

JAN 25 2023

A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. The legislature believes that hemp can be a
2 viable boost to the economy, especially in the light of the
3 rising costs of wood and cement. The legislature also finds
4 that Act 14, Session Laws of Hawaii 2020, (Act 14) was passed to
5 allow the growth of hemp in the State through the United States
6 Department of Agriculture's hemp production program, as the
7 state department of agriculture's industrial hemp pilot program
8 was set to expire. Timely passage of Act 14 was essential to
9 continue existing hemp production operations. However, Act 14
10 did not completely address the manufacture of hemp products, an
11 important step in fully realizing the legislature's intent in
12 allowing the development of a legal and regulated hemp industry
13 within the State. The legislature further finds that the United
14 States Food and Drug Administration has not created a national
15 regulatory framework through which legally-grown hemp can be
16 transformed into products that are safe and legal for sale to



1 consumers, which leaves states to establish their own
2 frameworks.

3 Accordingly, the purpose of this Act is to:

- 4 (1) Authorize and regulate the manufacture of certain hemp
5 products within the State;
- 6 (2) Clarify the respective roles of persons growing hemp,
7 processing hemp, and manufacturing hemp products; and
- 8 (3) Repeal the sunset date of the State's existing hemp
9 laws.

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

13 "§328G- Restrictions on sales. (a) No person shall
14 sell, hold for sale, offer, or distribute any food, as that term
15 is defined in section 328-1, into which hemp, processed hemp, a
16 hemp product, or a synthetic cannabinoid has been added as an
17 ingredient or component. This section shall not apply to hemp
18 that is generally recognized as safe (GRAS) by the United States
19 Food and Drug Administration for use in foods, as intended, in a
20 public GRAS notification.



1 (b) No person shall sell, hold for sale, offer, or
2 distribute any hemp product into which a synthetic cannabinoid
3 has been added, or any synthetic cannabinoid intended for oral
4 consumption or topical use.

5 (c) No person shall sell, hold for sale, offer, or
6 distribute any product containing hemp, made from hemp, or
7 containing synthetic cannabinoids for respiratory routes of
8 delivery, including cigarettes, cigars, pre-rolls, inhalers,
9 nebulizers, electronic smoking devices, or other devices
10 designed for that purpose.

11 (d) No person shall sell, hold for sale, offer, or
12 distribute directly to consumers any hemp leaf or hemp floral
13 material.

14 (e) Except for hemp products intended for external topical
15 application to the skin or hair, no person shall sell, hold for
16 sale, offer, or distribute any products containing hemp, made
17 from hemp, or containing synthetic cannabinoids that are
18 intended to be introduced via non-oral routes of entry to the
19 body, including use in eyes, ears, and nasal cavities.

20 (f) No person shall sell, hold for sale, offer, or
21 distribute any processed hemp or hemp product unless the hemp



1 used to make the processed hemp or hemp product was grown by a
2 person holding a valid license issued by the United States
3 Department of Agriculture pursuant to title 7 United States Code
4 section 1639g or by a state or tribal agency administering a
5 plan approved by the United State Department of Agriculture
6 pursuant to title 7 United States Code section 1639p.

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

12 (h) No person shall sell, hold for sale, offer, or
13 distribute any hemp product intended to be consumed orally to
14 supplement the human or animal diet, unless the product is in
15 the form of a tablet, capsule, powder, softgel, gelcap, gummy,
16 or liquid to be ingested in daily quantities measured in drops
17 or similar units of measure.

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



1 (j) No person shall sell, hold for sale, offer, or
2 distribute any processed hemp or hemp product without a label,
3 in a form prescribed by the department, affixed to the packaging
4 that includes confirmation that the processed hemp or hemp
5 product has been tested pursuant to department rules.

6 (k) No person shall sell, hold for sale, offer, or
7 distribute any hemp product without a label, in a form
8 prescribed by the department, affixed to the packaging that
9 includes, at minimum:

- 10 (1) The hemp product name;
11 (2) A list of all ingredients;
12 (3) The name and business address of the manufacturer, or,
13 in the case of processed hemp intended for sale direct
14 to consumers, the name and business address of the
15 hemp processor; and
16 (4) A statement that reads: "This product has not been
17 evaluated by the United States Food and Drug
18 Administration and is not intended to diagnose, treat,
19 cure, or prevent any disease".



1 3. By amending the definition of "certificate of
2 registration" to read:

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 4. By amending the definition of "hemp" to read:

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

14 5. By amending the definition of "hemp product" to read:

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

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

19 ~~(2) Does not include any living hemp plants, viable seeds,~~
20 ~~leaf materials, or floral materials;~~



- 1 ~~(3) Has a delta-9-tetrahydrocannabinol concentration of~~
- 2 ~~not more than 0.3 per cent, as measured post-~~
- 3 ~~decarboxylation, or other similarly reliable methods;~~
- 4 ~~(4) Is intended to be consumed orally to supplement the~~
- 5 ~~human or animal diet; and~~
- 6 ~~(5) Is in the form of a tablet, capsule, powder, softgel,~~
- 7 ~~gelcap, or liquid form (e.g. hemp oil) to be used by~~
- 8 ~~the consumer to infuse edible items at home for~~
- 9 ~~personal use or for topical application to the skin or~~
- 10 ~~hair.~~

11 ~~For purposes of this chapter, a hemp product shall be considered~~
 12 ~~as intended for oral ingestion in liquid form only if it is~~
 13 ~~formulated in a fluid carrier and it is intended for ingestion~~
 14 ~~in daily quantities measured in drops or similar small units of~~
 15 ~~measure per labeled directions for use.] processed hemp:~~

- 16 (1) Intended for direct sales to consumers; and
- 17 (2) To which additives have been introduced during
- 18 manufacture."

19 6. By amending the definition of "manufacture" to read:
 20 ""Manufacture" means to compound, blend, extract, infuse,
 21 or otherwise use processed hemp to make or prepare a hemp



1 product [~~, but does not include planting, growing, harvesting,~~
2 ~~drying, curing, grading, or trimming a hemp plant or part of a~~
3 ~~hemp plant]."~~

4 7. By amending the definition of "processing" to read:

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

9 (1) To be consumed orally to supplement the human or
10 animal diet or be applied topically to the skin or
11 hair; or

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

15 8. By deleting the definition of "FDA":

16 [~~"FDA" means the United States Food and Drug~~
17 ~~Administration."~~]

18 9. By deleting the definition of "Hemp processor":

19 [~~"Hemp processor" means a person processing hemp to~~
20 ~~manufacture a hemp product."~~]



1 SECTION 5. Section 328G-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§328G-2 Hemp [~~processor~~ processing and manufacture**
4 **registry; [~~application; removal from registry.~~]; registration;**
5 **updates.** (a) No person shall process hemp without first
6 obtaining a license to produce hemp, issued by the Secretary of
7 the United States Department of Agriculture pursuant to title 7
8 United States Code section 1639q.

9 (b) No person shall process hemp or manufacture a hemp
10 product without being registered by the department as a hemp
11 processor pursuant to this [~~part~~] chapter and any rules adopted
12 pursuant [~~to~~] this chapter.

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

16 (d) The applicant shall provide, at a minimum, the
17 following information:

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

20 (2) The legal description of [~~the~~] each parcel of land on
21 which [~~the~~] hemp is to be processed [~~or~~]; hemp



1 products are to be manufactured; or hemp, processed
2 hemp, or hemp products are to be stored;

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

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

9 ~~(5)~~ Documentation] For persons intending to process hemp,
10 documentation showing that the applicant has obtained
11 a license to produce hemp, issued by the Secretary of
12 the United States Department of Agriculture pursuant
13 to title 7 United States Code section 1639q; and

14 [~~6)~~] (5) Any other information required by the department.

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

19 (f) Any incomplete application shall be denied.

20 (g) Upon the department's receipt of a complete and
21 accurate application that meets the requirements adopted by the



1 department pursuant to this chapter, any other information
2 requested by the department, and ~~[remittal of]~~ the application
3 fee, the ~~[applicant shall be registered and shall be issued]~~
4 department shall issue a certificate of registration ~~[to process~~
5 hemp].

6 (h) ~~[The certificate of registration shall be renewed]~~
7 Persons on the registry shall re-register annually by ~~[payment~~
8 of] paying the ~~[annual renewal]~~ re-registration fee to be
9 determined by the department~~[-]~~ and:

10 (1) Certifying that there has been no change to the
11 information required in subsection (d); or

12 (2) Submitting an update as provided in subsection (i).

13 (i) The person to whom a certificate of registration was
14 issued shall update the information required by subsection (d),
15 on a form provided by the department, no later than sixty days
16 after any event giving rise to the need to make any corrections
17 or to otherwise update information in the registry, and shall
18 accurately account for any changes related to that person's
19 registration.

20 ~~[(i)]~~ (j) ~~[Hemp processors]~~ Persons processing hemp or
21 manufacturing hemp products shall allow any member of the



1 department, or any agent or third party authorized by the
2 department, to enter at reasonable times upon any private
3 property in order to inspect, sample, and test the hemp
4 processing or hemp product manufacturing area, processed hemp,
5 hemp products, and equipment[7] and facilities incident to the
6 processing or storage of hemp[7] and manufacturing or storage of
7 hemp products, and review all pertinent records.

8 ~~[(j) The department may remove any person from the
9 registry for failure to comply with any law or regulation under
10 this chapter. It is the responsibility of the hemp processor to
11 make sure it is registered and legally allowed to process hemp
12 and in compliance with any and all laws and regulations. The
13 removal of a hemp processor from the registry shall be in
14 accordance with the procedures set forth in section 328G-6.]~~

15 (k) A person on the registry or applying for registration
16 shall, upon request, submit to the department documentation that
17 the person's indoor facility and hemp processing or hemp product
18 manufacturing operation complies with all zoning ordinances,
19 building codes, and fire codes."

20 SECTION 6. Section 328G-3, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " ~~[§328G-3]~~ Hemp processing ~~[and hemp product sale~~
2 ~~and prohibitions; labeling.]~~ manufacturing. (a) No hemp shall
3 be processed ~~[into hemp products]~~, nor shall any ~~[hemp~~
4 ~~processor]~~ person hold for processing or sale any hemp, unless
5 lawfully obtained from a person ~~[approved or otherwise~~
6 ~~authorized by applicable federal, state or local law to~~
7 ~~cultivate hemp plants.]~~ holding a valid license issued by the
8 United States Department of Agriculture pursuant to title 7
9 United States Code section 1639q or by a state or tribal agency
10 administering a plan approved by the United States Department of
11 Agriculture pursuant to title 7 United States Code
12 section 1639p.

13 (b) Hemp shall be processed and hemp products shall be
14 ~~[processed]~~ manufactured within an enclosed indoor facility
15 secured to prevent unauthorized entry. Hemp, hemp products, and
16 any toxic or otherwise hazardous by-products of hemp
17 processing~~[, or by-products,]~~ or hemp product manufacturing,
18 including but not limited to delta-9-tetrahydrocannabinol, shall
19 be stored within an enclosed indoor facility, secured to prevent
20 unauthorized entry in a manner that prevents cross-contamination
21 and unintended exposures.



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

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

8 ~~[(e) No person shall sell, hold, offer, or distribute for~~
9 ~~sale any food, as that term is defined in section 328-1, into~~
10 ~~which a cannabinoid, synthetic cannabinoid, hemp extract, hemp~~
11 ~~derivatives or other hemp product that has been added as an~~
12 ~~ingredient or component. This section shall not apply to hemp~~
13 ~~that is generally recognized as safe (GRAS) by FDA for use in~~
14 ~~foods, as intended, in a public GRAS notification.]~~

15 (e) Hemp processing and hemp product manufacturing
16 facilities and operations shall comply with applicable state
17 laws and county ordinances."

18 SECTION 7. Section 328G-4, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:



1 "(a) The department [~~shall~~] may adopt rules, pursuant to
2 chapter 91, [~~that include but are not limited~~] necessary for the
3 purposes of this chapter, including rules relating to:

4 (1) [~~Inspection and sampling requirements of hemp~~
5 ~~products;~~] Handling, storage, and quality control
6 requirements for persons processing hemp and
7 manufacturing hemp products;

8 (2) Labeling requirements and restrictions for processed
9 hemp and hemp products, including those related to
10 intended use, health advisories and warnings, and
11 medical claims;

12 [~~(2)~~] (3) [~~Testing protocols, including certification by~~
13 ~~state laboratories or independent third-party~~
14 ~~laboratories;~~] Requirements for sampling and testing
15 of processed hemp and hemp products to determine
16 delta-9-tetrahydrocannabinol concentration and
17 [~~screening for contaminants of hemp products;~~] the
18 presences of contaminants;

19 (4) Procedures for certification of state laboratories and
20 independent third-party laboratories;



1 ~~[(3)]~~ (5) Reporting and record-keeping requirements~~[+]~~ for
2 persons processing hemp and manufacturing hemp
3 products;
4 ~~[(4)]~~ (6) ~~[Assessment of fees]~~ Fees for application,
5 inspecting, sampling, and other fees as deemed
6 necessary~~[+]~~ to implement this chapter; and
7 ~~[(5)]~~ (7) Penalties for any violation~~[+and~~
8 ~~(6)~~ ~~Any other rules and procedures necessary to carry out~~
9 ~~this chapter]."~~

10 SECTION 8. Section 328G-6, Hawaii Revised Statutes, is
11 amended by amending subsections (b) to (e) to read as follows:

12 "(b) Any order issued under this chapter shall become
13 final, unless not later than twenty days after the notice of
14 order is served, the person or persons named therein request in
15 writing a hearing before the director. Any penalty imposed~~[,~~
16 ~~including removal from the registry,~~] shall become final, and
17 any monetary penalty shall become due and payable twenty days
18 after the order is served unless the person or persons named
19 therein request in writing a hearing before the director.
20 Whenever a hearing is requested, the penalty imposed~~[,~~
21 ~~removal from the registry,~~] shall become final, and any monetary



1 penalty shall become due and payable only upon completion of all
2 review proceedings and the issuance of a final order confirming
3 the penalty in whole or in part. Any hearing shall be in
4 accordance with chapter 91.

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

- 10 (1) Notice was given;
- 11 (2) A hearing was held or the time granted for requesting
12 a hearing has expired without such a request;
- 13 (3) The administrative penalty was imposed [~~or the hemp~~
14 ~~processor was removed from the registry~~]; and
- 15 (4) The penalty remains unpaid [~~or the hemp processor~~
16 ~~continues to process hemp.~~]

17 (d) The director, in the event there is deemed a potential
18 health hazard, may take precautionary measures to protect the
19 public through imposition of a cease and desist order, an
20 embargo, the detention and removal of hemp products from the
21 market, and the sequestration of processed hemp or hemp products



1 suspected to be contaminated or otherwise harmful to human
 2 health. In the event of any embargo or detention of hemp
 3 products, the person or persons so named in the order imposing
 4 the cease and desist order, embargo or detention shall be
 5 afforded an opportunity to contest the findings of the [~~findings~~
 6 ~~of the department~~] order in a hearing pursuant to chapter 91.

7 (e) The director may institute a civil action in any court
 8 of competent jurisdiction for injunctive relief to prevent
 9 violation of any order issues or rule adopted pursuant to this
 10 chapter, in addition to any other remedy or penalty provided for
 11 under this chapter. Nothing in this chapter shall limit any
 12 other legal remedy, or limit any civil or criminal action,
 13 available under any other statute, rule, or ordinance."

14 SECTION 9. Section 328G-7, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "[~~§~~328G-7~~]~~ **Hawaii hemp processing and hemp product**
 17 **manufacturing special fund established.** (a) There is
 18 established within the state treasury the Hawaii hemp processing
 19 and hemp product manufacturing special fund into which shall be
 20 deposited:



1 (1) Appropriations made by the legislature to the special
2 fund;

3 (2) Any income and capital gains earned by the fund; and

4 (3) Any fees or fines collected by the department pursuant
5 to this this [~~part.~~] chapter.

6 (b) Moneys in the Hawaii hemp processing and hemp product
7 manufacturing special fund shall be used by the department for
8 the following purposes:

9 (1) To establish and regulate a system of registering
10 persons intending to process hemp [~~processors,~~] or
11 manufacture hemp products;

12 (2) To fund positions and operating costs authorized by
13 the legislature; and

14 (3) For any other expenditure necessary, consistent with
15 this chapter, to implement the Hawaii hemp processing
16 and hemp product manufacturing program."

17 SECTION 10. Section 328G-5, Hawaii Revised Statutes, is
18 repealed.

19 [~~["§328G-5] Laboratory standards and testing;~~

20 ~~certification.~~ (a) ~~The department shall establish and enforce~~



1 ~~standards for laboratory-based testing of the hemp products for~~
2 ~~content, contamination, and consistency.~~

3 ~~(b) The department may certify laboratories and recognize~~
4 ~~certifications from other jurisdictions of laboratories that are~~
5 ~~qualified to test hemp products for quality control prior to~~
6 ~~sale."]~~

7 SECTION 11. Act 14, Session Laws of Hawaii 2020, as
8 amended by Act 137, Session Laws of Hawaii 2022, is amended by
9 amending section 9 to read as follows:

10 "SECTION 9. This Act shall take effect upon its approval[
11 ~~and shall be repealed on July 1, 2025; provided that the~~
12 ~~definition of "marijuana" in section 329-1, Hawaii Revised~~
13 ~~Statutes, and the definitions of "marijuana" and "marijuana~~
14 ~~concentrate" in section 712-1240, Hawaii Revised Statutes, shall~~
15 ~~be reenacted in the form in which they read on the day prior to~~
16 ~~the effective date of this Act]."~~

17 SECTION 12. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 13. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 14. This Act shall take effect upon its approval.

2

INTRODUCED BY: Kurt Fevola



S.B. NO. 1455

Report Title:

Hemp Products; Hemp Processors; Hemp Manufacturing

Description:

Authorizes and regulates the manufacture of certain hemp products within the State. Clarifies the respective roles of persons growing hemp, processing hemp, and manufacturing hemp products. Repeals the sunset date of the State's hemp laws.

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

