
A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

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

1 SECTION 1. The legislature finds that mankind has
2 cultivated hemp as a source of food and fiber for thousands of
3 years. Modern production methods have utilized hemp's oilseed
4 to make high-grade food and beauty products. The stalks produce
5 fiber and cellulose for everything from automotive parts and
6 fine clothing to building materials and fuel.

7 The legislature further finds that according to estimates
8 by the Hemp Industries Association, retail sales of industrial
9 hemp products in the United States have grown steadily since
10 1990 to more than \$620,000,000 annually in 2014. California
11 manufacturers of hemp products currently import tens of
12 thousands of acres' worth of hemp seed, oil, and fiber products
13 from around the world that could be produced by American farmers
14 at a more competitive price. Additionally, the intermediate
15 processing of hemp seed, oil, food ingredients, and fiber could
16 create jobs in close proximity to the fields of cultivation.

17 The legislature further finds that support for industrial
18 hemp farming is occurring at the national level. California,



1 Colorado, Delaware, Hawaii, Illinois, Indiana, Kentucky, Maine,
2 Montana, Nebraska, North Dakota, Oregon, South Carolina,
3 Tennessee, Utah, Vermont, Washington, and West Virginia have
4 defined industrial hemp as a distinct agricultural crop and
5 removed barriers to its production. Furthermore, President
6 Obama signed the 2014 Farm Bill into law, which authorizes
7 industrial hemp research and pilot programs in states that
8 regulate hemp farming under the authority of the state
9 department of agriculture. This relaxation of the federal
10 government's prohibition signals that hemp is poised to once
11 again become a lucrative industrial crop in the United States.

12 The purpose of this Act is to establish an industrial hemp
13 pilot program to allow the cultivation of industrial hemp and
14 distribution of its seed in Hawaii through limited activities by
15 the board of agriculture through a pilot program for purposes of
16 agricultural or academic research.

17 SECTION 2. Chapter 141, Hawaii Revised Statutes, is
18 amended by adding a new part to be appropriately designated and
19 to read as follows:

20 **"PART . INDUSTRIAL HEMP PILOT PROGRAM**

21 **§141-A Definitions.** As used in this part:



1 "Applicant" means a person that is an individual residing
2 in Hawaii or an institution of higher education, a sole
3 proprietorship, partnership, association, corporation, limited-
4 liability corporation, limited partnership, or any other
5 business entity having any:

6 (1) Place of business permanently located within the
7 State;

8 (2) Employees permanently assigned to work stations or
9 areas located within the State; or

10 (3) Tangible assets permanently located within the State.

11 "Board" means the board of agriculture.

12 "Chairperson" means the chairperson of the board of
13 agriculture.

14 "Industrial hemp" means the plant *Cannabis sativa* L. and
15 any part of such plant, whether growing or not, with a delta-9
16 tetrahydrocannabinol concentration of not more than 0.3 per cent
17 on a dry weight basis, that is cultivated.

18 "Seed cultivar" means a variety of industrial hemp.

19 "Variety" means a group of individual plants that exhibit
20 the same observable physical characteristics or have the same
21 genetic composition.



§141-B Industrial hemp pilot program; established. (a)

There is established within the department of agriculture an industrial hemp pilot program to allow the cultivation of industrial hemp and distribution of its seed in Hawaii through a pilot program for purposes of agricultural or academic research.

(b) In order to acquire industrial hemp seed for the pilot program, the department of agriculture shall register with the United States Department of Justice, Drug Enforcement Administration, as an importer of controlled substances.

(c) The pilot program shall establish an agency relationship with licensees, who operate as extensions of the board for the purposes of research on the growth, cultivation, and marketing of industrial hemp.

(d) The board shall make a reasonable effort to:

(1) Inform licensees of the laws and regulations

applicable to the production of industrial hemp;

(2) Act as a resource for licensees on regulatory

questions regarding the industrial hemp pilot program;

provided that the board shall not provide licensees

with legal advice;



(3) Provide licensees with industrial hemp seed, upon licensees' request and at licensees' expense, in a quantity and variety determined at the discretion of the board; and

(4) Catalog data received, in cooperation with the licensee, other program participants, and institutions of higher education in the State, for improved methods and techniques in growing, cultivating, and marketing industrial hemp.

§141-C Licensing. (a) Each applicant for an industrial hemp license shall submit a signed, complete, accurate, and legible application form provided by the board between January 1 by April 1 of the year in which the applicant plans to grow industrial hemp, which shall include the following:

(1) The applicant's name, mailing address, and phone number in Hawaii and, if applicable, electronic mail address;

(2) If the applicant is an individual or partnership, the date of birth of the individual or partners;

(3) If the applicant is any business entity other than an individual, partnership, or institution of higher



- 1 learning, documentation that the entity is authorized
2 to do business in Hawaii;
- 3 (4) The cultivated variety that will be sown;
- 4 (5) The source and amount of certified seed to be used;
- 5 (6) The number of acres to be cultivated for seed, viable
6 grain, industrial products, or any combination
7 thereof;
- 8 (7) The global positioning system coordinates in decimal
9 degrees from the central most point of the growing
10 area to be cultivated and a map showing the location
11 of the growing area in terms of its address or legal
12 description;
- 13 (8) A statement that the applicant is the owner of the
14 growing area to be used for the cultivation or a
15 statement, signed by the owner of the growing area,
16 indicating that the owner has consented to that use;
- 17 (9) The address of the place in Hawaii where the applicant
18 will keep the records, books, electronic data, or
19 other documents that are required by this part;
- 20 (10) The name and address of each place where the
21 industrial hemp is to be stored, sold, or provided,



1 indicating for each place the form of the industrial
2 hemp; and

3 (11) The applicant's acknowledgment and agreement to the
4 following terms and conditions:

5 (A) Any information obtained by the board may be
6 publicly disclosed and provided to law
7 enforcement agencies without further notice to
8 the applicant or licensee;

9 (B) The licensee agrees to allow any inspection and
10 sampling that the board deems necessary;

11 (C) The licensee agrees to pay for any sampling and
12 analysis costs that the board deems necessary;

13 (D) The licensee agrees to submit all required
14 reports by the applicable due dates specified by
15 the board; and

16 (E) The applicant, any partner, directors, or members
17 have not been convicted of any felony related to
18 the possession, production, sale, or distribution
19 of a controlled substance in any form in this or
20 any other country.



1 (b) An application may be received beginning on January 1
2 of each year and shall be signed by the applicant or, in the
3 case of a corporation, cooperative, or partnership, one of its
4 officers, directors, or partners, as the case may be, and
5 indicate that all information and documents submitted in support
6 of the application are correct and complete to the best of the
7 applicant's knowledge.

8 (c) Any incomplete application for a license, or an
9 application received after April 1 of any year, shall be denied.

10 (d) In addition to the application form, each applicant
11 for a license shall submit a fee set by the chairperson. If the
12 fee does not accompany the application, the application for a
13 license will be deemed incomplete.

14 (e) The annual license fee for production of industrial
15 hemp shall be \$250 plus \$2 per acre. Moneys collected from
16 license fees shall be used to cover the costs of implementing,
17 administering, and enforcing this part.

18 (f) All licenses shall be valid for two years from the
19 date of issuance, after which the licensee shall renew the
20 license and pay the renewal fee, to be established by rules of
21 the board.



1 (g) Any licensee who wishes to alter the growing areas on
2 which the licensee will conduct industrial hemp cultivation
3 shall, before altering the area, submit to the board an updated
4 address, global positioning system location, and map specifying
5 the proposed alteration. If the chairperson receives and
6 approves the updated information, the chairperson shall notify
7 the licensee in writing that the licensee may cultivate
8 industrial hemp on the altered land area.

9 (h) A licensee that wishes to change the seed cultivar
10 grown shall submit to the chairperson the name of the new,
11 approved seed cultivar to be grown. If the chairperson receives
12 and approves the change to the registration, the chairperson
13 shall notify the licensee that the licensee may cultivate the
14 new, approved seed cultivar.

15 (i) If the chairperson determines that the requirements
16 for a license pursuant to this part are satisfied, the
17 chairperson shall issue a license to the applicant.

18 **§141-D Reports; profits.** (a) At least seven days prior
19 to harvest, each industrial hemp licensee shall file a report
20 with the board that includes documentation that the licensee has
21 entered into a purchase agreement with an industrial hemp



1 processor. If the licensee has not entered into such an
2 agreement, the licensee shall include a statement of intended
3 disposition of its industrial hemp crop.

4 (b) Licensees shall report any subsequent changes to the
5 purchase agreement or disposition statement to the board within
6 ten days of the change.

7 (c) Two business days prior to the movement of the
8 industrial hemp grain or plant material from the permitted
9 location, the licensee shall submit to the board an application
10 for movement permit. The application shall include the mode and
11 location to which the product is to be transported. An
12 inspection of the product may occur prior to movement.

13 **§141-E Approved seed cultivars.** (a) Except when grown by
14 a licensee developing a new Hawaii seed cultivar pursuant to
15 section 141-J, industrial hemp shall be grown only if it is on
16 the list of approved seed cultivars. The board may from time to
17 time add or remove any seed cultivar from the list if the
18 cultivar is found to be non-compliant with this part.

19 (b) The list of approved seed cultivars shall include the
20 following:



(1) Industrial hemp seed cultivars that have been certified by the Organisation for Economic Co-operation and Development; and

(2) Hawaii varieties of industrial hemp seed cultivars that have been certified by the board.

§141-F Growing of industrial hemp; licensee responsibilities. The licensee shall:

(1) Assume a limited agency relationship with the board for the sole purpose of research of industrial hemp and its growth, cultivation, and marketability. The licensee shall conduct all agricultural operations in a lawful manner consistent with the standards befitting of an official of the State; provided that such standards are subject to the sole discretion and direction of the board;

(2) Abide by applicable laws and regulations incident to the growth, cultivation, or marketing of industrial hemp;

(3) Acknowledge that any action, intended or incidental, that is contrary to such laws and regulations, known or unknown, falls outside the agency relationship of



1 the licensee with the board and the licensee's
2 participation in the industrial hemp pilot program;
3 provided that this paragraph applies to all actions
4 incident to the licensed production of industrial
5 hemp, including but not limited to any sale or
6 disposition of the resulting plants, plant materials,
7 or seeds for which the licensee may otherwise receive
8 some benefit or consideration;

9 (4) Indemnify, hold harmless, and release forever the
10 State, its departments, agencies, officers, employees,
11 and agents of any kind from all liability claims
12 arising out of the licensee's actions involving the
13 growth or production of industrial hemp;

14 (5) Warrant that the licensee is not an employee of the
15 State and shall assume total and sole responsibility
16 for any of the licensee's acts or omissions involving
17 the growth or production of industrial hemp or arising
18 out of the licensee's participation in the industrial
19 hemp pilot program;

20 (6) Allow any institution of higher education in the State
21 to access those sites registered by the licensee with



1 the board for production of industrial hemp; provided
2 that such access shall be allowed upon notice from the
3 board to the licensee and shall extend for all
4 purposes determined at the discretion of the board
5 related to research of industrial hemp and its growth,
6 cultivation, and marketing;

7 (7) Allow upon request federal, state, or local
8 authorities to inspect and sample the industrial hemp
9 growing area, plants, plant materials, seeds,
10 equipment, or facilities incident to the growth,
11 cultivation, or marketing of industrial hemp;

12 (8) Remit to the board all license fees and other expenses
13 of the pilot program, including but not limited to all
14 fees related to sampling and analysis of hemp plants
15 and plant materials and destruction of resulting hemp
16 crops found by the board to be non-compliant with
17 applicable laws and regulations;

18 (9) Agree that with respect to the licensee's production
19 of industrial hemp, the board's role is to fulfill
20 regulatory oversight of the production and, where
21 possible, to facilitate receipt of viable seed;



1 provided that the licensee understands and agrees that
2 the licensee shall not receive compensation or wages
3 from the board and the board shall not offer financial
4 resources, tangible products, or commercial labor in
5 support of the licensee's industrial hemp crop;

6 (10) Adhere narrowly to the research focus for which the
7 licensee is participating in the industrial hemp pilot
8 program, if applicable, to include one or more of the
9 following:

10 (A) Planting and growing -- tracking vital statistics
11 and yield rates with respect to industrial hemp
12 varieties and growing variables, including seed
13 planting rate, soil composition, water usage, and
14 planting and growing season;

15 (B) Pest -- tracking the occurrence of pests and
16 effectiveness of various preventative measures in
17 correlation with industrial hemp varieties;

18 (C) Cost centers and financing -- tracking average
19 cost estimates of producing industrial hemp
20 varieties, taking into account costs of
21 participation in the industrial hemp pilot



1 program, product acquisition, water usage,
2 equipment, labor, and security measures and
3 reporting financial resources available for
4 production of industrial hemp; or

5 (D) Marketing and industry development -- reporting
6 market demand for industrial hemp varieties' raw
7 materials and end products, including
8 identification of actual or potential hemp
9 products, processors, product manufacturers,
10 wholesalers, retailers, and targeted consumers;

11 (11) Complete and submit all reports and statements
12 requested by the board relative to the licensee's
13 production of industrial hemp; provided that a failure
14 to submit any required or requested report may result
15 in revocation of the licensee's industrial hemp
16 license;

17 (12) Understand and agree that any industrial hemp grown in
18 Hawaii without an active industrial hemp license
19 issued by the board falls outside the licensee's
20 limited agency with the board, is considered to be
21 marijuana under state law, and constitutes



1 impermissible growth of industrial hemp under federal
2 law; provided that the licensee shall understand that
3 such action will be prosecuted in accordance with all
4 applicable laws;

5 (13) Destroy or dispose at the discretion of the board any
6 industrial hemp crop, plant, plant material, or seed
7 determined by the board or law enforcement to be non-
8 compliant with applicable laws or regulations;

9 (14) Use best management practices for growth and
10 production of industrial hemp, as available, and take
11 reasonable precaution to prevent unauthorized growth
12 or distribution of industrial hemp, including but not
13 limited to:

14 (A) Keeping records of all persons with access to the
15 growing area or hemp plants, plant materials, or
16 seeds;

17 (B) Using case hardened locks and chains to limit
18 access to storage areas where hemp plants, plant
19 materials, or seeds are kept;

20 (C) Marking equipment and plants, if possible, with
21 owner applied numbers;



- 1 (D) Blocking private access roads to the growing area
2 with gates or barricades and posting "No
3 Trespassing" signs on gates, barricades, and
4 other landmarks near the growing area and
5 facilities;
- 6 (E) Installing reasonable security measures to
7 prevent theft and posting signs indicating that
8 cameras are used to record activity on the
9 growing area property;
- 10 (F) Inspecting and recording regularly the condition
11 of the growing area, facilities, and equipment
12 used in the production of industrial hemp;
- 13 (G) Conducting regular inventory counts of hemp
14 plants, plant materials, and seeds in order to
15 recognize more quickly if a theft has occurred;
- 16 (H) Contacting local law enforcement to help identify
17 additional security measures and encourage
18 patrols near the growing area;
- 19 (I) Reporting to local law enforcement any suspicious
20 activity and the presence of strangers near the
21 growing area or facility;



(J) Reporting stolen, lost, or missing hemp plants, plant materials, or seeds to the board and law enforcement authorities as soon as the items are noticed to be missing; and

(K) Reducing the likelihood of cross pollination between varieties of industrial hemp and among other plants by:

(i) Separating any growing area from other self-pollinating plants by more than ten feet;

(ii) Separating any growing area from other wind and insect pollinating plants by more than three hundred feet; and

(iii) Employing a physical barrier such as a hoop house or row cover to isolate industrial hemp from other plants; and

(15) Comply with any direction of the chairperson with respect to the growth, cultivation, or marketing of industrial hemp not otherwise contemplated in this section.

§141-G Inspections; fees. (a) All licensees are subject to sampling of their industrial hemp crop to verify that the



1 delta-9 tetrahydrocannabinol concentration does not exceed 0.3
2 per cent on a dry weight basis.

3 (b) During the inspection, the licensee or authorized
4 representative shall be present at the growing area. The
5 licensee or authorized representative shall provide the board's
6 inspector with complete and unrestricted access to all
7 industrial hemp plants and seeds whether growing or harvested;
8 all land, buildings, and other structures used for the
9 cultivation and storage of industrial hemp; and all documents
10 and records pertaining to the licensee's industrial hemp
11 business.

12 (c) Sampling of industrial hemp plants shall occur in the
13 following manner:

14 (1) Samples of each variety of industrial hemp may be
15 sampled from the growing areas at the board's
16 discretion;

17 (2) Quantitative laboratory determination of the delta-9
18 tetrahydrocannabinol concentration on a dry weight
19 basis shall be performed according to protocols
20 approved by the chairperson;



1 (3) A sample test result greater than 0.3 per cent of
2 delta-9 tetrahydrocannabinol concentration that is not
3 covered under section 141-J shall be considered
4 conclusive evidence that at least one cannabis plant
5 or part of a plant in the growing area contains a
6 delta-9 tetrahydrocannabinol concentration over the
7 limit allowed for industrial hemp and that the
8 licensee of that growing area is therefore not in
9 compliance with this part. Upon receipt of such a
10 test result, the chairperson may summarily suspend and
11 revoke the license of an industrial hemp licensee.
12 The chairperson shall furnish to the licensee a
13 portion of the violative sample if the licensee
14 requests it within thirty days of notification; and
15 (4) Test results from an institution of higher education
16 may, at the chairperson's discretion, be accepted in
17 lieu of board sampling.
18 (d) Licensees shall pay a charge of \$35 per hour per
19 inspector for actual drive time, mileage, inspection, and
20 sampling time.



1 (e) Licensees shall reimburse the board for all laboratory
2 analysis costs incurred.

3 **§141-H Violations.** In addition to any other violations of
4 this part, the following acts and omissions by any licensee or
5 authorized representative thereof constitute violations for
6 which civil penalties up to \$500 and disciplinary sanctions,
7 including revocation of a license, may be imposed by the
8 chairperson:

9 (1) Refusal or failure by a licensee or authorized
10 representative to fully cooperate and assist the board
11 with the inspection process;

12 (2) Failure to provide any information required or
13 requested by the board for purposes pursuant to this
14 part;

15 (3) Providing false, misleading, or incorrect information
16 pertaining to the licensee's cultivation of industrial
17 hemp to the chairperson by any means, including but
18 not limited to information provided in any application
19 form, report, record, or inspection required or
20 maintained pursuant to this part;



- 1 (4) Growing industrial hemp that is not covered under
2 section 141-J that when tested is shown to have a
3 delta-9 tetrahydrocannabinol concentration greater
4 than 0.3 per cent on a dry weight basis;
- 5 (5) Failure to pay fees assessed by the chairperson for
6 inspection or laboratory analysis costs; or
- 7 (6) Possessing, outside of a field of lawful cultivation,
8 resin, flowering tops, or leaves that have been
9 removed from the hemp plant; provided that the
10 presence of a de minimis amount, or insignificant
11 number, of hemp leaves or flowering tops in hemp bales
12 that result from the normal and appropriate processing
13 of industrial hemp shall not apply to this paragraph.

14 **§141-I Profits.** The board shall forego any income or
15 profit that licensees lawfully obtain through the disposition of
16 the licensees' industrial hemp crop; provided that the licensee
17 reports to the board, as required by this part:

- 18 (1) Any movement of the licensee's industrial hemp plants,
19 plant materials, or seeds outside the licensed growing
20 area;



1 (2) Any sale of or benefit received in exchange for the
2 licensee's industrial hemp plants, plant materials, or
3 seeds; and

4 (3) Any commercial details of such movement, sale, or
5 exchange for use by the board to research the
6 marketability and logistical production of industrial
7 help in the State:

8 **§141-J Content of tetrahydrocannabinol exemption;**
9 **development.** Licensees may cultivate or possess industrial hemp
10 with a laboratory test report that indicates a percentage
11 content of tetrahydrocannabinol that is greater than 0.3 per
12 cent if that cultivation or possession contributes to the
13 development of types of industrial hemp that are not more than a
14 tetrahydrocannabinol limit of 0.3 per cent.

15 **§141-K Rulemaking.** The board shall adopt rules concerning
16 industrial hemp production no later than July 1, 2017, including
17 rules establishing reasonable fees for licenses, permits, or
18 other necessary expenses to defray the cost of implementing and
19 operating the industrial hemp pilot program in this State on an
20 ongoing basis."



1 SECTION 3. Chapter 141, Hawaii Revised Statutes, is
2 amended by designating sections 141-1 to 141-11 as part I,
3 entitled "General Provisions".

4 SECTION 4. Chapter 712, Hawaii Revised Statutes, is
5 amended by adding a new section to part IV to be appropriately
6 designated and to read as follows:

7 "§712- Industrial hemp. The possession, cultivation,
8 sale, receipt, or transfer of industrial hemp as authorized
9 under part of chapter 141 shall not constitute an offense
10 under this part."

11 SECTION 5. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$550,000 or so much
13 thereof as may be necessary for fiscal year 2016-2017 for the
14 establishment of one full-time equivalent (1.00 FTE) position in
15 the department of agriculture to effectuate this Act.

16 The sum appropriated shall be expended by the department of
17 agriculture for the purposes of this Act.

18 SECTION 6. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 7. New statutory material is underscored.

2 SECTION 8. This Act shall take effect on July 1, 2016.

3



Report Title:

Industrial Hemp; Agriculture; Pilot Program; Appropriation

Description:

Establishes an industrial hemp pilot program to allow the cultivation of industrial hemp and distribution of its seed in Hawaii through limited activities by the board of agriculture for purposes of agricultural or academic research. Appropriates funds for department of agriculture staff to assist in registration of industrial hemp licensees. (SD1)

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