

STAND. COM. REP. NO.

633

Honolulu, Hawaii

MAR - 1 2013

RE: S.B. No. 472

S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 472 entitled:

"A BILL FOR AN ACT RELATING TO MARIJUANA,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a civil violation for possession of one ounce or less of marijuana that is subject to a fine of not more than \$100 to be deposited into the early intervention special fund;
- (2) Specify that the early intervention special fund shall include fines and penalties for the civil violation of possessing one ounce or less of marijuana;
- (3) Preclude the courts and Hawaii Paroling Authority from requiring substance abuse treatment for defendants or paroled prisoners found in possession of one ounce or less of marijuana; and
- (4) Make various conforming amendments to statutes to reflect the establishment of the civil violation for possession of marijuana of one ounce or less.

Your Committee received testimony in support of this measure from the American Civil Liberties Union of Hawai'i, Community Alliance on Prisons, IMUAlliance, The Drug Policy Forum of Hawai'i,

2013-1652 SSCR SMA.doc



The Drug Policy Action Group, National Organization for the Reform of Marijuana Laws, and fifty-seven individuals. Testimony in opposition to this measure was submitted by the Department of the Attorney General; Department of the Prosecuting Attorney, City and County of Honolulu; Police Department, City and County of Honolulu; Police Department, County of Hawai'i; Police Department, County of Maui; Hawaii Gas; Coalition for a Drug-Free Hawaii; and thirty-five individuals.

Your Committee finds that section 712-1249, Hawaii Revised Statutes, establishes the offense of promoting a detrimental drug in the third degree if a person knowingly possesses any marijuana in any amount. This offense is a petty misdemeanor that is punishable by up to a \$1,000 fine and thirty days of imprisonment. Recent polls have shown that there is growing sentiment among voters for making marijuana possession for personal use a civil violation instead of a crime. This measure decriminalizes the possession of one ounce or less of marijuana and makes such possession a civil violation subject to a fine not to exceed \$100.

Your Committee notes the testimony in opposition to this measure. Specifically, the Department of the Attorney General testified in opposition that this measure is contrary to federal law that makes it illegal to grow, distribute, or use marijuana. The Department of the Prosecuting Attorney of the City and County of Honolulu testified that the federal schedule of controlled substances was recently updated in September 2012 and continues to list marijuana as a schedule 1 controlled substance despite the ongoing debate about the physical effects of marijuana.

The Department of the Attorney General also testified that the deposit of the civil fines under this measure into the early intervention special fund appears to be inconsistent with section 37-52.3(2), Hawaii Revised Statutes, which requires that monies deposited into a special fund have a clear nexus between the benefits sought and the charges made upon the users or beneficiaries of the program. The Department indicated that there does not appear to be a clear nexus between marijuana fines and early intervention services.

Your Committee further finds that decriminalizing marijuana laws merits further discussion as this measure moves through the legislative process. However, the discussion should focus on establishing a civil violation for the possession of one ounce of



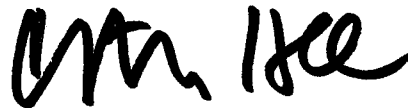
or less of marijuana before amending existing marijuana-related laws.

Accordingly, your Committee has amended this measure by:

- (1) Changing the civil penalty from a fine not to exceed \$100 to a fine of \$1,000 to align with the petty misdemeanor fine under section 712-1249, Hawaii Revised Statutes;
- (2) Specifying that the civil fines and penalties for civil violations of possessing one ounce or less of marijuana shall be credited to the general fund rather than the early intervention special fund;
- (3) Deleting sections 2 through 12;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes 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. 472, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 472, S.D. 1, and be placed on the calendar for Third Reading.

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




CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 472	JDL	2/26/13		
<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 S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam		✓		
TOTAL	4	1		
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes