
A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. The legislature finds that Act 14, Session Laws
2 of Hawaii 2020, (Act 14) was passed to allow the growth of hemp
3 in the State through the United States Department of
4 Agriculture's hemp production program as the state department of
5 agriculture's industrial hemp pilot program was set to expire in
6 June 2021. Timely passage of Act 14 was important to ensure
7 continuation of existing hemp production operations. However,
8 Act 14 does not completely address the manufacture of hemp
9 products, an important next step to fully realize the
10 legislature's intent to allow the development of a legal and
11 regulated hemp industry within the State. The legislature
12 further finds that the United States Food and Drug
13 Administration has not created a national regulatory framework
14 through which legally grown hemp can be transformed into
15 products that are safe and legal for sale to consumers, leaving
16 states to establish such frameworks.



1 Accordingly, the purpose of this Act is to:

2 (1) Allow and regulate the manufacture of certain hemp
3 products in the State; and

4 (2) Clarify the respective roles of persons growing hemp,
5 processing hemp, and manufacturing hemp products.

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

8 "CHAPTER 328G

9 HEMP [PROCESSORS] PROCESSING AND HEMP PRODUCT MANUFACTURING

10 [†]§328G-1[‡] **Definitions.** As used in this chapter:

11 "Applicant" means the person applying to register [~~as a~~] to
12 process hemp [processor] or manufacture hemp products under this
13 chapter.

14 "Cannabinoids" means any of the various naturally
15 occurring[‡] biologically active[‡] chemical constituents of
16 cannabis that bind to or interact with receptors of the
17 endogenous cannabinoid system.

18 "Cannabis" means the genus of the flowering plant in the
19 family Cannabaceae. For the purpose of this chapter, cannabis
20 refers to any form of the plant where the delta-9



1 tetrahydrocannabinol concentration on a dry weight basis has not
2 yet been determined.

3 "Certificate of registration" means the certificate issued
4 by the department attesting that the applicant is registered to
5 process hemp[-] or manufacture a hemp product.

6 "Decarboxylated" means the completion of the chemical
7 reaction that converts delta-9 tetrahydrocannabinol's acids
8 (THCA) into delta-9-tetrahydrocannabinol. The decarboxylated
9 value may be calculated using a conversion formula that sums
10 delta-9-tetrahydrocannabinol and eighty-seven and seven tenths
11 (87.7) per cent of THCA.

12 "Delta-9 tetrahydrocannabinol" or "THC" means the primary
13 psychoactive component of cannabis.

14 "Department" means the department of health.

15 "Director" means the director of health.

16 "Dry weight basis" refers to a method of determining the
17 percentage of a chemical in a substance after removing the
18 moisture from the substance.

19 "Enclosed indoor facility" means a permanent, stationary
20 structure with a solid floor, rigid exterior walls that encircle
21 the entire structure on all sides, and a roof that protects the



1 entire interior area from the elements of weather. Nothing in
2 this definition shall be construed to relieve the registered
3 applicant from the applicant's duty to comply with all
4 applicable building codes and regulations.

5 "FDA" means the United States Food and Drug Administration.

6 "Gummy" means a gelatinous cube, sphere, prismatic, or
7 ovoid.

8 "Hemp" means Cannabis sativa L. and any part of that plant,
9 whether growing or not, including the seeds thereof [~~and all~~
10 ~~derivatives, extracts, cannabinoids, isomers, acids, salts, and~~
11 ~~salts of isomers~~], with a delta-9-tetrahydrocannabinol
12 concentration of not more than 0.3 per cent on a dry weight
13 basis, as measured post-decarboxylation or by other similarly
14 reliable methods.

15 [~~"Hemp processor" means a person processing hemp to~~
16 ~~manufacture a hemp product.~~]

17 "Hemp product" means [~~a product that:~~

18 ~~(1) Contains naturally occurring cannabinoids, compounds,~~
19 ~~concentrates, extracts, isolates, resins or~~
20 ~~derivatives from processed hemp;~~



- 1 ~~(2) Does not include any living hemp plants, viable seeds,~~
2 ~~leaf materials, or floral materials;~~
- 3 ~~(3) Has a delta-9-tetrahydrocannabinol concentration of~~
4 ~~not more than 0.3 per cent, as measured post-~~
5 ~~decarboxylation, or other similarly reliable methods;~~
- 6 ~~(4) Is intended to be consumed orally to supplement the~~
7 ~~human or animal diet; and~~
- 8 ~~(5) Is in the form of a tablet, capsule, powder, softgel,~~
9 ~~gelcap, or liquid form (e.g. hemp oil) to be used by~~
10 ~~the consumer to infuse edible items at home for~~
11 ~~personal use or for topical application to the skin or~~
12 ~~hair.~~
- 13 ~~For purposes of this chapter, a hemp product shall be considered~~
14 ~~as intended for oral ingestion in liquid form only if it is~~
15 ~~formulated in a fluid carrier and it is intended for ingestion~~
16 ~~in daily quantities measured in drops or similar small units of~~
17 ~~measure per labeled directions for use.] processed hemp:~~
- 18 (1) Intended to be sold direct to consumer; and
19 (2) To which additives have been introduced during
20 manufacture.



1 "Manufacture" means to compound, blend, extract, infuse, or
2 otherwise use processed hemp to make or prepare a hemp product[~~7~~
3 ~~but does not include planting, growing, harvesting, drying,~~
4 ~~euring, grading, or trimming a hemp plant or part of a hemp~~
5 ~~plant)].~~

6 "Person" means an individual, firm, corporation,
7 partnership, association, or any form of business or legal
8 entity.

9 "Processed hemp" means any compounds, concentrates,
10 extracts, isolates, resins, or derivatives generated from the
11 processing of hemp, excluding any part of the hemp plant and
12 waste byproduct.

13 "Processing" means making a transformative change to the
14 hemp plant [~~following harvest by converting an agricultural~~
15 ~~commodity into a hemp product.] using mechanical, chemical, or
16 other means, to produce processed hemp that is intended:~~

17 (1) To be consumed orally to supplement the human or
18 animal diet or be applied topically to the skin or
19 hair; or



1 (2) For use in manufacture of a hemp product intended to
2 be consumed orally to supplement the human or animal
3 diet or be applied topically to the skin or hair.

4 "Synthetic cannabinoid" means a cannabinoid that is:

5 (1) Produced artificially, whether from chemicals or from
6 recombinant biological agents including but not
7 limited to yeast and algae; and

8 (2) Not derived from the genus cannabis, including
9 biosynthetic cannabinoids.

10 ~~[+]§328G-2[+]~~ **Hemp ~~[processor]~~ processing and manufacture**
11 **registry; [application; removal from registry.] registration and**
12 **updates.** (a) No person shall process hemp without first

13 obtaining a license to produce hemp, issued by the Secretary of
14 the United States Department of Agriculture pursuant to title 7
15 United States Code section 1639q.

16 (b) No person shall process hemp or manufacture a hemp
17 product without being registered by the department ~~[as a hemp~~
18 ~~processor]~~ pursuant to this ~~[part]~~ chapter and any rules adopted
19 pursuant ~~[+]to[+]~~ this chapter.



1 (c) A person who intends to process hemp or manufacture a
2 hemp product shall apply to the department for registration on
3 an application form [~~created~~] provided by the department.

4 (d) The applicant shall provide, at a minimum, the
5 following information:

6 (1) The applicant's name, mailing address, and phone
7 number in [~~Hawaii;~~] the State;

8 (2) The legal description of [~~the~~] each parcel of land on
9 which [~~the~~] hemp is to be processed [~~or~~]; hemp
10 products are to be manufactured; or hemp, processed
11 hemp, or hemp products are to be stored;

12 (3) A description of [~~the~~] each enclosed indoor facility
13 where hemp processing or hemp product manufacturing
14 will occur;

15 (4) [~~Documentation that the indoor facility and planned~~
16 ~~hemp processing operation complies with all zoning~~
17 ~~ordinances, building codes, and fire codes;~~

18 ~~(5) Documentation]~~ For persons intending to process hemp,
19 documentation showing that the applicant has obtained
20 a license to produce hemp, issued by the Secretary of



1 the United States Department of Agriculture pursuant
2 to title 7 United States Code section 1639q; and
3 ~~[(6)]~~ (5) Any other information required by the department.

4 (e) In addition to the application form, each applicant
5 shall submit a non-refundable application fee established by the
6 department. If the fee does not accompany the application, the
7 application for registration shall be deemed incomplete.

8 (f) Any incomplete application shall be denied.

9 (g) Upon the department's receipt of a complete and
10 accurate application that meets the requirements adopted by the
11 department pursuant to this chapter, any other information
12 requested by the department, and ~~[remittal of]~~ the application
13 fee, the ~~[applicant shall be registered and shall be issued]~~
14 department shall issue a certificate of registration ~~[to process~~
15 ~~hemp]~~.

16 (h) ~~[The certificate of registration shall be renewed]~~
17 Persons on the registry shall re-register annually by ~~[payment~~
18 ~~of]~~ paying the ~~[annual renewal]~~ re-registration fee to be
19 determined by the department~~[-]~~ and certifying that there has
20 been no change to the information required in subsection (d) or
21 submitting an update as provided in subsection (i).



1 (i) The information required by subsection (d) shall be
2 updated on a form provided by the department by the person to
3 whom a certificate of registration was issued no later than
4 sixty days after the event giving rise to the need to make any
5 corrections or to otherwise update information in the registry
6 and shall accurately account for any changes related to that
7 person's registration.

8 ~~[(i)]~~ (j) [Hemp processors] Persons processing hemp or
9 manufacturing hemp products shall allow any member of the
10 department, or any agent or third party authorized by the
11 department, to enter at reasonable times upon any private
12 property in order to inspect, sample, and test the hemp
13 processing or hemp product manufacturing area, processed hemp,
14 hemp products, and equipment[~~7~~] and facilities incident to the
15 processing or storage of hemp[~~7~~] and manufacturing or storage of
16 hemp products, and review all pertinent records.

17 ~~[(j)] The department may remove any person from the~~
18 ~~registry for failure to comply with any law or regulation under~~
19 ~~this chapter. It is the responsibility of the hemp processor to~~
20 ~~make sure it is registered and legally allowed to process hemp~~
21 ~~and in compliance with any and all laws and regulations. The~~



1 ~~removal of a hemp processor from the registry shall be in~~
2 ~~accordance with the procedures set forth in section 328H-F.]~~

3 (k) A person on the registry or applying for registration
4 shall, upon request, submit to the department documentation that
5 the indoor facility and hemp processing or hemp product
6 manufacturing operation complies with all zoning ordinances,
7 building codes, and fire codes.

8 ~~[+]§328G-3[+] Hemp processing[+] and hemp product [sale~~
9 ~~and prohibitions; labeling.] manufacturing. (a) No hemp shall~~
10 ~~be processed [into hemp products], nor shall any [hemp~~
11 ~~processor] person hold for processing or sale any hemp, unless~~
12 ~~lawfully obtained from a person [approved or otherwise~~
13 ~~authorized by applicable federal, state or local law to~~
14 ~~cultivate hemp plants.] holding a valid license issued by the~~
15 ~~United States Department of Agriculture pursuant to title 7~~
16 ~~United States Code section 1639q or by a state or tribal agency~~
17 ~~administering a plan approved by the United States Department of~~
18 ~~Agriculture pursuant to title 7 United States Code~~
19 ~~section 1639p.~~

20 (b) Hemp shall be processed and hemp products shall be
21 [~~processed~~] manufactured within an enclosed indoor facility



1 secured to prevent unauthorized entry. Hemp, hemp products, and
2 any toxic or otherwise hazardous by-products of hemp
3 processing[~~, or by-products,~~] or hemp product manufacturing,
4 including but not limited to delta-9 tetrahydrocannabinol, shall
5 be stored within an enclosed indoor facility, secured to prevent
6 unauthorized entry in a manner that prevents cross-contamination
7 and unintended exposures.

8 (c) Hemp shall not be processed within 500 feet of a pre-
9 existing playground, school, state park, state recreation area,
10 residential neighborhood, hospital, or daycare facility.

11 (d) Hemp shall not be processed nor shall hemp products be
12 manufactured using butane in an open system where fumes are not
13 contained or by use of any other method of processing the
14 department determines poses a risk to health and safety.

15 (e) Hemp processing and hemp product manufacturing
16 facilities and operations shall comply with applicable local
17 rules and regulations.

18 **§328G-4 Sale and prohibitions.** (a) No person shall sell,
19 hold[~~r~~] for sale, offer, or distribute [~~for sale~~] any food, as
20 that term is defined in section 328-1, into which [a
21 ~~cannabinoid, synthetic cannabinoid, hemp extract, hemp~~



1 ~~derivatives or other]~~ hemp, processed hemp, a hemp product, or a
2 synthetic cannabinoid that has been added as an ingredient or
3 component. This section shall not apply to hemp that is
4 generally recognized as safe (GRAS) by the FDA for use in foods,
5 as intended, in a public GRAS notification.

6 ~~[(f)]~~ (b) No person shall sell, hold~~[,]~~ for sale, offer,
7 or distribute ~~[for sale]~~ any hemp product into which a synthetic
8 cannabinoid has been added~~[,]~~ nor any synthetic cannabinoid for
9 oral consumption or topical use.

10 ~~[(g)]~~ (c) No person shall sell, hold~~[,]~~ for sale, offer,
11 or distribute ~~[for sale any cannabinoid products used to~~
12 ~~aerosolize]~~ any product containing hemp, made from hemp, or
13 containing synthetic cannabinoids for respiratory routes of
14 delivery, ~~[such as an inhaler, nebulizer]~~ including but not
15 limited to cigarettes, cigars, pre-rolls, inhalers, nebulizers,
16 electronic smoking devices, or other device designed for such
17 purpose.

18 ~~[(h)]~~ (d) No person shall sell, hold~~[,]~~ for sale, offer,
19 or distribute ~~[for sale,]~~ direct to consumers any hemp leaf or
20 hemp floral material ~~[that is intended to be smoked or inhaled,~~
21 ~~including but not limited to hemp cigars or hemp cigarettes].~~



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

8 (f) No person shall sell, hold for sale, offer, or
9 distribute any processed hemp or hemp product unless the hemp
10 used to make the processed hemp or hemp product was grown by a
11 person holding a valid license issued by the United States
12 Department of Agriculture pursuant to title 7 United States Code
13 section 1639q or by a state or tribal agency administering a
14 plan approved by the United State Department of Agriculture
15 pursuant to title 7 United States Code section 1639p.

16 (g) No person shall sell, hold for sale, offer, or
17 distribute any processed hemp or hemp product that has a
18 delta-9-tetrahydrocannabinol concentration of more than 0.3 per
19 cent, as measured post-decarboxylation, or by other similarly
20 reliable methods.



1 (h) No person shall sell, hold for sale, offer, or
2 distribute any hemp product intended to be consumed orally to
3 supplement the human or animal diet unless the product is in the
4 form of a tablet, capsule, powder, softgel, gelcap, gummy, or
5 liquid to be ingested in daily quantities measure in drops or
6 similar units of measure.

7 (i) No person shall sell, hold for sale, offer, or
8 distribute processed hemp or a hemp product unless it has been
9 tested in accordance with, and meets the standards established
10 by, rules adopted by the department.

11 (u) No person shall sell, hold~~[7]~~ for sale, offer or
12 distribute [~~for sale,~~] any processed hemp or hemp [~~products~~]
13 product without a label, in a form prescribed by the department,
14 affixed to the packaging that [~~identifies~~] includes confirmation
15 that the processed hemp or hemp product [~~as having~~] has been
16 tested pursuant to department rules.

17 (k) No person shall sell, hold for sale, offer, or
18 distribute any hemp product without a label, in a form
19 prescribed by the department, affixed to the packaging that
20 includes, at a minimum, the following:

21 (1) The hemp product name;



- 1 (2) A list of all ingredients;
- 2 (3) The name and business address of the manufacturer, or,
- 3 in the case of processed hemp intended for sale direct
- 4 to consumers, the name and business address of the
- 5 hemp processor; and
- 6 (4) A statement reading "This product has not been
- 7 evaluated by the United States Food and Drug
- 8 Administration and is not intended to diagnose, treat,
- 9 cure, or prevent any disease."

10 (1) No person shall sell, offer, or distribute for sale
 11 any hemp product to any individual under twenty-one years of
 12 age.

13 [~~§328G-4~~] §328G-5 Rulemaking. (a) The department
 14 [~~shall~~] may adopt rules pursuant to chapter 91 that include but
 15 are not limited to:

- 16 (1) [~~Inspection and sampling requirements of hemp~~
- 17 ~~products;~~] Handling, storage, and quality control
- 18 requirements for persons processing hemp and
- 19 manufacturing hemp products;
- 20 (2) Labeling requirements and restrictions for processed
- 21 hemp and hemp products, including but not limited to



- 1 those related to intended use, health advisories and
2 warnings, and medical claims;
- 3 ~~[-(2)]~~ (3) Testing protocols, including certification by
4 ~~state laboratories or independent third-party~~
5 ~~laboratories,]~~ Requirements for sampling and testing
6 of processed hemp and hemp products to determine
7 delta-9-tetrahydrocannabinol concentration and
8 ~~[screening for contaminants of hemp products;]~~
9 presence of contaminants;
- 10 (4) Procedures for certification of state laboratories and
11 independent third-party laboratories;
- 12 ~~[-(3)]~~ (5) Reporting and record-keeping requirements[+] for
13 persons processing hemp and manufacturing hemp
14 products;
- 15 ~~[-(4)]~~ (6) Assessment of fees for application, inspecting,
16 sampling, and other fees as deemed necessary[+] to
17 implement this chapter;
- 18 ~~[-(5)]~~ (7) Penalties for any violation; and
- 19 ~~[-(6)]~~ (8) Any other rules and procedures necessary to carry
20 out this chapter.



1 (b) The department may adopt and amend interim rules,
2 which shall be exempt from chapter 91 and chapter 201M, to
3 effectuate the purposes of this chapter; provided that any
4 interim rules shall only remain in effect until July 1, 2025, or
5 until rules are adopted pursuant to subsection (a), whichever
6 occurs sooner.

7 ~~[[§328G-5] Laboratory standards and testing;~~
8 ~~certification. (a) The department shall establish and enforce~~
9 ~~standards for laboratory-based testing of the hemp products for~~
10 ~~content, contamination, and consistency.~~

11 ~~(b) The department may certify laboratories and recognize~~
12 ~~certifications from other jurisdictions of laboratories that are~~
13 ~~qualified to test hemp products for quality control prior to~~
14 ~~sale.]~~

15 ~~[[§328G-6]] Enforcement; penalty. (a) Any person who~~
16 ~~violates this chapter or any rule adopted by the department~~
17 ~~pursuant to this chapter shall be fined not more than \$10,000~~
18 ~~for each separate offense. Any action taken to collect the~~
19 ~~penalty provided for in this subsection shall be considered a~~
20 ~~civil action. In addition to any other administrative or~~
21 ~~judicial remedy provided by this chapter, or by rules adopted~~



1 pursuant to this chapter, the director may impose by order the
2 administrative penalty specified in this section.

3 (b) Any order issued under this chapter shall become
4 final, unless not later than twenty days after the notice of
5 order is served, the person or persons named therein request in
6 writing a hearing before the director. Any penalty imposed[~~7~~
7 ~~including removal from the registry,~~] shall become final, and
8 any monetary penalty shall become due and payable twenty days
9 after the order is served unless the person or persons named
10 therein request in writing a hearing before the director.
11 Whenever a hearing is requested, the penalty imposed[~~7~~~~including~~
12 ~~removal from the registry,~~] shall become final, and any monetary
13 penalty shall become due and payable, 7 only upon completion of
14 all review proceedings and the issuance of a final order
15 confirming the penalty in whole or in part. Any hearing shall
16 be in accordance with chapter 91.

17 (c) For any judicial proceeding to recover an
18 administrative penalty imposed by order [~~or to enforce a cease~~
19 ~~and desist order against a hemp processor removed from the~~
20 ~~registry~~], the director may petition any court of appropriate
21 jurisdiction and need only show that:



- 1 (1) Notice was given;
- 2 (2) A hearing was held or the time granted for requesting
3 a hearing has expired without such a request;
- 4 (3) The administrative penalty was imposed [~~or the hemp~~
5 ~~processor was removed from the registry~~]; and
- 6 (4) The penalty remains unpaid [~~or the hemp processor~~
7 ~~continues to process hemp~~].
- 8 (d) The director, in the event there is deemed a potential
9 health hazard, may take precautionary measures to protect the
10 public through imposition of a cease and desist order, an
11 embargo, the detention and removal of processed hemp or hemp
12 products from the market, and the sequestration of processed
13 hemp or hemp products suspected to be contaminated or otherwise
14 harmful to human health. In the event of any cease and desist
15 order, embargo, or detention of processed hemp or hemp products,
16 the person or persons so named in the order imposing the cease
17 and desist, embargo, or detention shall be afforded an
18 opportunity to contest the [~~findings of the department~~] order in
19 a hearing pursuant to chapter 91.
- 20 (e) The director may institute a civil action in any court
21 of competent jurisdiction for injunctive relief to prevent



1 violation of any order issues or rule adopted pursuant to this
2 chapter, in addition to any other remedy or penalty provided for
3 under this chapter. Nothing in this chapter shall limit any
4 other legal remedy, or limit any civil or criminal action,
5 available under any other statute, rule, or ordinance.

6 ~~[+]~~ §328G-7 ~~[+]~~ **Hawaii hemp processing and hemp product**
7 **manufacturing special fund; established.** (a) There is
8 established within the state treasury the Hawaii hemp processing
9 and hemp product manufacturing special fund into which shall be
10 deposited:

11 (1) Appropriations made by the legislature to the special
12 fund;
13 (2) Any income and capital gains earned by the fund; and
14 (3) Any fees or fines collected by the department pursuant
15 to this ~~[part.]~~ chapter.

16 (b) Moneys in the Hawaii hemp processing and hemp product
17 manufacturing special fund shall be used by the department for
18 the following purposes:

19 (1) To establish and regulate a system of registering
20 persons intending to process hemp ~~[processors;]~~ or
21 manufacture hemp products;



- 1 (2) To fund positions and operating costs authorized by
- 2 the legislature; and
- 3 (3) For any other expenditure necessary, consistent with
- 4 this chapter, to implement the Hawaii hemp processing
- 5 and hemp product manufacturing program."

6 SECTION 3. Act 14, Session Laws of Hawaii 2020, is amended
7 by amending section 9 to read as follows:

8 "SECTION 9. This Act shall take effect upon its approval[~~7~~
9 ~~and shall be repealed on June 30, 2022; provided that the~~
10 ~~definition of "marijuana" in section 329-1, Hawaii Revised~~
11 ~~Statutes, and the definitions of "marijuana" and "marijuana~~
12 ~~Concentrate" in section 712-1240, Hawaii Revised Statutes, shall~~
13 ~~be reenacted in the form in which they read on the day prior to~~
14 ~~the effective date of this Act]."~~

15 SECTION 4. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect upon its approval.



H.B. NO. 1243
H.D. 1

Report Title:

Hemp Products; Hemp Processors; Hemp Manufacturing

Description:

Clarifies the regulation of growing hemp, hemp processing, and hemp product manufacturing in the State. Repeals the sunset date of Act 14, Session Laws of Hawaii 2020. (HD1)

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

