



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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Testimony COMMENTING on SB1633
RELATING TO HEMP

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date/Time: February 7, 2025, 2:00 P.M.

Room 225

1 **Fiscal Implications:** This measure does not include an appropriation; however, it establishes a
2 new program in the Department of Health (“Department”) that would require additional
3 resources. The Department does not support additional resources or requirement for additional
4 resources that would supplant the priorities and requests outlined in the Governors executive
5 budget request.

6 **Department Position:** The Department offers comments on this measure.

7 **Department Testimony:** The Office of Medical Cannabis Control and Regulation (OMCCR)
8 provides the following testimony on behalf of the Department.

9

10 While the Department has significant concerns about this measure, the Department
11 appreciates the opportunity to continue the discussion on THC limits in hemp products in
12 relation to its overarching mission to protect public health.

13 The Department appreciates the inclusion of public health safety measures that would
14 require edible manufactured hemp products be sold in packaging that is child resistant, not be
15 attractive to children, and carry labeling statement restricting sale to adults twenty-one years

1 of age or older. This aligns with the Department’s packaging and labeling requirements found in
2 interim hemp rules, Chapter 11-37, Hawaii Administrative Rules (HAR).

3 However, the Department has significant concerns regarding amendments that would
4 permit edible hemp products to contain up to 62.5 milligrams (mg) of tetrahydrocannabinol
5 (THC), the primary intoxicating cannabinoid in cannabis and hemp. The proposed limit would
6 increase the allowable THC contents in hemp edibles, such as gummies, tablets, and powder
7 mixes, by more than 12 times the current limit, and in hemp beverages by 120 times. The
8 interim hemp rules established THC limits with a strong focus on public health and consumer
9 safety, guided by studies showing that oral THC as low as 7-10 mg can cause intoxication and
10 cognitive and motor impairment in healthy, infrequent cannabis users.ⁱ A high package limit of
11 62.5 mg could pose significant harm to consumers. The interim hemp rule limits protect
12 consumers also from the potential overdose of THC given that ingested THC has a delayed
13 onset of effects.ⁱⁱ Notably, edible products are the number one cause of acute THC poisoning
14 across Hawaii. In 2023, 60% of all reports of cannabis poisoning to Hawaii’s Poison Center were
15 linked to edible consumption (Figure 1). Recognizing the risks to public health and safety, many
16 states have recently enacted regulations to restrict THC in hemp products, with some even
17 prohibiting any detectable levels.

18 Equally concerning is that under the proposed measure, beverages may contain both
19 alcohol and THC. The bill proposes to apply Section 339-1 to the definition of “beverage”.
20 Section 339-1 definitions of beverages include “beer or other malt beverages”. The co-
21 administration of THC and alcohol leads to higher blood levels of THC and its active metabolite
22 11-OH-THC, causing greater impairment compared to consuming each substance individually.ⁱⁱⁱ

23 In addition, any increased access to THC should be accompanied by updates to
24 intoxicated driving determination and penalty. For example, because the association of blood
25 THC level and impairment is different than that for alcohol, including both field sobriety with a
26 cut-off THC level would be warranted.

1 Finally, the bill mandates the creation of a new program within the Department without
2 allocating funding or positions. Establishing a dedicated hemp program to regulate the
3 processing and manufacturing of hemp cannabinoid would unnecessarily grow government and
4 require additional resources. The THC in hemp is the same THC in cannabis, and we believe
5 housing both regulatory activities is appropriate. How the Department is organized does not
6 impact federal and state regulation regarding insurance and banking.

7
8
9 **Offered Amendments:**

- 10 1. Delete Part II.
11 2. Add to Section 3 the definition of "manufactured hemp product" to read as follows:

12 ""Manufactured hemp product" means [a]:

13 (1) A product created by processing, as defined in this chapter, that[:

14 ~~(1) is]~~ is either:

15 (A) Intended to be consumed orally to supplement the human or animal diet in tablet,
16 capsule, powder, softgel, gelcap, or liquid form (e.g., hemp oil); or

17 (B) In a form for topical application to the skin or hair; or

18 (2) Any other product specified in rules adopted by the department pursuant to section
19 328G-4.

20 [~~(2) Does]~~ "Manufactured hemp product" does not include any living hemp plants, viable
21 seeds, leaf materials, or floral materials[~~;~~ and

22 ~~(3) includes any other product specified by the department pursuant to section 328G-~~
23 ~~4(a)(7)]."~~

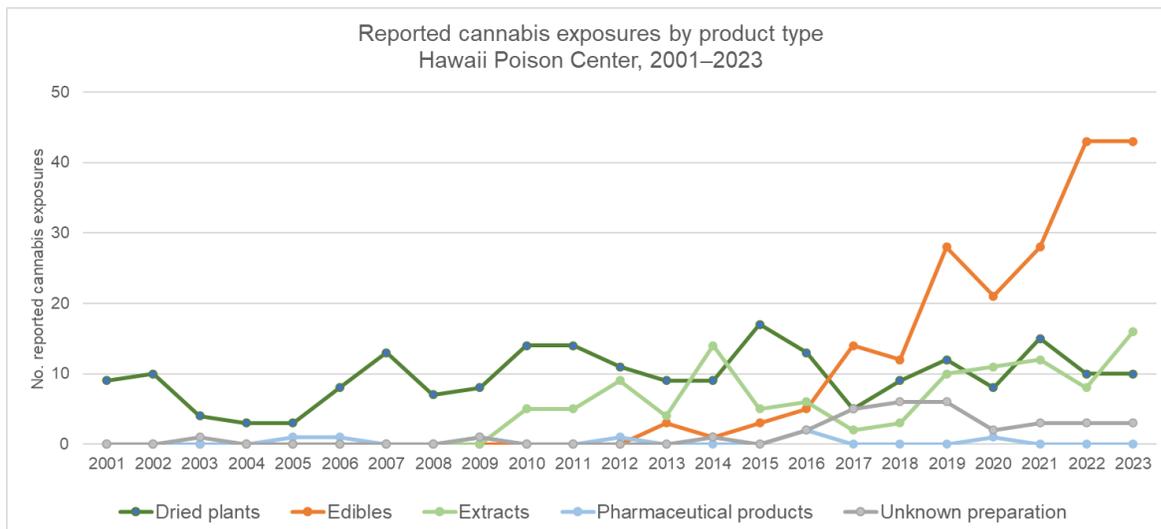
24
25
26 Thank you for the opportunity to testify on this measure.

ⁱ Huestis MA. Human cannabinoid pharmacokinetics. *Chem Biodivers* 2007; **4**(8): 1770-804; McDonald J, Schleifer L, Richards JB, de Wit H. Effects of THC on behavioral measures of impulsivity in humans. *Neuropsychopharmacology* 2003; **28**(7): 1356-65; Wachtel S, Elsohly M, Ross S, J A, Wit H. Comparison of the subjective effects of Δ9-tetrahydrocannabinol and marijuana in humans. *Psychopharmacology* 2002; **161**: 331-9; Gorbenko AA, Heuberger JAAC, Klumpers LE, et al. Cannabidiol Increases Psychotropic Effects and Plasma Concentrations of Δ9-Tetrahydrocannabinol Without Improving Its Analgesic Properties. *Clinical Pharmacology & Therapeutics*; Schlienz NJ, Spindle TR, Cone EJ, et al. Pharmacodynamic dose effects of oral cannabis ingestion in healthy adults who infrequently use cannabis. *Drug Alcohol Depend* 2020; **211**: 107969.

ⁱⁱ MacCallum CA, Lo LA, Pistawka CA, Christiansen A, Boivin M, Snider-Adler M. A Clinical Framework for Assessing Cannabis-Related Impairment Risk. *Front Psychiatry* 2022; **13**: 883517; Radhakrishnan R, Wilkinson ST, D'Souza DC. Gone to Pot - A Review of the Association between Cannabis and Psychosis. *Front Psychiatry* 2014; **5**: 54; Morrison PD, Zois V, McKeown DA, et al. The acute effects of synthetic intravenous Δ9-tetrahydrocannabinol on psychosis, mood and cognitive functioning. *Psychological Medicine* 2009; **39**(10): 1607-16.

ⁱⁱⁱ Gunn R, Aston E, Metrik J. Patterns of Cannabis and Alcohol Co-Use: Substitution Versus Complementary Effects. *Alcohol research : current reviews* 2022; **42**: 04.

Figure 1. Cannabis exposures by product type, Hawaii State, 2001-2023



Source: Hawaii Poison Center, Rocky Mountain Poison & Drug Safety, National Poison Data System (NPDS) database, accessed February 2024.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



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DEPARTMENT OF TAXATION

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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1633, Relating to Hemp.

BEFORE THE:

Senate Committees on Agriculture and Environment, and Health and Human Services

DATE: Friday, February 7, 2025

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 225

Chairs Gabbard and San Buenaventura, Vice-Chair Richards, III and Aquino, and Members of the Committees:

The Department of Taxation (DOTAX) offers the following comments regarding S.B. 1633 for your consideration.

Section 1 of the measure amends section 235, Hawaii Revised Statutes (HRS), adding a new section to create a Green Building Tax Credit for construction costs incurred on a primary structure made with at least 30% Hawaii-grown hemp material. The credit is equal to 30% of the taxpayer's actual costs incurred and is refundable. All credit claims must be filed within one year of the close of the taxable year for which the credit may be claimed.

The measure will become effective upon approval, except for Section 1 which applies to taxable years beginning after December 31, 2025.

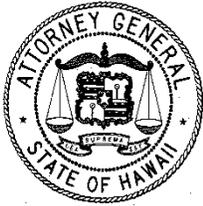
DOTAX recommends that the credit be made nonrefundable, as refundable credits provide a greater incentive for fraud and abuse.

DOTAX also notes that it does not have subject matter expertise to verify

whether a structure is made with Hawaii-grown hemp material. Thus, DOTAX recommends that the proposed credit be certified by a third-party agency. Furthermore, certification streamlines taxpayers' claims and DOTAX's processing of credits.

Additionally, DOTAX recommends that definitions for the terms "primary structure" and "hemp" be added to avoid ambiguity.

Thank you for the opportunity to provide comments on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:
S.B. NO. 1633, RELATING TO HEMP.

BEFORE THE:
SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND ON
HEALTH AND HUMAN SERVICES

DATE: Friday, February 7, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Andrew Goff, Deputy Attorney General

Chairs Gabbard and San Buenaventura and Members of the Committees:

The Department of the Attorney General (Department) respectfully opposes this bill as currently drafted and provides the recommended amendments to address our legal and law enforcement concerns.

Proposed tax credits may be subject to constitutional challenge.

Section 1 of this bill adds a new section to chapter 235, Hawaii Revised Statutes (HRS), requiring the Department of Taxation to administer a green building tax credit to an individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year and that may claim a green building tax credit against its Hawaii state individual or corporate net income tax. The tax credit would be "equal to thirty per cent of the taxpayer's actual costs incurred in connection with the construction of any primary structure made with at least thirty per cent Hawaii-grown hemp material." Page 1, lines 10-13.

The requirement that structures be constructed with at least thirty percent "Hawaii-grown" hemp material may be challenged as a violation of the Commerce Clause of the United States Constitution, which provides that Congress shall have the power to "regulate Commerce . . . among the several States." U.S. Const. art I, § 8, cl. 3. "Though phrased as a grant of regulatory power to Congress, the Clause has long been understood to have a 'negative' aspect that denies the States the power

unjustifiably to discriminate against or burden the interstate flow of articles in commerce." *Or. Waste Sys., Inc. v. Dep't of Env'tl. Quality*, 511 U.S. 93, 98 (1994). This negative aspect of the Commerce Clause, known as the Dormant Commerce Clause, prohibits states from "advancing their own commercial interests by curtailing the movement of articles of commerce, either into or out of the state," *Fort Gratiot Sanitary Landfill, Inc. v. Mich. Dep't of Nat. Res.*, 504 U.S. 353 (1992) (internal brackets omitted), upon concern about "economic protectionism," i.e., "regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors." *Dep't of Revenue of Ky. v. Davis*, 553 U.S. 328, 337 (2008).

Here, requiring structures to be built with at least thirty percent "Hawaii-grown" hemp material may be subject to challenge as unconstitutional economic protectionism designed to benefit in-state economic interests. Accordingly, we recommend deleting the words "Hawaii-grown" from page 1, line 13.

Proposed expanded hemp products may be illegal and unregulated.

Sections 2 and 3 of the bill expand the range of allowable hemp products in Hawaii to include undefined "non-edible legacy cannabinoid products" (page 3, line 18, through page 4, line 4). These products are not required to be derived from hemp, meaning they could be illegal cannabis products, and would not be subject to any public health regulations such as testing, labeling, and packaging requirements. The wording is broad enough to permit any cannabis product, including smokable flower, vapes, and concentrates, without safeguards to protect consumers—especially youth. There are no provisions restricting sales to individuals over twenty-one. Furthermore, the bill states that a manufactured hemp product shall not be subject to any restrictions except for the federal definition of hemp. This conflicts with existing regulations for manufactured hemp products under chapter 328G, HRS, creating significant legal uncertainty about which regulations apply.

Additionally, the bill allows "edible or beverage cannabinoid products" that do not have to be derived from hemp to contain up to 2.5 mg of tetrahydrocannabinol (THC) per serving, with up to twenty-five servings per package. This means a single twelve-

ounce beverage could contain as much as 62.5 mg of THC—more than six times the limit for medical cannabis beverages.

The bill also allows all forms of THC in edibles and beverages, including delta-8 and delta-10 THC, which do not naturally occur in large quantities and must be chemically converted from other cannabinoids like cannabidiol (CBD). These synthetic or artificial forms of THC are currently prohibited in hemp products under section 328G-3(g). Allowing these compounds in edible or beverage cannabinoid products would complicate enforcement and compromise consumer safety.

Furthermore, the bill defines "beverage" by referencing section 339-1, HRS, a litter control statute. See page 4, lines 9-10. Section 339-1 defines beverages as including "beer or other malt beverages, mineral waters, fruit juices, ades, and other similar noncarbonated drinks, soda water, and flavored carbonated drinks, in liquid form and intended for human consumption." Using this definition creates uncertainty about whether the bill's intent is to allow cannabinoids in alcoholic beverages.

Finally, the bill amends the definition of "hemp biomass" by removing any reference to hemp floral materials. Because many regulations in section 328G-3, HRS, govern the use of hemp biomass, this change could create uncertainty about whether those regulations apply to hemp flower. Because cannabinoids are concentrated in the flower of the hemp plant, processing hemp flower into hemp-derived cannabinoid products must remain clearly regulated.

To the extent it is the Legislature's intent to allow a hemp processor with a permit from the Department of Health (DOH) to sell specific hemp-derived products with a defined amount of delta-9 THC, the department recommends deleting sections 2 and 3 entirely, and replacing them with the following:

SECTION 2. Chapter 328G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§328G-A Hemp processor; manufactured hemp product sale.

(a) Notwithstanding section 328G-3(e), any hemp processor with

a permit pursuant to section 328-2 may sell, hold, offer, or distribute for sale the following manufactured hemp products that are food, as that term is defined in section 328-1, into which hemp-derived cannabinoids have been added as an ingredient or component:

- (1) Gummies; provided that:
 - (A) One gummy shall be one serving;
 - (B) One gummy shall contain no more than 2.5 milligrams of tetrahydrocannabinol; and
 - (C) Each package of gummies that is sold, held, offered, or distributed in the State shall contain no more than 25 gummies;
- (2) Beverages; provided that beverages shall:
 - (A) Have a minimum volume of six fluid ounces and a maximum of twelve fluid ounces per container; and
 - (B) Contain no more than 2.5 milligrams of tetrahydrocannabinol per container; and
- (3) Tinctures; provided that tinctures shall:
 - (A) Have a maximum volume of one fluid ounce per package;
 - (B) Have a maximum of ninety milligrams of total tetrahydrocannabinol per package;

(C) Have a maximum concentration of three milligrams of tetrahydrocannabinol per serving;

(D) Not contain any added flavors, sugars, or sweeteners;

(b) No hemp processor shall sell, hold, offer, or distribute for sale the manufactured hemp products listed in subsection (a) to any individual under the age of twenty-one years.

(c) Any manufactured hemp products sold pursuant to subsection (a) shall comply with all other applicable laws, including this chapter and rules adopted pursuant to this chapter.

(d) For the purposes of this section:

"Gummy" or "gummies" means a chewable soft confection made primarily from sugar with gelatin or another gelling agent such as starch or pectin.

"Tincture" means a liquid manufactured hemp product consisting of hemp extract dissolved in glycerin or a plant-based oil, that is intended for oral consumption in small amounts using a dropper, and that has a total volume of one ounce or less.

The proposed new hemp program within the Department of Health (DOH) is unfunded and problematic.

Section 5 of the bill requires DOH to establish a hemp program to regulate hemp processing, distinct from “the regulatory process for cannabinoid products with a high concentration of tetrahydrocannabinol.” Page 5, lines 10-18. However, the bill does not allocate any funding or staff positions to implement this program.

Additionally, the program is required to “ensure hemp farmers and processors do not lose insurance coverage or the ability to utilize banking institutions.” Page 5, lines 14-16. DOH has no authority to compel private insurance companies or financial institutions to provide services to hemp businesses.

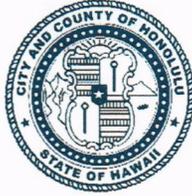
Finally, the bill mandates that the program include a process for regulating recreational cannabis if it is legalized in the state. Page 5, lines 17-18. This directly contradicts the requirement that the hemp program remain separate from the regulation of high-THC cannabinoid products. Page 5, lines 10-18.

Establishing a completely new program to regulate cannabinoids, separate from the Office of Medical Cannabis Control and Regulation (OMCCR), which already oversees cannabinoid products, is an unnecessary duplication of state resources. Duplicating the expertise within OMCCR would require additional personnel and funding and could result in inconsistent regulations for cannabinoid products across the State. This will further confuse consumers about what is legal and create uncertainty over which entity is responsible for enforcement. The Department respectfully requests that section 5 be deleted in its entirety.

We respectfully ask the Committees to make the recommended amendments if this bill is to pass. In the alternative, we respectfully request that the bill be held. Thank you for the opportunity to provide comments.

HONOLULU POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU

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DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE JP-HR

February 7, 2025

The Honorable Mike Gabbard, Chair
and Members
Committee on Agriculture and Environment
The Honorable Joy A. San Buenaventura, Chair
and Members
Committee on Health and Human Services
State Senate
415 South Beretania Street, Room 225
Honolulu, Hawai'i 96813

Dear Chairs Gabbard and San Buenaventura and Members:

SUBJECT: Senate Bill No. 1633, Relating to Hemp

I am Jerome Pacarro, Captain of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 1633, Relating to Hemp.

The HPD opposes this bill, which seeks to allow hemp processors to sell edible or beverage cannabinoid products. Consuming hemp edibles can be unpredictable, particularly for inexperienced users. While some individuals may have a mild and pleasant experience, others might encounter unintended and distressing side effects, especially if they accidentally consume a product with higher tetrahydrocannabinol levels than expected. This unpredictability can lead to anxiety, confusion, and other negative reactions that may require response from first responders.

The HPD urges you to oppose Senate Bill No. 1633, Relating to Hemp.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Jerome Pacarro, Captain
Narcotics/Vice Division

SB-1633

Submitted on: 2/6/2025 5:35:32 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
JARED DALGAMOUNI	Testifying for HAWAIIAN CHOICE	Support	Written Testimony Only

Comments:

Hawaiian Choice, one of the largest manufacturers of hemp products based in Hawaii testifies as follows:

We are in SUPPORT of this bill - with one important modification -

PAGE 3 - LINE 7 - the edible limit should be raised from 25 servings to 30 servings per package. This would align it with the Dept of Health accepted THC limit on tinctures (2.5mg x 30 servings = 75mg THC per package) and in-line with the nationwide industry standard of 30 servings (gummies, etc) per package). There are almost no companies that produce a 25 serving package, but almost universally it's 30 servings.

To: Senator Mike Gabbard, Chair
Senator Herbert “Tim” Richards III, Vice-Chair
Members of the Senate Agriculture and Environment Committee

To: Senator Joy San Buenaventura, Chair
Senator Henry Aquino, Vice-Chair
Members of the Senate Health and Human Services Committee

Fr: TY Cheng, on behalf of Hemptuary Hawaii.

Re: Testimony of **SUPPORT** on **House Bill (SB) 1633**

RELATING TO HEMP.

Establishes a green building tax credit for costs related to the construction of a primary structure made with at least thirty per cent Hawaii-grown hemp material. Allows any hemp processor with a permit from the Department of Health to sell an edible or beverage cannabinoid product that contains a tetrahydrocannabinol concentration of not more than 2.5mg per serving and not more than twenty-five servings per package. Prohibits the sale of an edible or beverage cannabinoid product to any person less than twenty-one years of age. Establishes child-resistant packaging requirements for edible cannabinoid products. Clarifies the tetrahydrocannabinol concentration limit for a non-edible legacy cannabinoid product or manufactured hemp product shall be subject only to federal restrictions. Amends the definition of "hemp biomass" to include stalks and foliage material. Requires the Department of Health to establish a dedicated hemp program to regulate hemp that is separate from the regulatory process for cannabinoid products with a high concentration of tetrahydrocannabinol.

Dear Chairs Gabbard and San Buenaventura, Vice-Chairs Richards and Aquino and Members of the Committees:

Hemptuary Hawaii (“Hemptuary”) is one of a handful of registered hemp processors with the State of Hawaii producing compliant and lab-tested CBD-only hemp products. Hemptuary is also one of a dozen USDA-licensed hemp producers in Hawaii. Hemptuary wishes to provide comments on SB 1633 which establishes a green building tax credit, prohibits the sale of hemp products to those under 21 years of age, and raises the THC concentrations for hemp products to 2.5mg per serving.

Hemptuary recommends that hemp and cannabis should be regulated by one agency with a “one plant” philosophy as both plants produce THC and THC is the cannabinoid that requires regulation. Though we believe in one regulatory authority, Hemptuary also recommends that hemp should have its own set of less restrictive rules depending on the allowable levels of THC.

Hemptuary asks the committee to clarify what “0.3% THC limits” mean for a product and whether it is based on product weight as this was a major issue for regulators in other states.

The following chart summarizes the product and THC limits allowed in Hawaii:

Product Type	Medical Dispensary	Hemp Product	SB 1633
Dried Flower	Allowed	Not Allowed	No change
Oil Cartridges	Allowed	Not Allowed	No change
Gummies	Allowed 10mg THC each and 100mg in one pack	Allowed 1mg THC each and 5mg in one pack	2.5mg THC each and 62.5mg in one pack
Beverage	Allowed 10mg THC per serving	Allowed 0.5mg THC per serving	2.5mg THC per serving
Tincture	Allowed	Up to 75mg THC per pack	0.3% THC limit
Topicals	Allowed	Allowed	0.3% THC limit

Thank you for the opportunity to testify. I am available for any questions.

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: NET INCOME; Green Building Tax Credit, Edible Cannabinoid Products, Tetrahydrocannabinol Concentration Limit

BILL NUMBER: SB 1633

INTRODUCED BY: GABBARD, RICHARDS

EXECUTIVE SUMMARY: Establishes a green building tax credit for costs related to the construction of a primary structure made with at least thirty per cent Hawai‘i-grown hemp material. Allows any hemp processor with a permit from the Department of Health to sell an edible or beverage cannabinoid product that contains a tetrahydrocannabinol concentration of not more than 2.5mg per serving and not more than twenty-five servings per package. Prohibits the sale of an edible or beverage cannabinoid product to any person less than twenty-one years of age. Establishes child-resistant packaging requirements for edible cannabinoid products. Clarifies the tetrahydrocannabinol concentration limit for a non-edible legacy cannabinoid product or manufactured hemp product shall be subject only to federal restrictions. Amends the definition of "hemp biomass" to include stalks and foliage material. Requires the Department of Health to establish a dedicated hemp program to regulate hemp that is separate from the regulatory process for cannabinoid products with a high concentration of tetrahydrocannabinol.

SYNOPSIS: As the bill relates to taxation, Section 1 adds a new section to chapter 235, HRS, for a Green building tax credit ("Credit") for individuals and corporations filing income tax returns.

The Credit is equal to 30% of the taxpayer’s actual cost incurred in connection with construction of any primary structure made with at least 30% Hawaii-grown hemp material. The Credit is refundable.

Requires the director of taxation to prepare any forms necessary to claim a credit, may require a taxpayer to furnish reasonable information to validate a claim for the credit, and adopt rules pursuant to HRS chapter 91.

Requires claims for the credit, including any amended claims, to be filed on or before the end of the twelfth month following the taxable year for which the credit is claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

EFFECTIVE DATE: Upon approval, provided that section 1 shall apply to taxable years beginning after December 31, 2025.

STAFF COMMENTS: While the idea of providing a tax credit to encourage the use of Hawaii-grown hemp material and presumably agricultural production of hemp may have been acceptable a few years ago when the economy was on a roll and advocates could point to credits like these to encourage local agricultural activities, what lawmakers and administrators have learned in these

past few years is that unbridled tax incentives, where there is no accountability or limits on how much in credits can be claimed, are irresponsible as the cost of these credits goes far beyond what was ever intended. Instead, lawmakers should encourage agricultural production through the appropriation of a specific number of taxpayer dollars. A direct appropriation would be preferable to the tax credit as it would: (1) provide some accountability for the taxpayers' funds being utilized to support this effort; and (2) not be a blank check.

Lawmakers need to keep in mind two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when we need money to support victims of natural disasters like the Maui wildfires, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

Furthermore, the additional credit would require changes to tax forms and instructions, rulemaking, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation may be a far less costly method to accomplish the same thing.

Should this measure move forward, we offer these technical comments to clarify Credit eligibility in subparagraph (b):

“Construction”: Is the Credit available for only new construction or can alternations or modifications of the primary structure qualify?

“Actual cost”: Rather than focusing on costs, we suggest that the credit be awarded on *tax basis* resulting from the construction of the structure, thereby limiting the credit to costs properly capitalized into the basis of the structure and disallowing double benefits (taxpayer deducts the costs and claims a credit as well).

“Any primary structure”: Is the credit intended for residential and commercial property? How will “primary” be determined? By square footage, days occupied/used in a year, or some other metric? Could the credit be available to more than one structure?

Digested: 2/5/2025



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Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Advisor*
Eddie Asato, Pint Size Hawaii, *Advisor*
Gary Okimoto, Safeway, *Immediate Past Chair*

TO: Committee on Agriculture and Environment and Committee on Health and Human Services

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: February 7, 2025

TIME: 2pm

RE: SB1633 Relating to Hemp

Position: Comments

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, manufacturers and distributors of food and beverage related products in the State of Hawaii.

Dear Members of the Committees,

Thank you for the opportunity to provide comments on SB1633. As states across the country legalize the sale of cannabidiol (CBD) beverages and edibles, including gummies, within federal THC limits, Hawaii must evaluate how local businesses and consumers could benefit from similar regulation.

CBD Legalization for Retail Sale in Other States

Numerous states have successfully legalized the sale of CBD beverages and gummies at retail locations, including grocery stores, under the federal THC limit of 0.3% delta-9-tetrahydrocannabinol (THC):

- New York: Through its Cannabinoid Hemp Program under Assembly Bill A7680, New York legalized the sale of CBD products, including beverages and gummies, in grocery stores. These products must comply with the federal 0.3% THC limit and follow strict labeling, testing, and safety guidelines to ensure consumer protection.

- California: Senate Bill 235 allows grocery stores and other retail locations to sell CBD beverages and edibles, provided the products adhere to the federal THC limit. California's regulatory framework emphasizes testing and proper labeling to ensure public safety while fostering business growth.
- Colorado: Under the Colorado Hemp Program, grocery stores can legally sell CBD-infused drinks and gummies within the federal 0.3% THC limit. This state's regulations have encouraged the rapid growth of local CBD businesses by creating clear market pathways for retail sales.
- Florida: Grocery stores in Florida can sell CBD beverages and gummies under the Hemp Food Establishment Program. Florida enforces strict rules on testing, packaging, and labeling, ensuring that all products sold meet federal guidelines for THC levels.
- Michigan: Michigan allows CBD beverages and edibles to be sold at grocery stores and other retail outlets as long as they comply with the 0.3% THC limit. Michigan's oversight has enabled businesses to thrive while prioritizing consumer safety.

Federal THC and CBD Guidelines

The 2018 Farm Bill federally legalized hemp-derived CBD products with a maximum of 0.3% delta-9 THC on a dry weight basis. This federal standard ensures that CBD products remain non-intoxicating and widely available, creating a consistent legal framework across states.

Federal and State Comparisons

Federal THC Limit: The federal limit under the 2018 Farm Bill allows products with less than 0.3% delta-9 THC by dry weight. However, the exact milligram limit per serving or product is typically determined by state regulations.

States with Higher THC Limits:

- New York: Permits up to 5 mg of THC per serving for CBD beverages and edibles.
- California: Allows 10 mg of THC per serving, with a maximum of 100 mg per package for recreational cannabis edibles, though CBD-only products typically comply with the 0.3% THC limit.
- Colorado: Edibles can contain up to 10 mg THC per serving, though hemp-based CBD products must remain under 0.3% THC.
- Michigan: Similarly permits 5-10 mg per serving for recreational products.

Considerations for Hawaii

- **Safety Concerns:** 2.5 mg may be seen as a cautious approach, particularly for new markets or to limit intoxicating effects. However, it could be restrictive for products like beverages and gummies where higher THC content is commonly permitted.
- **Market Competitiveness:** States with higher limits have seen significant success in CBD product sales, suggesting that overly low limits could hinder local businesses from competing effectively.
- **Consumer Expectations:** Many consumers familiar with products from other states may find 2.5 mg insufficient, leading them to purchase from mainland sources where higher limits are allowed.

Current Access to CBD Products in Hawaii

Even without state legalization, Hawaii residents currently have access to CBD beverages and gummies via online purchases and shipments from the mainland. Major carriers such as USPS, UPS, and FedEx permit the shipment of federally legal CBD products to Hawaii, provided they meet federal THC requirements.

The Economic and Consumer Impact of Delaying Legalization

- **Lost Revenue Opportunities:** Without legalizing CBD beverages and gummies at local grocery stores, Hawaii's businesses miss out on potential revenue while residents continue purchasing these products from out-of-state sources.
- **Stifling Local Business Growth:** Local farmers, manufacturers, and retailers lose a valuable market opportunity to produce and sell safe, regulated CBD products.
- **Lack of Consumer Protection:** Residents who buy CBD beverages and gummies online may unknowingly consume products that are improperly tested or labeled. Local regulation could ensure consistent product quality and safety.

Benefits of Following Other States' Successful Models

By regulating the sale of CBD beverages and gummies at grocery stores, Hawaii can:

- **Promote local business growth:** Enable local farmers, manufacturers, and retailers to compete in the growing CBD market.
- **Generate tax revenue:** Create new revenue streams for the state while keeping funds within the local economy.
- **Ensure product safety:** Provide consumers with confidence that CBD products meet local testing and labeling standards.

Conclusion

Other states have demonstrated the success of legalizing CBD beverages and gummies in retail locations like grocery stores within federal THC guidelines. Without similar legislation, Hawaii risks losing economic benefits while residents continue to access these products from external sources. I encourage the committee to consider the advantages of local regulation to protect consumers and support local businesses.

SB-1633

Submitted on: 2/5/2025 8:49:57 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Testifying for Climate Protectors Hawaii	Support	Written Testimony Only

Comments:

Climate Protectors Hawai'i SUPPORT this bill! A green building tax credit for buildings with at least 30% Hawai'i-grown hemp will **encourage development of plant-based buildings in Hawai'i. Building with plants instead of timber, steel, and cement will sequester carbon instead of increasing carbon emissions that contribute to climate warming.**

Climate Protectors Hawai'i (by Ted Bohlen)

SB-1633

Submitted on: 2/5/2025 9:16:15 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Robert Bence	Individual	Support	Remotely Via Zoom

Comments:

Aloha Chairs, Vice Chairs and Committee Members,

As a certified organic, multi generational, diversified farmer from Kula and a member of the hemp task force I strongly support this excellent bill.

It is refreshing to see this bill that finally enables local farmers to compete with imported hemp, bans synthetic cannabinoids, age gates to over 21 and even provides a plan if cannabis is legalized.

The terrible house bill to try to milk the now dead previously potentially cash cow of recreational was over 311 pages of fluff, conjecture and bad ideas. It was based on foreign ideas that are old and have proven to fail in every state ideas as well as a first in the nation bad idea to combine it all. That house bill would destroy hemp farmers and medicinal patients in contrast this excellent 7 page bill from the senate could save both local constituents.

The only potential suggestions would be to consider grants as hemp farmers may not have the upfront funds to benefit from tax credits; however, I trust the extensive knowledge of these senators in agriculture and legislation to craft the bill that is most likely to pass.

The HDOA movement reports are not helping anyone and the AG mentioned removing them last year. The only other regulatory function of HDOA is buffer zones which no longer seem to be an issue and are challenging to enforce. If both of these requirements were removed it would help farmers and allow HDOA to focus on bio security and helping support farmers like all other crops. HDOA and/or UH could help to develop alternative sampling protocols to submit to USDA so that hemp microgreens and other non cannabinoid hemp wouldn't require unnecessary testing. HDOA and/or UH could also work with farmers and ranchers to study hemp as livestock feed.

Removing the HDOH processing permit fee for local hemp farmers that can't afford the costs. Explore the potential of a free testing laboratory.

The position that helps look for federally legal cannabis opportunities could work with UH to set up a streamlined process for hemp farmers and medicinal patients to grow and sell federally legal cannabis under (Public Law No: 117-215 (12/02/2022)). If focus on the study of the benefits of growing one's own plant based medicine for love and not for profit the state could regain its long

lost role as a world leader in cannabis. Our diverse talents and terroir of microclimates would enable the study of several different cultivars and conditions. Any excess could be federally legal for sale to other states or nations with similar research programs. The demand for research flower is still high because the hoops to become a federally legal grower are usually only done by large companies or within a university department, UH could design a system that simplifies the requirements and provides umbrella support for the smaller growers offering a very different study and supply than any other state enjoying federally legal status for the farmers and patients participating in the study.

Greatly appreciate this excellent bill and all of you for your support of local farmers and the community.

Mahalo

Robert Bence

SB-1633

Submitted on: 2/4/2025 3:20:13 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lois Crozer	Individual	Support	Written Testimony Only

Comments:

I understand one reason why there is pushback on Hemp is because of THC. This bill aims to clarify the difference and who can sell what. Seems reasonable.