

JAN 25 2023

A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. The legislature finds that hemp is a high-value
2 crop that has the potential to bring significant and diverse
3 revenues to Hawaii. Hemp has more than fifty thousand
4 recognized uses including as a fuel; a food, including the
5 seeds, oil, the juice from leaves, and herbal tinctures; and
6 fiber used in supercapcitors, cloth, building materials, and
7 bioplastic. Hemp has significant potential to provide a
8 lucrative crop for Hawaii farmers and can support food security
9 for the State. Many Hawaii farms subsidize food production with
10 non-farming income or jobs. Hemp could provide a farm-based
11 income for farmers to expand or stabilize their food production.

12 The legislature further finds, however, that Hawaii's hemp
13 industry remains in a nascent stage, largely due to
14 overregulation, which has stifled the State's hemp industry.
15 The Hawaii hemp cannabinoid and cannabidiol market is
16 approximated to be \$32,000,000 to \$54,000,000 annually, but most
17 of that money goes to hemp producers outside Hawaii due to



1 prohibitions banning farmers from making and selling these
2 products in Hawaii. Moreover, overregulation of production and
3 processing has driven many hemp farmers out of business in
4 Hawaii, which makes Hawaii farmers non-competitive in the hemp
5 market.

6 The legislature further finds that transparency in hemp
7 product labeling is also needed. Given the number of "Buy
8 Local", "Buy Aloha", "Eat Local" campaigns that have been
9 launched, Hawaii residents, when given the opportunity and
10 transparent data, will often choose Hawaii-grown products.

11 The legislature further finds that the Agriculture
12 Improvement Act of 2018, informally known as the 2018 "Farm
13 Bill", legalized hemp by removing hemp from the definition of
14 "marihuana" contained in the federal Controlled Substances Act.
15 Therefore, hemp is no longer classified as an illegal drug under
16 federal law. In October 2019, the United States Department of
17 Agriculture established new regulations through which states may
18 monitor and regulate hemp production. In light of these federal
19 reforms, state laws regarding hemp should also be reformed.

20 Accordingly, the purpose of this Act is to:



- 1 (1) Repeal redundant regulations on hemp production, which
2 will reduce costs for the State and Hawaii farmers;
- 3 (2) Amend hemp law in a manner that recognizes the unique
4 constraints of Hawaii farmers, while protecting human
5 health;
- 6 (3) Allow licensed hemp producers to sell hemp biomass;
- 7 (4) Require transparency in labeling of hemp products to
8 identify the percentage of Hawaii-grown hemp or hemp
9 product in all hemp products;
- 10 (5) Require and appropriate moneys for the department of
11 health to hire or consult a toxicologist or consultant
12 familiar with hemp industry standards for the purpose
13 of setting defined action limits or exposure levels
14 for different types of hemp products; and
- 15 (6) Extend the State's hemp processor law through July 1,
16 2027.

17 SECTION 2. Section 141-42, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§141-42[+] **Commercial hemp production.** (a) It shall
20 be legal for an individual or entity to produce hemp, as defined
21 in title 7 United States Code section 1639o, if that individual



1 or entity has a license to produce hemp, issued by the Secretary
2 of the United States Department of Agriculture pursuant to title
3 7 United States Code section 1639q; provided that:

4 ~~[(1) Any person convicted of a felony related to a~~
5 ~~controlled substance under state or federal law is~~
6 ~~prohibited from producing hemp, or being a key~~
7 ~~participant in an entity producing hemp, for a period~~
8 ~~of ten years following the date of conviction;~~

9 ~~(2) Hemp shall not be grown outside of a state~~
10 ~~agricultural district;~~

11 ~~+(3)]~~ (1) Hemp shall not be grown within ~~[500]~~ five hundred
12 feet of pre-existing real property comprising a
13 playground, childcare facility, or school; provided
14 that this restriction shall not apply to an individual
15 or entity licensed to grow hemp in those areas under
16 the ~~[State]~~ state industrial hemp pilot program ~~[prior~~
17 ~~to]~~ before August 27, 2020;

18 ~~+(4)]~~ (2) Hemp shall not be grown within ~~[500]~~ one hundred
19 feet of any pre-existing house, dwelling unit,
20 residential apartment, or other residential structure
21 that is not owned or controlled by the license holder;



S.B. NO. 1548

1 provided that this restriction shall not apply to an
2 individual or entity licensed to grow hemp in those
3 areas under the [State] state industrial hemp pilot
4 program [~~prior to~~] before August 27, 2020; and

5 [+5)] (3) Hemp shall not be grown in any house, dwelling
6 unit, residential apartment, or other residential
7 structure[~~-~~], unless that structure is part of a
8 United States Department of Agriculture area.

9 (b) An individual or entity licensed to produce hemp
10 pursuant to paragraph (a) may transport hemp within the State to
11 a facility authorized by law to process hemp or to another
12 licensed producer's grow area, provided that[~~-~~

13 ~~(1) The hemp to be transported has passed all compliance~~
14 ~~testing required by the United States Department of~~
15 ~~Agriculture; and~~

16 ~~(2) The~~] the transportation has been [~~authorized by~~]
17 reported to the department. The department may
18 require movement reports[~~, inspections, sampling, and~~
19 ~~testing~~] of the hemp to be transported and may deny
20 authorization if the hemp is found to not comply with
21 any law or regulation.



1 ~~[(c) An individual or entity licensed to produce hemp~~
2 ~~pursuant to paragraph (a) may export hemp; provided that:~~

3 ~~(1) The hemp to be exported has passed all compliance~~
4 ~~testing required by the United States Department of~~
5 ~~Agriculture; and~~

6 ~~(2) The licensed producer complies with all laws relating~~
7 ~~to the exportation of hemp, including state and~~
8 ~~federal laws and the laws of the state or country of~~
9 ~~import.~~

10 ~~(d)]~~ (c) Any individual or entity who ~~[violates this~~
11 ~~section or any rule adopted pursuant to this section]~~ grows hemp
12 without a United States Department of Agriculture license shall
13 be fined not more than \$10,000 for each separate offense. Any
14 notice of violation of this section may be accompanied by a
15 cease and desist order, the violation of which constitutes a
16 further violation of this section. Any action taken to collect
17 the penalty provided for in this subsection shall be considered
18 a civil action.

19 ~~[(e)]~~ (d) For any judicial proceeding to recover an
20 administrative penalty imposed by order or to enforce a cease
21 and desist order against [a] an unlicensed hemp producer, the



1 department may petition any court of appropriate jurisdiction
2 and need only show that:

3 (1) Notice was given;

4 (2) A hearing was held or the time granted for requesting
5 a hearing has expired without such a request;

6 (3) The administrative penalty was imposed on the
7 individual or entity producing hemp; and

8 (4) The penalty remains unpaid or the individual or entity
9 continues to produce hemp.

10 (e) An individual or entity licensed by the United States
11 Department of Agriculture to produce hemp in Hawaii may sell
12 hemp biomass.

13 (f) Any products that are labeled, advertised, or implied
14 as to be made from hemp grown in Hawaii shall list the
15 percentage of Hawaii-grown hemp included on the product on the
16 label.

17 (g) A hemp producer licensed by the United States
18 Department of Agriculture to grow hemp shall follow all
19 inspection and sampling rules and protocols established by the
20 United States Department of Agriculture. The State shall not
21 require other inspections or sampling. The State shall not



1 issue notices of violations or impose penalties upon any hemp
2 producer licensed by the United States Department of
3 Agriculture; provided that the licensee is compliant with all of
4 the requirements imposed by the United States Department of
5 Agriculture. The State shall impose no penalty with respect to
6 the production of hemp, except penalties for growing hemp
7 without a license issued by the United States Department of
8 Agriculture.

9 (h) For the purposes of this section, "hemp biomass" means
10 the flowers, leaves, and stalks of hemp plants, and other hemp
11 plant material."

12 SECTION 3. Section 141-43, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The department of agriculture shall adopt rules
15 pursuant to chapter 91 to effectuate the purpose of this part,
16 including any rules necessary to address any nuisance issues,
17 including smell, noise, and excessive lighting arising out of
18 the activities of hemp growers licensed under the State's
19 industrial hemp pilot program who grow hemp within areas
20 prohibited under section [~~141-42(a)(3) and (4).~~] 141-42(a)(1)
21 and (2)."



1 SECTION 4. Section 328G-1, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding two new definitions to be appropriately
4 inserted and to read as follows:

5 "Finished hemp product" means a finished product,
6 including a product to supplement the human or pet diet, or a
7 cosmetic, food, food additive, beverage, or herb product, that:

8 (1) Is fit for use or consumption by a consumer or the pet
9 of a consumer;

10 (2) Contains naturally-occurring cannabinoids, compounds,
11 concentrates, extracts, isolates, resins or
12 derivatives from processed hemp;

13 (3) Does not contain any living hemp plants and/or viable
14 seeds;

15 (4) Has a delta-9-tetrahydrocannabinol concentration of
16 not more than 0.3 per cent, as measured by
17 post-decarboxylation, or by another similarly reliable
18 methods;

19 (5) Does not include tetrahydrocannabinol (THC) isolate as
20 an added ingredient; and

21 (6) Is not intended as feed for livestock.



1 "Intermediate hemp product" means an extract that:

2 (1) Is extracted from hemp;

3 (2) Has not yet undergone the complete manufacturing
4 process;

5 (3) Is not yet fit for use or consumption by consumers or
6 the pets of consumers."

7 2. By amending the definition of "hemp processor" to read:

8 "Hemp processor" means a person [processing hemp to
9 manufacture a hemp product.] or business that receives wet or
10 dry raw hemp material and extracts hemp extracts."

11 3. By amending the definition of "hemp product" to read:

12 "Hemp product" means [a product that:

13 (1) Contains naturally occurring cannabinoids, compounds,
14 concentrates, extracts, isolates, resins or
15 derivatives from processed hemp;

16 (2) Does not include any living hemp plants, viable seeds,
17 leaf materials, or floral materials;

18 (3) Has a delta-9-tetrahydrocannabinol concentration of
19 not more than 0.3 per cent, as measured post-
20 decarboxylation, or other similarly reliable methods;



- 1 ~~(4) Is intended to be consumed orally to supplement the~~
- 2 ~~human or animal diet; and~~
- 3 ~~(5) Is in the form of a tablet, capsule, powder, softgel,~~
- 4 ~~geleap, or liquid form (e.g. hemp oil) to be used by~~
- 5 ~~the consumer to infuse edible items at home for~~
- 6 ~~personal use or for topical application to the skin or~~
- 7 ~~hair.~~

8 ~~For purposes of this chapter, a hemp product shall be considered~~
 9 ~~as intended for oral ingestion in liquid form only if it is~~
 10 ~~formulated in a fluid carrier and it is intended for ingestion~~
 11 ~~in daily quantities measured in drops or similar small units of~~
 12 ~~measure per labeled directions for use.] an intermediate hemp~~
 13 ~~product or a finished hemp product."~~

14 4. By amending the definition of "manufacture" to read:
 15 ""Manufacture" means to compound, blend, [~~extract,~~] infuse,
 16 or otherwise make or prepare a finished hemp product[~~, but~~].
 17 "Manufacture" does not include [~~planting,~~]:

- 18 (1) Planting, growing, harvesting, or drying[~~, curing,~~
- 19 ~~grading, or trimming]~~ a hemp plant or part of a hemp
- 20 ~~plant[-]; or~~
- 21 (2) Extracting hemp extract from wet or dry biomass."

1 5. By amending the definition of "processing" to read:
2 ""Processing" means making a transformative change to the
3 hemp plant following harvest by converting an agricultural
4 commodity into [a] an intermediate hemp product[+] through
5 extraction."

6 SECTION 5. Section 328G-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§328G-2 Hemp processor registry; application; removal**
9 **from registry.** (a) [~~No person shall process hemp without first~~
10 ~~obtaining a license to produce hemp, issued by the Secretary of~~
11 ~~the United States Department of Agriculture pursuant to title 7~~
12 ~~United States Code section 1639g.~~

13 ~~(b)]~~ No person shall process hemp without being registered
14 by the department as a hemp processor pursuant to this part and
15 any rules adopted pursuant [+]to[+] this chapter.

16 ~~[(e)]~~ (b) A person who intends to process hemp shall apply
17 to the department for registration on an application form
18 created by the department.

19 ~~[(d)]~~ (c) The applicant shall provide, at a minimum[~~, the~~
20 ~~following information~~]:



- 1 (1) The applicant's name, mailing address, and phone
2 number in Hawaii;
- 3 (2) The legal description of the land on which the hemp is
4 to be processed or stored;
- 5 (3) A description of the enclosed indoor facility where
6 hemp processing will occur;
- 7 (4) Documentation that the indoor facility and planned
8 hemp processing operation complies with all zoning
9 ordinances, building codes, and fire codes; and
- 10 ~~[-(5) Documentation showing that the applicant has obtained~~
11 ~~a license to produce hemp, issued by the Secretary of~~
12 ~~the United States Department of Agriculture pursuant~~
13 ~~to title 7 United States Code section 1639g; and~~
- 14 ~~[-(6)]~~ (5) Any other information required by the department.
- 15 ~~[-(e)]~~ (d) In addition to the application form, each
16 applicant shall submit a non-refundable application fee
17 established by the department. If the fee does not accompany
18 the application, the application for registration shall be
19 deemed incomplete.
- 20 ~~[-(f)]~~ (e) Any incomplete application shall be denied.



1 ~~(g)~~ (f) Upon the department's receipt of a complete and
2 accurate application and remittal of the application fee, the
3 applicant shall be registered and shall be issued a certificate
4 of registration to process hemp.

5 ~~(h)~~ (g) The certificate of registration shall be renewed
6 annually by payment of the annual renewal fee to be determined
7 by the department.

8 ~~(i)~~ (h) Hemp processors shall allow any member of the
9 department, or any agent or third party authorized by the
10 department, to enter at reasonable times upon any private
11 property in order to inspect, sample, and test the hemp
12 processing area, hemp products, equipment, facilities incident
13 to the processing or storage of hemp, and review all pertinent
14 records.

15 ~~(j)~~ (i) The department may remove any person from the
16 registry for failure to comply with any law or regulation under
17 this chapter. It is the responsibility of the hemp processor to
18 make sure it is registered and legally allowed to process hemp
19 and in compliance with any and all laws and regulations. The
20 removal of a hemp processor from the registry shall be in
21 accordance with the procedures set forth in section 328G-6."



1 SECTION 6. Section 328G-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[f]§328G-3[+] **Hemp processing; hemp product sale and**
4 **prohibitions; labeling.** (a) No hemp shall be processed into
5 hemp products, nor shall any hemp processor hold for processing
6 or sale any hemp, unless lawfully obtained from a person
7 approved or otherwise authorized by applicable federal, state or
8 local law to cultivate hemp plants.

9 (b) Hemp and hemp products shall be processed within an
10 enclosed indoor facility secured to prevent unauthorized entry.
11 Hemp, hemp products, and any toxic or otherwise hazardous
12 by-products of hemp processing, or by-products, including but
13 not limited to delta-9 tetrahydrocannabinol, shall be stored
14 within an enclosed indoor facility, secured to prevent
15 unauthorized entry in a manner that prevents cross-contamination
16 and unintended exposures.

17 (c) Hemp shall not be processed within [~~500~~] five hundred
18 feet of a pre-existing playground, school, state park, state
19 recreation area, residential neighborhood, hospital, or daycare
20 facility.



1 (d) Hemp shall not be processed using butane in an open
2 system where fumes are not contained or by use of any other
3 method of processing the department determines poses a risk to
4 health and safety.

5 ~~[(e) No person shall sell, hold, offer, or distribute for
6 sale any food, as that term is defined in section 328-1, into
7 which a cannabinoid, synthetic cannabinoid, hemp extract, hemp
8 derivatives or other hemp product that has been added as an
9 ingredient or component. This section shall not apply to hemp
10 that is generally recognized as safe (GRAS) by FDA for use in
11 foods, as intended, in a public GRAS notification.~~

12 ~~(f)]~~ (e) No person shall sell, hold, offer, or distribute
13 for sale any hemp product into which a synthetic cannabinoid has
14 been added.

15 ~~[(g) No person shall sell, hold, offer, or distribute for
16 sale any cannabinoid products used to aerosolize for respiratory
17 routes of delivery, such as an inhaler, nebulizer or other
18 device designed for such purpose.~~

19 ~~(h) No person shall sell, hold, offer, or distribute for
20 sale, any hemp leaf or hemp floral material that is intended to~~



1 ~~be smoked or inhaled, including but not limited to hemp cigars~~
2 ~~or hemp cigarettes.~~

3 ~~(i)]~~ (f) Except for hemp products intended for external
4 topical application to the skin or hair, no person shall sell,
5 hold, offer, or distribute for sale any products containing hemp
6 or hemp derivatives that are intended to be introduced via
7 non-oral routes of entry to the body, including but not limited
8 to, use in eyes, ears, and nasal cavities.

9 ~~(j)]~~ (g) No person shall sell, hold, offer or distribute
10 for sale, hemp products without a label, in a form prescribed by
11 the department, affixed to the packaging that identifies the
12 hemp product as having been tested pursuant to department rules.

13 (h) No person shall sell, hold for sale, offer, or
14 distribute to persons younger than the age of twenty-one any
15 cannabinoid product used to aerosolize for respiratory routes of
16 delivery, including any inhaler, nebulizer, or other device
17 designed for that purpose. An inhalable product shall not
18 contain:

19 (1) Any flavoring, other than natural terpenes;

20 (2) Polyethylene glycol (PEG);

21 (3) Vitamin E acetate;



- 1 (4) Medium chain triglycerides (MCT) oil;
- 2 (5) Squalene;
- 3 (6) Squalane; or
- 4 (7) Any other substance that the department finds to be a
- 5 danger to public health.

6 (i) No person shall sell, hold, offer or distribute for
7 sale any hemp product having a label that is attractive to
8 underaged persons.

9 (j) For any product with a label that contains the words
10 "Hawaiian CBD", "Hawaiian hemp", "Hawaii-grown CBD",
11 "Hawaiian-grown CBD", or with any other wording implying that
12 the product contains cannabidiol or hemp grown in Hawaii, the
13 hemp processor and manufacturer shall each ensure that the label
14 also includes the percentage of hemp within the product that was
15 grown in Hawaii, in a form prescribed by the department."

16 SECTION 7. Section 328G-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§328G-5[+] **Laboratory standards and testing;**
19 **certification.** (a) The department shall establish and enforce
20 standards for laboratory-based testing of the hemp products for
21 content, contamination, and consistency.



1 (b) The department may certify laboratories and recognize
 2 certifications from other jurisdictions of laboratories that are
 3 qualified to test hemp products for quality control prior to
 4 sale.

5 (c) No less than once every three years, the department
 6 shall hire or consult a toxicologist or consultant familiar with
 7 hemp industry standards for the purpose of setting defined
 8 action limits or exposure levels for different types of hemp
 9 products."

10 SECTION 8. Act 14, Session Laws of Hawaii 2020, as amended
 11 by Act 137, Session Laws of Hawaii 2022, is amended by amending
 12 section 9 to read as follows:

13 "SECTION 9. This Act shall take effect upon its approval,
 14 and shall be repealed on July 1, [~~2025;~~] 2027; provided that the
 15 definition of "marijuana" in section 329-1, Hawaii Revised
 16 Statutes, and the definitions of "marijuana" and "marijuana
 17 concentrate" in section 712-1240, Hawaii Revised Statutes, shall
 18 be reenacted in the form in which they read on the day prior to
 19 the effective date of this Act."

20 SECTION 9. There is appropriated out of the general
 21 revenues of the State of Hawaii the sum of \$ or so much



S.B. NO. 1548

Report Title:

Hemp Producers; Cannabis; Licensing; Labeling

Description:

Repeals redundant regulations on hemp production, which will reduce costs for the State and Hawaii farmers. Amends hemp law in a manner that recognizes the unique constraints of Hawaii farmers, while protecting human health. Allows licensed hemp producers to sell hemp biomass. Requires transparency in labeling of hemp products to identify the percentage of Hawaii-grown hemp or hemp product in all hemp products. Requires and appropriates moneys for the Department of Health to hire or consult a toxicologist or consultant familiar with hemp industry standards for the purpose of setting defined action limits or exposure levels for different types of hemp products. Extends the State's hemp processor law through 7/1/2027. Repeals on 7/1/2027.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

