

STAND. COM. REP. NO. **688**

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 1291
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 1291, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL MARIJUANA,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit an employer from disciplining, suspending, discharging, or discriminating against an employee who is a patient qualified to use medical marijuana solely because the employee tested positive for marijuana in a substance abuse test.

Your Committee received testimony in support of this measure from the Hawaii Civil Rights Commission, The Drug Policy Action Group, and three individuals. Your Committee received testimony in opposition to this measure from the Department of Human Resources, City and County of Honolulu; Police Department, City and County of Honolulu; Police Department, County of Maui; Hawaiian Electric Company, Inc.; and Chamber of Commerce Hawaii.

Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 2, which incorporated certain language from S.B. No. 682, S.D. 1 (Regular Session of 2015) to prohibit discrimination against medical marijuana patients and caregivers by schools, landlords, courts, and licensing boards with regard to medical care or parental rights.



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Your Committee received testimony in support of the proposed S.D. 2 from the Hawaii Civil Rights Commission, The Drug Policy Forum of Hawaii, The Drug Policy Action Group, Community Alliance on Prisons, Hawaii Cannabis Care, and seven individuals. Your Committee received testimony in opposition to the proposed S.D. 2 from the Department of Human Resources, City and County of Honolulu; Police Department, City and County of Honolulu; and General Contractors Association of Hawaii. Your Committee received comments on the proposed S.D. 2 from the Department of the Attorney General.

Your Committee finds that some civil protections are necessary to protect registered medical marijuana patients from employment ramifications based solely upon a positive test for marijuana use. Because the State has endorsed marijuana as a legitimate medical treatment, it follows that the State would also provide protection for those who require such treatment, not only from criminal consequences, but from civil consequences as well. This measure does not prohibit an employer from taking disciplinary action against an employee who is a registered medical marijuana patient and whose work suffers, who is intoxicated on the job, or who fails to fulfill employment duties.

However, your Committee notes the testimony submitted by the Hawaii Civil Rights Commission that it is not appropriate or desirable to assign the Commission enforcement jurisdiction over the broader protection for all medical marijuana users, not limited to person with disabilities, for wrongful termination, unlawful suspension, discharge, or discriminatory action, especially in light of the Commission's limited resources and capacity to enforce civil rights protections already under the Commission's jurisdiction.

Your Committee further finds that support for the medical use of marijuana in the State is strong, but existing protections for patients are very weak regarding civil penalties. Patients within the medical marijuana program should not be less secure in their housing, school enrollment, employment, or supplemental medical care than patients who have made different private decisions with their doctors concerning medication.

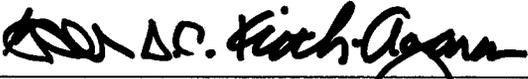
Accordingly, your Committee has amended this measure by adopting the proposed S.D. 2 and further amending the proposed S.D. 2 by:



- (1) Deleting sections 1 and 2, which would have added a new section to chapter 378, Hawaii Revised Statutes (HRS), and amended section 329-125, HRS;
- (2) Adding a purpose section to provide additional information on the challenges faced by medical marijuana patients;
- (3) Changing the effective date from July 1, 2050, to January 7, 2059, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purpose of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1291, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1291, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



GILBERT S.C. KEITH-AGAR, Chair



