July 9, 2019

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB290 HD1 SD2 CD1, without my approval and with the statement of objections relating to the measure.

HB290 HD1 SD2 CD1

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

Sincerely,

[Signature]

DAVID Y. IGE
Governor, State of Hawai'i
EXECUTIVE CHAMBERS
HONOLULU
July 9, 2019

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 290

Honorable Members
Thirtieth Legislature
State of Hawai‘i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai‘i, I am returning herewith, without my approval, House Bill No. 290, entitled "A Bill for an Act Relating to the Uniform Controlled Substances Act."

The purpose of this bill is to authorize qualifying patients or qualifying out-of-state patients to transport medical cannabis between islands for their personal medical use. It further requires the Departments of Transportation and Public Safety to adopt rules pursuant to chapter 91, Hawaii Revised Statutes, as necessary to carry out this purpose.

This bill is objectionable because of the large number of residents and visitors who may be misled to their detriment by the purported authorization in this bill of the interisland transportation of medical cannabis for personal medical use.

Interisland transport necessarily entails travel outside the jurisdiction of the State of Hawai‘i, as the State only has jurisdiction up to three nautical miles offshore. Because Hawaii’s laws cannot completely regulate the interisland transport of cannabis, a state statute purporting to allow interisland transport may give false comfort to some that such transport is protected from federal enforcement.

The existing law, section 329-122(f), Hawaii Revised Statutes, defines “transport” for the purposes of interisland transportation as “between a production center or retail dispensing location and a certified laboratory for the sole purpose of laboratory testing.” This bill amends that definition of “transport” to include “by a qualifying patient or qualifying out-of-state patient for the patient’s personal use,” but retains the existing wording, “with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State.” Consequently, I believe
that this bill’s amendments to section 329-122(f) may result in confusion by residents and visitors as to what protection this bill provides.

In addition, this bill requires the Department of Transportation and the Department of Public Safety to adopt rules "necessary for the purposes of this subsection." It is unclear whether, and if so, how state rules would work for an area that includes federal and international jurisdiction.

For the foregoing reasons, I am returning House Bill No. 290 without my approval.

Respectfully,

DAVID Y. IGE
Governor of Hawai'i
A BILL FOR AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 329-122, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) For the purposes of this section, "transport" means the transportation of cannabis, usable cannabis, or any manufactured cannabis product between:

(1) A qualifying patient and the qualifying patient's primary caregiver;

(2) A qualifying out-of-state patient under eighteen years of age and the caregiver of a qualifying out-of-state patient;

(3) The production centers and the retail dispensing locations under a dispensary licensee's license; or

(4) A production center, retail dispensing location, qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and a certified laboratory for the purpose of laboratory testing; provided that a
qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may only transport up to one gram of cannabis per test to a certified laboratory for laboratory testing and may only transport the product if the qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient:

(A) Secures an appointment for testing at a certified laboratory;

(B) Obtains confirmation, which may be electronic, that includes the specific time and date of the appointment and a detailed description of the product and amount to be transported to the certified laboratory for the appointment; and

(C) Has the confirmation, which may be electronic, available during transport.

For purposes of interisland transportation, "transport" of cannabis, usable cannabis, or any manufactured cannabis product, by any means is allowable only by a qualifying patient or qualifying out-of-state patient for the patient's personal
medical use, or between a production center or retail dispensing
location and a certified laboratory for the sole purpose of
laboratory testing pursuant to section 329D-8, as permitted
under section 329D-6(m) and subject to section 329D-6(j), and
with the understanding that state law and its protections do not
apply outside of the jurisdictional limits of the State.

[Allowable transport pursuant to this section does not include
interisland transportation by any means or for any purpose
between a qualified patient, primary caregiver, qualifying out-
of-state patient, or caregiver of a qualifying out-of-state
patient and any other entity or individual, including an
individual who is a qualified patient, primary caregiver,
qualifying out-of-state patient, or caregiver of a qualifying
out-of-state patient.] The department of transportation and
department of public safety shall adopt rules pursuant to
chapter 91 necessary for the purposes of this subsection."

SECTION 2. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.
H.B. NO. 290
H.D. 1
S.D. 2
C.D. 1

APPROVED this day of , 2019

GOVERNOR OF THE STATE OF HAWAII
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2019
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.

Scott K. Saiki  
Speaker  
House of Representatives

Brian L. Takeshita  
Chief Clerk  
House of Representatives
THE SENATE OF THE STATE OF HAWAIʻI

Date: April 30, 2019
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawaiʻi, Regular Session of 2019.

President of the Senate

Clerk of the Senate