sincerely,



TIVOLI S. FAAUMU
Chief of Police

Justin F. Kollar
Prosecuting Attorney



Rebecca Vogt Like
Second Deputy

Jennifer S. Winn
First Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS
THIRTY-FIRST STATE LEGISLATURE
Regular Session of 2021
State of Hawai'i**

February 16, 2021

RE: S.B. 758 RELATING TO MARIJUANA

Chair Nishihara, Vice Chair English, and Members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs:

The Office of the Prosecuting Attorney, County of Kaua'i SUPPORTS S.B. 758.

The purpose of this Bill is to change the threshold amount of cannabis needed to support a criminal prosecution from 3 grams to 1 ounce and similarly to adjust the threshold at which an expungement for a prior conviction relating to cannabis possession.

It is unclear how Hawaii originally decided upon the 3 gram threshold but it does not appear to be connected to any evidence-based criminal justice or public health criteria. Hawaii's long experiment with medical cannabis and decriminalization of very small amounts of cannabis has resulted in no detriment to the public safety or health of the residents of Hawaii. An emerging national consensus holds that cannabis can be safely decriminalized (or legalized), regulated, and taxed for adult use. Moreover, criminal convictions for possession of small amounts of cannabis can present obstacles to housing and employment that are wholly untethered from any valid public safety purpose and disproportional to the harm caused and allowing for the expungement of more of these convictions should have only a salutary effect on the community.

Accordingly, the Office of the Prosecuting Attorney, County of Kaua'i, requests that this measure be PASSED.

An Equal Opportunity Employer

Thank you very much for the opportunity to testify.

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Mason K. Chock, Vice Chair
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 16, 2021

LATE

**TESTIMONY OF FELICIA COWDEN,
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON**

SB 758, RELATING TO MARIJUANA

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Tuesday, February 16, 2021

1:00 p.m.

Via Videoconference

Dear Chair Nishihara and Members of the Committee:

Thank you for this opportunity to provide testimony in support of SB 758, Relating to Marijuana. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council and Committee Chair of the Council's Public Safety & Human Services Committee.

I SUPPORT SB 758, Relating to Marijuana, and the expungement order pertaining to criminal offense when the possession was one ounce or less and no other criminal charge resulted. This offense is now a misdemeanor and the previously convicted individuals are better able to move forward in life if their accountability is consistent with our present policy.

Thank you again for this opportunity to provide testimony. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via E-mail to cokcouncil@kauai.gov.

Sincerely,

FELICIA COWDEN
Councilmember, Kaua'i County Council

AMK:lc



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

TESTIMONY IN SUPPORT OF SB 758

TO: Chair Nishihara, Vice Chair English & Members of the
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Nikos Leverenz
DPFH Board President

DATE: February 16, 2021 (1:00 PM)

Drug Policy Forum of Hawai'i (DPFH) **supports** SB 758. This bill would increase the amount of cannabis subject to misdemeanor criminal penalties for personal possession from 3 grams to 1 oz. We support the increased threshold articulated in this bill, and we also recommend that the base fine be lowered. Virginia's law, for example, carries a maximum fine of \$25 for possession of up to 1 oz. of cannabis.

There are lasting consequences to even a petty misdemeanor conviction, beyond further taxing this state's already bloated probation and jail populations. Significant "collateral consequences" to a misdemeanor conviction impact a person's ability to obtain housing, education, and employment. According to the Council of State Governments, [there are over 100 collateral consequences to a misdemeanor conviction](#) in Hawai'i.

Uniform Crime Report data from 2000 to 2017, [the last year which statewide data is available on the Hawai'i Attorney General's website](#), show that a disproportionate number of Native Hawaiian adults and juveniles were subject to arrest for cannabis possession, followed by Filipinx residents. To the extent that an increased quantity threshold would reduce the undue criminalization of these persons, SB 758 would curb the negative impacts of the criminal legal system on many families and communities. As the 2010 Office of Hawaiian Affairs report observed, [Native Hawaiians bear a disproportionate burden of the punitive response to drug use, with policing and sentencing structures contributing to that disproportionality](#). Short of full decriminalization of cannabis, or legalization of adult use, this bill would help curb ongoing systemic inequities related to drug enforcement.

Thank you for the opportunity to provide testimony.

SB-758

Submitted on: 2/12/2021 12:28:42 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawai'i, Hawaii's oldest and largest policy and political LGBTQIA+ focused organization, supports SB 758.

Mahalo nui loa for your time and consideration,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawai'i



SB 758, RELATING TO MARIJUANA

FEBRUARY 16, 2021 · SENATE PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS
COMMITTEE · CHAIR SEN. CLARENCE K. NISHIHARA

POSITION: Support.

RATIONALE: Imua Alliance supports SB 758, relating to marijuana, which increases from 3 grams to 1 ounce: (1) the minimum amount of marijuana that a defendant must possess to be charged with a petty misdemeanor; and (2) the maximum amount of marijuana that a defendant convicted of possessing marijuana could have possessed without being disqualified from the subsequent expungement of the record of that conviction.

It is high time that Hawai'i stopped criminalizing people for smoking small amounts of a plant. While marijuana remains illegal under federal law, where it is classified as a Schedule I substance, the facts about cannabis consumption are clear. To begin, marijuana has a lower organic toxicity and addictive risk than alcohol, along with fewer correlating incidents of influence-related accidents and violence. More than half of all traffic fatalities in Hawai'i involve alcohol, yet no one seriously discusses the possibility of prohibition because of path dependence. In other words, alcohol is ingrained in our culture in a way that marijuana consumption is not, despite the former being more dangerous, statistically speaking, than the latter.

Similarly, marijuana abuse and dependence afflicts approximately 1.7 percent of the U.S. population, while alcohol abuse afflicts roughly 7.5 percent—over four times as many individuals. Marijuana is also not conclusively linked to an increase in violent behavior. Rather, reports supposedly linking marijuana to violent crimes typically rely on information gathered by the Office of National Drug Control

Policy, which, in turn, relies on source material that a) does not account for drug-trafficking and dispositional or psychological disorders; and b) fails to account for levels of deviancy (increased usage beyond average consumption rates). A more stark statistical correlation exists between increased alcohol consumption and violent crime, including child and intimate partner abuse, yet, again, no one is introducing, much less considering the merits of, limiting the personal consumption of alcohol. Additionally, only 30 percent of frequent (every other day or more) cannabis users report symptoms suggesting dependence, in contrast to nearly 70 percent for nicotine and 88 percent for harder drugs, like cocaine, calling into question legal opinions asserting that marijuana and hard drugs can be readily correlated to one another. If we do not criminalize overconsumption of the more dangerous drug of alcohol, in and of itself, why, once more, do we unduly criminalize cannabis consumption, particularly in small amounts?

Furthermore, decriminalizing—or, even better, legalizing—marijuana possession is an issue of restorative justice. As the visitor industry reaps record profits and supports expansion of the local prison-industrial complex, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, suffer the pangs of a biased criminal (in)justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and, importantly for this measure, **harsher drug-related punishments than other ethnic groups**, including for marijuana possession. Therefore, passage this measure is a step toward reforming and preventing more people from becoming victims of our unjust and racially coded prison system.

That said, **we would prefer that recreational cannabis be legalized, regulated, and taxed which could generate at least \$70-\$100 million in tax revenue annually for our state**, along with criminal justice savings, that could be spent delivering a quality education to our keiki, building basic infrastructure, expanding access to healthcare, constructing truly affordable housing, and more. In our path toward prosperity and justice reform, legalizing cannabis is a step we must take.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org



SENATE BILL 758, RELATING TO MARIJUANA

FEBRUARY 16, 2021 · SENATE PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS
COMMITTEE · CHAIR SEN. CLARENCE K. NISHIHARA

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports SB 758, relating to marijuana, which increases from 3 grams to 1 ounce: (1) the minimum amount of marijuana that a defendant must possess to be charged with a petty misdemeanor; and (2) the maximum amount of marijuana that a defendant convicted of possessing marijuana could have possessed without being disqualified from the subsequent expungement of the record of that conviction.

It is high time that Hawai'i stopped criminalizing people for smoking small amounts of a plant. While marijuana remains illegal under federal law, where it is classified as a Schedule I substance, the facts about cannabis consumption are clear. To begin, marijuana has a lower organic toxicity and addictive risk than alcohol, along with fewer correlating incidents of influence-related accidents and violence. More than half of all traffic fatalities in Hawai'i involve alcohol, yet no one seriously discusses the possibility of prohibition because of path dependence. In other words, alcohol is ingrained in our culture in a way that marijuana consumption is not, despite the former being more dangerous, statistically speaking, than the latter.

Similarly, marijuana abuse and dependence afflicts approximately 1.7 percent of the U.S. population, while alcohol abuse afflicts roughly 7.5 percent—over four times as many individuals. Marijuana is

also not conclusively linked to an increase in violent behavior. Rather, reports supposedly linking marijuana to violent crimes typically rely on information gathered by the Office of National Drug Control Policy, which, in turn, relies on source material that a) does not account for drug-trafficking and dispositional or psychological disorders; and b) fails to account for levels of deviancy (increased usage beyond average consumption rates). A more stark statistical correlation exists between increased alcohol consumption and violent crime, including child and intimate partner abuse, yet, again, no one is introducing, much less considering the merits of, limiting the personal consumption of alcohol. Additionally, only 30 percent of frequent (every other day or more) cannabis users report symptoms suggesting dependence, in contrast to nearly 70 percent for nicotine and 88 percent for harder drugs, like cocaine, calling into question legal opinions asserting that marijuana and hard drugs can be readily correlated to one another. If we do not criminalize overconsumption of the more dangerous drug of alcohol why do we unduly criminalize cannabis consumption, particularly in small amounts?

Furthermore, decriminalizing—or, even better, legalizing—marijuana possession is an issue of restorative justice. As the visitor industry reaps record profits and supports expansion of the local prison-industrial complex, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, suffer the pangs of a biased criminal (in)justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and, importantly for this measure, **harsher drug-related punishments than other ethnic groups**, including for marijuana possession. Therefore, passage this measure is a step toward reforming and preventing more people from becoming victims of our unjust and racially coded prison system.

That said, **we would prefer that recreational cannabis be legalized, regulated, and taxed which could generate at least \$70-\$100 million in tax revenue annually for our state**, along with criminal justice savings, that could be spent delivering a quality education to our keiki, building basic infrastructure, expanding access to healthcare, constructing truly affordable housing, and more. In our path toward prosperity and justice reform, legalizing cannabis is a step we must take.

[Kris Coffield · Chairperson, Democratic Party of Hawai'i Education Caucus · \(808\) 679-7454 · kriscoffield@gmail.com](mailto:kriscoffield@gmail.com)

SB-758

Submitted on: 2/12/2021 10:18:43 AM

Testimony for PSM on 2/16/2021 1:00:00 PM

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

Comments:

Please pass SB758

SB-758

Submitted on: 2/14/2021 2:23:04 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Gibson-Viviani	Individual	Support	No

Comments:

TO: COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

FROM: Wendy Gibson-Viviani RN

RE: SB758 (In Support)

Hearing: Tuesday, February 16, 2021 at 1:00 pm (Videoconference)

Aloha, Senator Clarence K. Nishihara, Chair, Senator J. Kalani English, Vice Chair and Honorable Members of the Committee

Please support SB758 to increase the amount of marijuana that is decriminalized from 3 grams to 1 ounce. I believe doing so will stop making criminals out of a larger number of adult users. I hope that the expungement of criminal records is included also.

Thank you,

Wendy Gibson-Viviani RN/BSN

Kailua

SB-758

Submitted on: 2/14/2021 3:06:39 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
donn viviani	Individual	Support	No

Comments:

I support SB758. In 1972, the National Commission on Marijuana and Drug Abuse recommended decriminalization of possession of marijuana for personal use. Since then 25 states (including Hawaii) and the District of Columbia have decriminalized possession of small amounts. Most of the thresholds are above an ounce. The law is not concerned with trifles... an ounce seems de minimum to this kailua resident

mahalo Donn Viviani

SB-758

Submitted on: 2/14/2021 9:07:45 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eileen McKee	Individual	Support	No

Comments:

I support SB758.

Mahalo for considering my testimony.

Eileen McKee

Kihei, HI