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No. _____

TESTIMONY ON SENATE BILL 3106, SENATE DRAFT 1
RELATING TO INDUSTRIAL HEMP.

by
Nolan P. Espinda, Director

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Wednesday, February 26, 2020; 1:10 p.m.
State Capitol, Conference Room 211

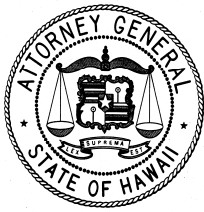
Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole,
and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Bill (SB) 3106, Senate Draft (SD) 1, which proposes, among other things, to establish a permanent hemp program in Hawaii. PSD respectfully recommends adding the law enforcement provisions from SB 2834, which is the Administration's proposal for a permanent hemp program that did not receive a hearing.

PSD strongly suggests adding provisions which would address law enforcement support for managing non-compliant hemp crops. Under federal guidance from the United States Department of Agriculture, published in the Federal Register on October 31, 2019, the disposal of non-compliant hemp crops must be handled by a United States Drug Enforcement Administration registered-reverse distributor, or by federal, state or local law enforcement officers. PSD further respectfully requests that this measure also include an appropriation to support PSD law enforcement activity that is

necessary to ensure that Hawaii's future hemp program can comply with the federal guidance. One of the worst things that can happen is that a farmer's non-compliant hemp field lies useless for a long period of time because law enforcement is unable to respond and supervise the destruction of a field in an efficient and timely manner because of a lack of funding and resources.

Thank you for the opportunity to testify on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

S.B. NO. 3106, S.D. 1, RELATING TO INDUSTRIAL HEMP.

BEFORE THE:

SENATE COMMITTEES ON WAYS AND MEANS AND ON JUDICIARY

DATE: Wednesday, February 26, 2020 **TIME:** 1:10 p.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Andrew Goff,
Deputy Attorney General, 586-1165)

Chairs Dela Cruz and Rhoads and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill:

This bill establishes a new licensing program for the growth of industrial hemp and requires the Hawaii Department of Agriculture (HDOA) to create a plan based on that program that can be approved by the United States Department of Agriculture (USDA).

Under the Agriculture Improvement Act of 2018 (2018 Farm Bill), a state can take primary regulatory authority over hemp production by submitting a plan to the USDA for approval. The USDA has recently published regulations that outline what a state's regulatory plan must include, such as procedures for information gathering, reporting to the USDA, testing hemp, and disposal of noncompliant plants and products. We recommend several amendments to the bill that will be consistent with the USDA regulations and allow for a Hawaii state plan to be approved and implemented.

1. Inspections and sampling

Regarding inspections and sampling of hemp, the USDA regulations state in part:

(2) A State or Tribal plan **must include a procedure for accurate and effective sampling of all hemp produced**, to include the requirements in this paragraph (a)(2).

(i) Within 15 days prior to the anticipated harvest of cannabis plants, **a Federal, State, local, or Tribal law**

enforcement agency or other Federal, State, or Tribal designated person shall collect samples from the flower material from such cannabis plants for delta-9 tetrahydrocannabinol concentration level testing as described in §§ 990.24 and 990.25.

. . .

(v) A producer shall not harvest the cannabis crop prior to samples being taken.

7 CFR § 990.3(a)(2) (emphases added).

Consequently, Hawaii's state hemp plan will not get approved by the USDA unless that plan includes a procedure to ensure every hemp crop is adequately tested at least 15 days prior to harvest.

This bill authorizes the HDOA to conduct inspections of licensee facilities and take samples of plant materials for testing to ensure compliance with the program. However, the HDOA's authority would be limited to inspecting and sampling each licensee once a year.

§141-E Inspections; fees. (a) A licensee shall permit the annual inspection and sampling of the licensee's hemp plants, plant material, seeds, growing area, equipment, and facilities incident to the cultivation of hemp.

(b) Any authorized member of the department, or any agent or third party authorized by the department, with prior notice to the applicable licensee, may enter between sunrise and sunset upon any property utilized for the cultivation of industrial hemp pursuant to this part **in order to conduct the annual inspection and sampling pursuant to subsection (a).**

Section 2, p. 10, lines 3-12 (emphases added).

HDOA would also have authority to adopt rules for its hemp program. However, those rules could only allow annual inspections of a random sample of producers during growth or after harvest. Section 2, p. 13, lines 19-21.

These provisions provide for the annual sampling of a licensee and not an individual crop. Hawaii has three growing seasons per year and, therefore, each licensee could potentially grow three crops per year. Under the bill as written, a licensee would be able to grow two entire crops that are not tested. This is not allowed by the USDA regulations. We therefore recommend deleting the word “annual” from p. 10, lines 4 and 11, and replacing the wording found on p. 13, lines 19-21, with: “Inspection of producers of industrial hemp during growth or before or after harvest to determine tetrahydrocannabinol levels.”

2. Violations

The program’s violation section contains the following provision:

(b) For any violation of this part, the department may impose civil penalties up to \$500 for the first violation, up to \$1,000 for the second violation, and up to \$2,500 and disciplinary sanctions, including denial or revocation of a license, for each subsequent violation; provided that:

- (1) If the department determines that a licensee has negligently violated this part, the licensee shall comply with a corrective action plan established by the department to correct the violation, which may include disposal of any industrial hemp crop, plant, plant material, or seed, whether growing or not, and products derived from those plants;
- (2) **An individual licensee that negligently violates this part three times in a five-year period shall be ineligible for the industrial hemp program**, as either an individual or as a principal or member of an entity, for a period of five years beginning on the date of the third violation;
- (3) **Each principal or member of an entity licensee that negligently violates this part three times in a five-year period shall be ineligible for the industrial hemp program**, as either an individual or as a principal or member of an entity, for a period of five years beginning on the date of the third violation;

Section 2, p. 12, lines 6-21, p. 13, lines 1-8 (emphases added).

Essentially, if a negligent licensee's hemp tests prohibitively high three times in a five-year period, the license will be revoked, and the licensee cannot reapply to the program for five years. Similarly, USDA regulations require a licensee "that negligently violates a USDA-approved State or Tribal plan three times in a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation." 7 CFR § 990.6(c)(4).

However, the bill also adds the following provision that would conflict with that violation section:

[A]n analytical testing of tetrahydrocannabinol levels greater than 0.3 per cent shall not result in revocation of a license so long as the crop from which the sample is taken is disposed of in a manner provided by rule;

Section 2, p. 14, lines 1-5.

When read together, if a licensee's hemp tests prohibitively high three times, it would not be possible to revoke the license so long as the crop is disposed of, contrary to the violations section and federal law. Therefore, we recommend removing the above wording on p. 14, lines 1-5.

3. Interim rules

The bill allows for the new licensing program to adopt interim rules by including this subsection:

(b) The department may adopt and amend interim rules to effectuate the purposes of this part; provided that the interim rules shall remain in effect until July 1, 2026, or until rules are adopted pursuant to subsection (a), whichever occurs sooner.

p. 14, lines 20-21, p. 15, lines 1-2.

However, to exempt HDOA from the rulemaking process and allow for interim rules, the bill must explicitly exempt the process from chapter 91, HRS. We recommend using the following wording:

(b) The department may adopt and amend interim rules, which shall be exempt from chapters 91 and 201M, to effectuate the purposes of this part; provided that the interim rules shall remain in effect until July 1, 2026, or until rules

are adopted pursuant to subsection (a), whichever occurs sooner.

4. The definition of THC

Section 15, on p. 50, lines 14-16, excludes “tetrahydrocannabinols in hemp” from the definition of tetrahydrocannabinol (“THC”) in section 329-14, HRS. This may cause confusion as to whether a product made entirely from THC extracted from hemp, but exceeding a concentration of 0.3 percent THC, would be legal.

To avoid this confusion, it is recommended that the following wording replace p. 50, lines 14-16:

“provided that tetrahydrocannabinols under this subsection shall exclude tetrahydrocannabinols in:

- (1) Hemp that is in the possession, custody, or control of a person or entity that holds a license issued by the Hawaii department of agriculture permitting that person or entity to produce hemp;
- (2) Hemp that is in the possession, custody, or control of a person or entity that is authorized under state law to process hemp; or
- (3) A product containing or derived from hemp, including a product containing one or more hemp-derived cannabinoids such as cannabidiol, that:
 - (A) Does not include any living hemp plants, viable seeds, leaf materials, or floral materials; and
 - (B) Has a total delta-9-tetrahydrocannabinol concentration of not more than 0.3 per cent, as measured post-decarboxylation or other similarly reliable methods.”

Section 16 adds a definition of THC to the Penal Code, and similarly excludes THC found in hemp from that definition, p. 57, lines 20-21, and p. 58, lines 1-13. However, adding a definition of THC to the Penal Code is unnecessary, as THC is included in the definition of “marijuana concentrate” found in section 712-1240, HRS, and the bill addresses the definition of “marijuana concentrate” on p. 60, lines 1-21. To

avoid confusion, it is recommended that p. 57, lines 20-21, and p. 58, lines 1-13, be removed, and the word “two” be replaced by “one” on p. 57, line 11.

We respectfully ask that the Committees make the recommended amendments.
Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



State of Hawaii
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PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture
MORRIS ATTA
Deputy to the Chairperson

TESTIMONY OF PHYLLIS SHIMABUKURO- GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS AND THE SENATE
COMMITTEE ON JUDICIARY

February 26, 2020

1:10 P.M.

CONFERENCE ROOM 211

SENATE BILL NO. 3106
RELATING TO INDUSTRIAL HEMP

Chairpersons Dela Cruz, Rhodes, and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 3106. This bill: requires the department of agriculture ("department") to establish a permanent hemp program pursuant to federal law, together with a corresponding special fund; requires the department of health to adopt rules for the licensing, inspection, and regulation of industrial hemp processing facilities; reduces or repeals certain regulatory provisions of existing hemp pilot program; establishes authorized cultivation of hemp as affirmative defense; excludes hemp from the definition of marijuana; requires the chairperson of board of agriculture to prepare a state plan for approval by the federal secretary of agriculture; requires the department to report on the approval process to legislature and governor; and, appropriates funds. The department supports the intent of allowing the creation of a commercial hemp production pursuant to federal law, but has concerns regarding proposed changes and offers the following comments:



Regarding Section 2 and a future commercial hemp production program:

The following clauses appear to conflict with minimum USDA requirements for receiving approval of a state plan to grow hemp under the 2018 Farm Bill:

- §141-E appears to limit sampling of crops to once per year. Hawaii's growers can produce multiple crops in a year, and USDA's requirements mandate sampling of every crop prior to harvest. If crops can only be sampled once a year, Hawaii's plan would likely not be approved.
- § 141-I states that a license cannot be revoked for a non-compliant test. USDA's requirements mandate a program participant be ineligible to participate in a hemp production program once they have three tests over 0.5% delta-9 tetrahydrocannabinol concentration.
- § 141-I (a)(b) states the department has interim rulemaking authority, but does not actually give the department interim rulemaking authority. Actual interim rulemaking authority needs to exempt the department from Chapters 91 and 201M.

Regarding the current pilot program:

- Section 1 §141-C(f) would allow pilot program participants to continue growing under the pilot program until their licensing agreements expire. Federally the authority to produce hemp under a pilot program/outside of a 2018 Farm Bill approved program expires October 31, 2020. Allowing growers to continue to cultivate under their pilot program license after federal authority to grow under a pilot program expires puts the state and its growers at risk of all applicable federal penalties for illegal growth
- Numerous clauses in this measure limit the department to only collecting legal addresses rather than GPS coordinates: this is problematic for the following reasons:
 1. Legal address in rural areas could just be a street address or TMK for a 500 acre property occupied by multiple tenants, creating potential difficulties in determining the location of a licensed grow site and what growth is legal/protected;

2. USDA's recently released Final Interim Rules require the collection and reporting of GPS coordinates for every licensed producer, so requiring this information is an industry-standard practice.
- Regarding Section 6(c) and Section 9, the department has concerns regarding the following:
 - It is unclear what "materially false/incomplete" encompasses.
 - It is unclear what information would be considered "reasonably relevant."
 - It is unclear what "reasonably cooperative" means, and it seems potentially difficult for the department to adequately perform an inspection without full cooperation from a licensee.
 - The department has concerns that these terms will create confusion and administrative unworkability for both the department and growers.

Regarding Section 17 the department notes USDA guidelines were already released in 2019.

The department respectfully defers Section 2 141-G and Section 13 to the Department of Health, and Sections 4 ,14, 15, and 16 to the Department of Public Safety.

If this Committee is inclined to move this measure forward, the Department respectfully requests that the Committee:

1. Ensure statutory language does not conflict with minimum USDA requirements for receiving federal approval of a state hemp production plan.
2. Give the Department of Agriculture actual interim rulemaking authority to quickly effectuate a new hemp production program.
3. Place hemp processing under the Department Health and HRS 328, not HRS 141.
4. Refrain from adjusting the pilot program statute other than to change its sunset date to October 31, 2020, to remain in compliance with federal law.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON WAYS AND MEANS AND JUDICIARY
ON
SENATE BILL NO. 3106, S.D. 1

February 26, 2020
1:10 p.m.
Room 211

RELATING TO INDUSTRIAL HEMP

The Department of Budget and Finance offers comments on Senate Bill (S.B.) No. 3106, S.D. 1.

S.B. No. 3106, S.D. 1: 1) requires the Department of Agriculture (DOA) to establish a permanent Industrial Hemp Program pursuant to federal law and the corresponding Industrial Hemp Special Fund (IHSF); 2) requires the Department of Health (DOH) to adopt rules for the licensing, inspection and regulation of industrial hemp processing facilities; 3) reduces or repeals certain regulatory requirements under the existing Industrial Hemp Pilot Program; 4) establishes monetary penalties for the unauthorized cultivation of hemp; 5) establishes authorized cultivation of hemp as an affirmative defense to certain criminal offences pertaining to marijuana; 6) excludes hemp from statutory definitions of marijuana; 7) requires the Chairperson of the Board of Agriculture to prepare a State plan for approval by the federal Secretary of Agriculture and report on the approval process to the Legislature and Governor; and 8) appropriates unspecified amounts of general and special funds in FY 21 for the IHSF

to fund three positions, administrative costs, and the licensing, inspection and regulation of industrial hemp processing facilities by the DOH.

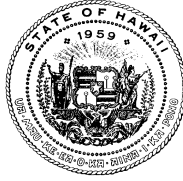
As a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS.

Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining.

Regarding S.B. No. 3106, S.D. 1, it is difficult to determine whether the IHSF would be self-sustaining.

The department defers to the DOA and the DOH regarding program implementation and funding.

Thank you for your consideration of our comments.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
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**Testimony COMMENTING on SB 3106 SD1
RELATING TO INDUSTRIAL HEMP**

**SENATOR DONAVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

**SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY**

Hearing Date: 2/26/2020

Room Number: 211

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities.

4 **Department Testimony:** The Department appreciates the opportunity to provide comments and
5 offers amendments to this measure.

6 As written, §141-G Processing; Inspection (page 11, line 1) amends HRS 141, by requiring rules
7 be adopted by the Department for the licensing, inspection, and regulation of industrial hemp
8 processing facilities. The Department agrees that rules should be written to regulate hemp
9 processing in the State. However, if the intent is to have the Department regulate hemp
10 processing, we respectfully recommend the authority be provided for in HRS 328, Hawaii Food,
11 Drug, and Cosmetic Act. Amendments offered below.

12 The measure also seeks to amend section HRS 328-15 (page 35, line 20), to exempt hemp and its
13 derivatives from a drug labeling requirement reserved for narcotic drugs. The Department has
14 concerns as to the intent proposed on page 37, line 21, separating hemp from the narcotic drug
15 cannabis. As written, the Department it appears this exception would only clarify that hemp is
16 not to be considered a narcotic drug and therefore relieved of having to state on the label

“WARNING: May be Habit Forming”. While the Department is not opposed to this proposed clarification, we have concerns such an exception could be used to claim hemp derived products are approved drugs, which except for FDA-approved drug Epidiolex™, is currently not true.

Offered Amendments:

Page 11, line 1 through line 5:

~~§141-G Processing; inspections. The department of health shall adopt rules pursuant to chapter 91 for the licensing, inspection, and regulation of industrial hemp processing facilities, as well as any other rules and procedures necessary to carry out this section.~~

Add a New Section

Section 328- Hawaii Revised Statutes, is amended to read as follows:

§328- **Processing; inspections.** The department of health shall adopt rules pursuant to chapter 91 for the licensing, inspection, and regulation of industrial hemp processing facilities, as well as any other rules and procedures necessary to carry out this section.

Thank you for the opportunity to testify on this measure.



www.hawaiihempfarmersassociation.org
info@hawaiihempfarmersassociation.org

February 16, 2020

RE: Please defer for SB 3106 for HB 1819

Dear Honorable Committee Members:

The Hawaii Hemp Farmers Association thanks you for your work on behalf of the hemp industry in Hawaii. We are greatly appreciative of the work that has gone into SB 3106. While this bill meets many of the needs of the Hawaii hemp industry, it requires a number of amendments to be compliant with USDA Federal rules. HB 1819 incorporates the helpful aspects of SB 3106 while meeting the USDA requirements for programs.

To save your time and potentially expedite agreement on a hemp bill this session, we respectfully ask you to defer SB 3106 in favor of HB 1819.

Again, thank you for your work on behalf of Hawaii farmers and the Hawaii hemp industry.

Respectfully Submitted,

Ray Maki

Ray Maki



LATE

February 25, 2020

RE: **DEFER/OPPOSE SB 3106**

Aloha, Honorable Senators,

I believe many of us farmers thought SB3106 was deferred (dead).

Thank you for your work on this bill, but it lacks a number of things that will allow the USDA to approve a Hawaii Hemp Program.

Hawaii's hemp farmers are supporting HB 1819.

To save time and potentially expedite agreement on a hemp bill this session, we respectfully ask you to defer SB 3106 in favor of HB 1819.

Sincerely,

Gail Byrne Baber

Gail Byrne Baber
Co-founder

Clarence Baber

Clarence Baber
Co-founder

LATE



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Zuckerman
Wai'anae, Oahu

Vincent Kimura
Waimanalo, Oahu

February 25, 2020

RE: Please defer SB 3106

Dear Honorable Committee Members:

The Hawaii Farmers Union United (HFUU) appreciates the work that has gone into SB 3106. According to our member hemp farmers, that while this bill meets many of the needs of the Hawaii hemp industry, it requires a number of amendments to be compliant with USDA Federal rules. HB 1819 incorporates the helpful aspects of SB 3106 while meeting the USDA requirements for programs.

To save time and potentially expedite agreement on a hemp bill this session, we respectfully ask you to defer SB 3106 in favor of HB 1819.

Again, thank you for your work on behalf of Hawaii farmers and the Hawaii hemp industry.

Sincerely,

HAWAII FARMERS UNION UNITED

Vincent Mina, President

The Hawai'i Farmers Union United and its Chapters are a nonprofit corporation formed under Hawai'i law and Section 501(c)(5) of the Internal Revenue Code. HFUU advocates for the sovereign right of farmers to create and sustain vibrant and prosperous agricultural communities for the benefit of all Hawai'i through cooperation, education and legislation. Because HFUU is an agricultural advocacy organization, donations to it are not tax deductible.

SB-3106-SD-1

Submitted on: 2/26/2020 8:59:23 AM

Testimony for WAM on 2/26/2020 1:10:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Miyamoto	Testifying for Hawaii Farm Bureau	Support	Yes

Comments:

From: John Calvert <jcalvert@crystal3.com>

Subject: SUPPORT for SB3106, with amendments

Aloha Members of the Committee:

My name is John Calvert and I'm a hemp farmer in Puna district, Big Island.

I'm an advocate of regulations that are friendly to farmers and producers of end products. I fully support the establishment of testing and labeling standards for end products, to insure quality and safety.

The primary purpose of both SB3106/HB2689 and HB1819 is to require the Hawaii DOA to establish a permanent hemp program pursuant to federal law. I am in full support of HB1819.

SB3106 should be amended to be more in line with federal law – i.e. the Hemp Farming Act of 2018.

Amend to Address Two Main Problems

I urge you to amend SB3106 to address the following two major problems:

- 1) It includes *hemp processing* in a bill that should only address *hemp cultivation*. The bill doesn't even define the term "hemp processing facility," and hence there's nothing in the legislation to provide scope, specifications, metrics, etc. There's nothing to differentiate a \$1M processing facility and a single \$600 machine. This is totally unacceptable, would favor large operators, and would give too much authority to the DOH. I agree with the testimony of Sara Steiner on 2/9/20, who said: *"There is a problem that I see clear as day with Hawaii's medical cannabis law, you let the Health Department make the administrative rules, ... they took the law and drafted unnecessary punitive and vague and conflicting rule. But, we can learn from past mistakes and not mess this Hemp bill up."*

- 2) It makes hemp flowers illegal as a product in direct contradiction to federal law (i.e. it includes hemp flowers in the state's definition of marijuana.) Hemp is no longer classified as marijuana according to federal law (Hemp Farming Act of 2018), which excludes all parts of the hemp plant from the definition of marijuana. The state of Indiana attempted to make smokable hemp flower illegal, and this was blocked by a federal judge in Sept. 2019. Interstate commerce in all parts of the hemp plant is authorized by federal law.

Special Fund Appropriations

Appropriations to DOH to regulate hemp processing would be better spent on increasing the funding for the permanent hemp program, in support of farmers and producers of end products. It is a mistake to give DOH authority to regulate the processing of all types of hemp, and thus the production of all types of hemp products – industrial, food, and medicinal.

The current hemp pilot program has demonstrated that there is a crucial need for more staff for the program, and more operating funds, in order to provide adequate support for the whole state of Hawaii. Please make realistic appropriations for Hawaii's permanent hemp program.

Support Small Farmers and Farmer-Processed Hemp

- Make licensing farmer-friendly. The hemp production license should be valid for 3 years. Please make the licensing fees variable based on the number of acres to be grown, to be more supportive of Hawaii's small farmers. There is no reason why a small farmer should pay the same fees as a corporate operation growing 10 acres.
- Make inspections farmer-friendly. Please support *prior notice* for inspections, and not surprise inspections. Allow farmers to negotiate the date and time of day for the inspection. Farmers should not have to pay the hourly wages of inspectors. Small farmers in particular should not be required to pay for inspections. Farmers are already required to pay for harvest sampling and

testing.

- Allow small farmers to process their own hemp without being required to get a license from the DOH. High-quality hemp flower extract can be produced by small farmers using relatively inexpensive equipment. I urge you to craft the legislation in order to rely on end-product testing requirements as a way to insure quality and safety – not on DOH licensing, which will cause undue overhead and burden to small farmers who process their own crops, and more expense to the state.

Approval of Hemp Cultivars

SB3106 specifies that a list of approved cultivars be maintained by the chairperson of the HDOA.

I urge you to make cultivar approval more farmer-friendly.

In practical terms, I think there's no good reason why the chairperson of the HDOA should be tasked with approving cultivars. This is the method currently used by the hemp pilot program, and from my experience it's inefficient and not farmer-friendly.

The way CBD hemp is grown in the industry is by testing the crop prior to harvest, to determine THC levels. The burden should be on the grower to insure that their crop does not exceed the limit at harvest, and there is already ample incentive for the grower to do this. Thus, any cultivar produced by a U.S. state-licensed hemp seed producer should be acceptable for inclusion on the Hawaii approved list. Virtually all CBD hemp varieties will exceed the THC limit if allowed to grow to full maturity. So, it makes little sense to approve some hemp varieties and disallow others, simply by trying to guess what will happen with THC levels for any given cultivar (based on the seed seller's lab test results, etc.). This is how the current pilot program approves cultivars – a process that creates overhead and delays for farmers.

Please note that almost all varieties currently on the Hawaii approved list (CBD) are sold by seed companies with minimum orders of at least \$1,000, and some have

minimum orders of \$10,000 or more. It can be very difficult to find seed that can be ordered in small quantities. A small farmer looking to buy a small quantity of seed will have further difficulty if also faced with a burdensome approval process.

I urge you to craft legislation to follow the type of model used by the state of Kentucky, which allows farmers to try various cultivars, and then annually publishes a list of cultivars indicating which are less likely or more likely to exceed the THC limit. Over time, cultivars that prove too risky if grown in Hawaii can then be listed as prohibited.

Hemp Breeder's License

Please craft legislation that will allow hemp producers to obtain a special *hemp breeder's license*, which will allow them to use genetics for breeding hemp that fall outside the definition of hemp. For example, a hemp breeder producing a new variety for use in Hawaii could legally acquire seeds for a cannabis variety that is known to go over 0.3% THC. The goal of breeding would be a resulting variety that grows well in Hawaii and produces high CBD levels without going over 0.3% THC. This is what breeders in Colorado and Oregon have been doing for years, resulting in many excellent high-CBD varieties, many of which are currently on the Hawaii approved list.

The special breeder's license would allow Hawaii to compete in this important area of hemp production, and create new varieties which are well adapted to our tropical climate and annual photoperiod cycle. Hawaii could become the leader in developing tropical CBD hemp varieties.

Thank you for your consideration.

Mahalo,

John Calvert

hemp farmer, Puna district, Big Island