

Honolulu, Hawaii

FEB 18 2011

RE: S.B. No. 1460  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Health, to which was referred S.B. No. 1460 entitled:

"A BILL FOR AN ACT RELATING TO MARIJUANA,"

beg leave to report as follows:

The purpose and intent of this measure is to establish a civil violation for possession of one ounce or less of marijuana that is subject to a fine of not more than \$100.

Your Committees received testimony in support of this measure from the The Libertarian Party; NORML Foundation; American Civil Liberties Union of Hawai'i; the Drug Policy Forum of Hawai'i; the Drug Policy Action Group; Peaceful Sky Alliance; Law Enforcement Against Prohibition; Natural Cancer Wellness Foundation; Friends 4 Justice; and twenty-five individuals. Your Committees received testimony in opposition to this measure from the Attorney General; the Department of Public Safety; the Department of the Prosecuting Attorney of the City and County of Honolulu; the Hawaii County Office of the Prosecuting Attorney; the Police Department of the City and County of Honolulu; the County of Hawai'i Police Department; Save Our Society From Drugs; Coalition for a Drug-Free Hawaii; and one individual.

Your Committees find that there are significant concerns about whether the current treatment of simple marijuana possession of one ounce or less is effective. According to a report by Lawrence W. Boyd, Ph.D, an economist from the University of Hawaii West Oahu, the costs of prosecuting simple marijuana possession



far outweigh the benefits of doing so. Presently, state and county law enforcement agencies spend over \$4,000,000 per year to enforce marijuana possession laws. An additional \$2,100,000 is spent by the courts. Your Committees believe that these prosecution and enforcement costs are not borne by the current fines for a defendant convicted for simple possession of marijuana, typically \$50 to \$100, if any. On the other hand, a civil violation fine of \$100 should reduce costs for prosecution and enforcement, while increasing the fines collected for this conduct.

Your Committees received testimony from the Attorney General raising concerns of possession of marijuana near schools and the question of the method of adjudication of the violation. Moreover, several testifiers expressed concern that this measure might give the incorrect impression to minors that possession of marijuana was acceptable, notwithstanding that such possession is still prohibited conduct under this measure.

Accordingly, your Committees have amended this measure by:

- (1) Establishing an adjudicatory process for enforcing the violation that is similar to the enforcement of traffic violations;
- (2) Reiterating in the purpose section of the measure that making possession of one ounce or less of marijuana a civil violation does not imply that the Legislature believes that such conduct is acceptable and that under this measure, such possession is still prohibited conduct;
- (3) Deleting section 10 regarding controlled substances near schools, school vehicles, or public parks; which would have provided that mere possession of one ounce or less of marijuana would not constitute intent to distribute marijuana without other conduct;
- (4) Inserting an effective date of July 1, 2050, to allow for further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1460, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1460, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committees on Judiciary and  
Labor and Health,



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JOSH GREEN, M.D., Chair




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CLAYTON HEE, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i


**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1460	JDL/HTH, WAM	2/4/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	5	0	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <span style="margin-left: 200px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature:				
				
<b>Distribution:</b>				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes

The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:	Committee Referral:	Date:		
SB 1460	JDL/HTH, WAM	2/4/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
GREEN, M.D., Josh (C)	✓			
NISHIHARA, Clarence K. (VC)				✓
BAKER, Rosalyn H.	✓			
CHUN OAKLAND, Suzanne				✓
SHIMABUKURO, Maile	✓			
WAKAI, Glenn	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted				
<input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
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