

Honolulu, Hawaii

APR 05 2019

RE: H.B. No. 673  
H.D. 2  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committees on Judiciary and Ways and Means, to which was referred H.B. No. 673, H.D. 2, S.D. 1, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide a process for the voluntary or involuntary sale or transfer of an individual dispensary license;
- (2) Prohibit an employer from discriminating against a person in hiring, termination, or conditions of employment based on the person's status as a qualifying patient and from taking action against an employee based solely on the employee's status as a qualifying patient or if the results of the employee's drug test are positive for cannabis, subject to certain exceptions; and
- (3) Specify permissible and impermissible actions by employers and employees.

Your Committees received testimony in support of this measure from the Hawai'i Civil Rights Commission, Drug Policy Forum of Hawai'i, Hawaii Society of Naturopathic Physicians, Hawaii



Educational Association for Licensed Therapeutic Healthcare, LGBT Caucus of the Democratic Party of Hawaii, MediSpa Maui, and eighteen individuals. Your Committees received testimony in opposition to this measure from the Maui Police Department, Kauai Community Health Alliance, and six individuals. Your Committees received comments on this measure from the Department of Labor and Industrial Relations, Department of Health, Department of the Attorney General, Akamai Cannabis Clinic, and one individual.

Your Committees find that medical cannabis dispensaries are vital to ensuring medical cannabis patients have adequate access to medical cannabis. Your Committees further find that there may be situations where the leadership within a licensed dispensary has changed; however, existing law does not provide a process for the sale or transfer of any significant interest in a licensed dispensary.

Your Committees additionally find that although the medical use of cannabis by a qualifying patient to alleviate the symptoms or effects of the qualifying patient's debilitating medical condition is permitted under state law, there are no corresponding employment protections for qualifying patients. A qualifying patient can therefore be discriminated against in the hiring process, merely because of the patient's status as a qualifying patient, or fired at an employer's discretion for failing a drug test, even if the qualifying patient is not exhibiting any symptoms of being impaired.

This measure clarifies the procedure for the sale or transfer of significant interests in a licensed dispensary in certain situations and provides employment protections for qualifying medical cannabis patients.

Your Committees have amended this measure by:

- (1) Clarifying that in the event of death, legal incapacity, or permanent disability of an individual dispensary licensee, the entity licensee must provide a plan for the sale or transfer of the license to the Department of Health within thirty days of notifying the Department of the licensee's inability to continue in the individual's capacity as a licensee;



- (2) Removing specific situations in which an employee who is a qualifying patient and who fails a drug test may be disciplined;
- (3) Requiring that an employee be impaired before an employer may discipline the employee rather than allowing disciplinary action based on the employer's reasonable belief that an employee is impaired;
- (4) Clarifying the definition of "impaired";
- (5) Simplifying third party causes of action arising from the actions of impaired employees and limiting claims to situations in which the employee was impaired and the employer knew or should have known;
- (6) Inserting an effective date of March 15, 2094, to encourage further discussion; and
- (7) 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 Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 673, H.D. 2, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 673, H.D. 2, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committees on Judiciary and  
Ways and Means,

  
DONOVAN M. DELA CRUZ, Chair

  
KARL RHOADS, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i


**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB673, HD2, SD1	CPH, JDC/WAM	4/3/19		
<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
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
FEVELLA, Kurt	✓			
<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> <span style="margin-left: 50px;">Original</span> <span style="margin-left: 50px;">Yellow</span> <span style="margin-left: 50px;">Pink</span> <span style="margin-left: 50px;">Goldenrod</span> <span style="margin-left: 50px;">File with Committee Report</span> <span style="margin-left: 50px;">Clerk's Office</span> <span style="margin-left: 50px;">Drafting Agency</span> <span style="margin-left: 50px;">Committee File Copy</span>				

\*Only one measure per Record of Votes

The Senate  
Thirtieth Legislature  
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**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

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<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
DELA CRUZ, Donovan M. (C)	X	
KEITH-AGARAN, Gilbert S.C. (VC)	X	
ENGLISH, J. Kalani		X
HARIMOTO, Breene		X
INOUYE, Lorraine R.	X	
KAHELE, Kaiali'i		X
KANUHA, Dru Mamo	X	
KIDANI, Michelle N.	X	
MORIWAKI, Sharon Y.	X	
RIVIERE, Gil	X	
SHIMABUKURO, Maile S.L.	X	
TANIGUCHI, Brian T.	X	
FEVELLA, Kurt	X	
<b>TOTAL</b>	10	3
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
		Goldenrod Committee File Copy

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