

JAN 26 2022

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# A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. Section 141-43, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[f] §141-43 [f]~~ **Rulemaking authority.** (a) The department  
4 of agriculture shall adopt rules pursuant to chapter 91 to  
5 effectuate the purpose of this part ~~[, including any rules~~  
6 ~~necessary to address any nuisance issues, including smell,~~  
7 ~~noise, and excessive lighting arising out of the activities of~~  
8 ~~hemp growers licensed under the State's industrial hemp pilot~~  
9 ~~program who grow hemp within areas prohibited under section 141-~~  
10 ~~42(a)(3) and (4)]~~.

11 (b) No later than September 30, 2020, the department of  
12 agriculture shall adopt interim rules, which shall be exempt  
13 from chapters 91 and 201M to effectuate the purposes of this  
14 part; provided that the interim rules shall remain in effect  
15 through ~~[June 30, 2022,]~~ December 31, 2022, or until rules are  
16 adopted pursuant to subsection (a), whichever occurs sooner."

17 SECTION 2. Act 14, Session Laws of Hawaii 2020, is amended  
18 by amending section 9 to read as follows:

S.B. NO. 3031

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2 and shall be repealed on June 30, 2022; provided that the  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

8           SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10          SECTION 4. This Act, upon its approval, shall take effect  
11 on June 29, 2022.

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INTRODUCED BY:



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BY REQUEST

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**Report Title:**

Hemp; Agriculture

**Description:**

Repeals the sunset date of Act 14, Session Laws of Hawaii 2020. Amends section 141-43, Hawaii Revised Statutes, to clarify that the Department of Agriculture shall adopt rules to effectuate the purpose of its authority under chapter 141, part III, Hawaii Revised Statutes, and to extend the date through which the department's interim rules shall remain in effect.

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

JUSTIFICATION SHEET

**SB. NO. 3031**

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO HEMP.

PURPOSE: To allow the continuation of the current regulatory authority for the Department of Agriculture to implement its responsibilities regarding hemp production and repeal the sunset date of Act 14, Session Laws of Hawaii (SLH) 2020. The bill would also clarify that the Department of Agriculture shall adopt rules to effectuate the purpose of its authority under part III of Chapter 141, Hawaii Revised Statutes (HRS).

MEANS: Amend Act 14, SLH 2020, and section 141-43, HRS.

JUSTIFICATION: Under Act 14, SLH 2020, the Department of Agriculture was tasked with monitoring the transportation of hemp within the State and enforcing restrictions regarding the growth of hemp within the State. Repealing the sunset date in Act 14 will allow the continuation of the current regulatory authority for the Hawaii Department of Agriculture and allow for the continuation of the legal cultivation of hemp in the State through the United States Department of Agriculture hemp production program and the continuation of hemp processing and sales through State licensing under the Hawaii Department of Health.

Extending the effective date of interim rules provides additional time to ensure that there is no gap in enforcement authority for the Department of Agriculture until permanent rules are adopted.

The bill would also amend section 141-143 (a) to delete the requirement for additional rules to address nuisance issues, including

smell, noise, and excessive lighting arising out of the activities of hemp growers. Pre-existing regulations and authority under the Department of Health and county land use ordinances address and are the appropriate method of addressing the areas of nuisance referenced. Where pre-existing regulatory oversight of nuisance and other issues are present, a deferral to and reliance on those regulatory frameworks is the proper and preferred means to avoid any ambiguity that may arise from multi-jurisdictional enforcement authority that may conflict. Furthermore, the Department of Agriculture lacks scientific expertise in those areas of concern (health issues) and the resources and skill set to enforce hemp nuisance rules.

Impact on the public: None.

Impact on the department and other agencies:

The bill would give the Department of Agriculture additional time to adopt permanent rules. Department of Health would be able to continue providing the local hemp farmers a legal pathway to bring consumable hemp products to market while protecting consumers by requiring lab testing for contaminant and labeled cannabinoid content. If this sunset date is not repealed, all hemp products will be illegal under state laws, including hemp products processed by local hemp farmers.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: AGR 151.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: June 29, 2022